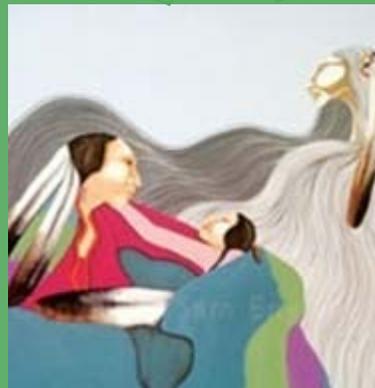


Responses to the Co-Occurrence of Child Maltreatment and Domestic Violence in Indian Country: Repairing the Harm and Protecting Children and Mothers

December 2011—Draft



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Rosebud Sioux Tribe—South Dakota

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Executive Summary

The Tribal Law and Policy Institute (TLPI), with funding from the Office on Violence Against Women (OVW), has undertaken an initial inquiry into the issue of the co-occurrence of domestic violence and child maltreatment in Indian country. Using a mixed method approach, this investigation sought to identify those practices that seem to be moving toward Native-specific promising practices, and to develop recommendations for further action in Indian country.

There are three primary systems involved in this study: 1) the child protection system; 2) the network of domestic violence programs; and 3) the court systems. However, with the overlap between state and tribal systems in each of these categories, it may be more accurate to say that in Indian country there are six primary systems that deal with the issue of the co-occurrence of domestic violence and child maltreatment, not three. In some places, state and tribal divisions of child protection systems, court systems, and domestic violence programs seem to coordinate their programs fairly well. However, for the most part there seem to be difficulties in working across state and tribal divisions.

There were also major problems in working across professional lines. Domestic violence advocates and child protection staff were often at odds when it came to addressing the needs of the family. Again, some domestic violence programs were outstanding in meeting the physical and emotional needs of the victim. However, they weren't addressing the needs of children. Some child protection tribal programs appeared to have the funding necessary to provide financial resources to children but were not able to meet the needs of the domestic violence victim/mother.

Although we looked for potential promising practices that address the issue of the co-occurrence of domestic violence and child maltreatment, we did not find any systems that effectively collaborated to deal with the issue. We found healthy and productive programs within the domestic violence field, the child protection field, and court services; however, they generally did not exist in the same community or work with each other on this issue.

On site interviews, focus group discussions and a survey all indicate that what currently exists are systems that blame the victim, usually the mother, for the domestic violence that occurs within the home and, as a result, require the victim to rehabilitate herself or lose her children. Although most of the communities we talked with did not track the domestic violence, unless it was the original reason for a child protection intervention, social workers indicated that a high percentage of women in the child protection system are victims of domestic violence. For this reason, it is imperative that tribal, federal, and state leadership address this issue.

The following is a summary of key challenges identified in the survey, focus group, and site visits:

1. Safe housing is needed for mothers and children upon leaving the abuser. Shelters, transitional housing, and permanent housing were a problem on reservations. Mothers were losing their children because they could not find permanent housing after leaving

their abusers. Mothers were not leaving abusers because they did not have shelter on or near reservations, were losing their children for failure to protect, or would leave without their children. Often victims leaving abusers would find shelter with relatives, which often was not safe and could be in crowded conditions.

2. Collaboration between agencies and across professional lines was a major challenge. The key value of “best interests of the child” conflicted with the key interest of domestic violence advocates of “keeping the victim safe and empowering victims.” Most domestic violence programs don’t look at the children as victims and provide services. Most child protection agencies don’t see a domestic violence victim, as a victim, but somehow see the person as being in control of the situation. Issues of confidentiality become problematic with attempts to collaborate.

3. Even though some of the sites had multidisciplinary teams, understanding each other’s purpose and function within the system was often not clear. Training in all agencies was needed. Lack of training in regard to domestic violence was needed for child protection workers, law enforcement officers, and court systems. Advocates needed training regarding the impact of domestic violence on children and healing children.

4. Insufficient numbers of trained law enforcement officers impacted this issue. The knowledge that a protection order would not be enforced, or that law enforcement would either not respond or would not respond appropriately, influenced whether the victim sought help or left the abuser. However, child protection generally did not weigh the lack of law enforcement assistance into its decision to remove children. Although the mother/victim would weigh the risk to her and the children of leaving, child protection would not.

5. Funding is a problem. Generally there is a lack of funding, but a major complaint was the inability to use funding more comprehensively. For instance, advocacy agencies could not use funding for children.

6. Tribal leadership fails to give this problem priority. Tribal leadership needs to address the problem of keeping families safe and recognizing that it is in the child’s best interest to stay with his or her family in his or her community. Although domestic violence and removal of Native children from their homes go hand in hand, tribal leadership is not demanding services or providing alternatives. In many places, Native children are still being placed with non-Native families, far from relatives. Issues relating to the placement of children with families in the Native community include the problem with certification of foster homes. Because of the common practice of extended families living together, it is not uncommon to have a family member with a criminal conviction, which will prevent certification, and space may also be an issue.

7. There are large gaps in services, which make it difficult for a mother to regain custody once a child has been removed from her care by social services. Providing phones and transportation to enable a mother to complete a case plan was often lacking. Often services that are available are at some distance, for instance, a shelter off the reservation. Often visitation centers did not exist near a reservation.

8. Child protection's case plans focused on the mother, even though she may have done nothing to abuse or neglect the children. Even when domestic violence was the key reason for intervention by child protection, the mother was held responsible by child protection. The efforts to hold the perpetrator accountable by child protection through a case plan were either insufficient or lacking. Victims were blamed and the batterer was not held accountable.

9. Native mothers often left the children with the domestic violence perpetrator, because they did not have resources to leave with the children. Economically they could not support the children. Frequently, alcohol or drug abuse treatment was needed, and the mother may believe she could not care for the children until after treatment.

10. Treatment for alcohol and drugs were often not available in the community, and mothers had no place for their children when participating in treatment. It appeared a large number of the women identified by child protection as domestic violence victims also had alcohol or drug issues.

11. Tribes have inadequate social service departments (and in some cases none) to handle the number of cases of child maltreatment. The social workers were often overextended and increased numbers are needed to adequately handle the number and complexity of the cases.

12. Tribal social services have often use Western social service models, and this model has been extremely unsuccessful in Native communities. The tribes need to incorporate Native values and traditions into social services and child protection.

13. Children are removed from their mother for failure to protect or because the mother lacks resources to support the child. Rather than working with the mother to resolve the problems, children are removed too frequently, and few services are provided to help the mother regain custody of her children.

14. Often child protection, behavior health services, and drug and alcohol treatment services failed to screen for domestic violence. If what could be a root problem is not identify it cannot be addressed and the correct services identified.

15. Culture, tradition, and values were missing in many services. Western ideas and practices seemed to take priority over traditional ways.

16. When advocacy programs were located within social service agencies, the advocates' responses tended to be more a social worker response, rather than advocacy.

17. Small communities and close family connections could lead to familial connections between clients and service providers. Family influences could impact decision making. The small communities also meant that professionals might have several jobs and wear several different hats. There may be conflicts between the responsibilities. Finding skilled professionals in small communities can also be a challenge.

18. The community fails to hold perpetrators accountable. Perpetrators are allowed to participate in sacred ceremonies.

Recommendations

Although the systems in Indian country may be substantially different than those in other areas of the United States, many of the Greenbook principles still apply. The Guiding Framework section of the Greenbook is very relevant to the needs in Indian country and provides a very useful overall structure for Indian country specific recommendations:

Community leaders should join together to establish responses to domestic violence and child maltreatment that provide meaningful help, supports, and services for families. Simultaneously, communities should hold violent perpetrators responsible for their behavior and provide legal interventions and services to stop this violence. This first principle is an overriding one from which flow most other principles and recommendations in the book.

Three core values. *To implement this guiding principle, interventions should be designed to create safety, enhance well-being, and provide stability for children and families.*

Children in the care of their non-offending parents. *To ensure stability and permanency, children should remain in the care of their non-offending parent (or parents), whenever possible. Making adult victims safer and stopping batterers' assaults are two important ways to do this.*

Community service system with many points of entry. *To provide safety and stability for families, a community service system with many points of entry should be created. This service system should be characterized by the provision of services in appropriate settings as soon as problems are identified; services providers trained to respond meaningfully and respectfully; services designed to minimize the need for victims to respond to multiple and changing service providers; and adequate resources to allow service providers to meet family needs and avoid out-of-home placements.*

Differential response. *Community leaders should design interventions and responses that are appropriate to the diverse range of families experiencing domestic violence and child maltreatment. Families with less serious cases of child maltreatment and domestic violence should be able to gain access to help without the initiation of a child protection investigation or the substantiation of a finding of maltreatment. Because domestic violence encompasses a wide range of behaviors—from the extremely dangerous to the less serious—families require a range of interventions, some of them voluntary and some mandated.¹*

¹National Council of Juvenile and Family Court Judges, "Executive Summary," *Effective Intervention in Domestic Violence and Child Maltreatment Cases (1999)*, 3.

The three core values do not go far enough, and a fourth value should be added for Indian country:

Tribal cultural integration. Tribes should design interventions and responses that are consistent with tribal traditional ways and culture. Adoption of Western forms and styles of interventions and placements have not proven successful for tribal communities, and tribes must find the answers in their own traditional ways, ways that do not increase danger or allow for the batterer to maintain power or control by manipulation of resources or services. The child protection and justice systems need to be examined with a historical context, examining multigenerational trauma and the current situation.

Several recommendations emerged as a result of this project:

- Federal funding needs to be more flexible, allowing small tribal communities to maximize the benefits of funding by being more comprehensive in the services they fund. Holistic services to the family are needed, such as domestic violence centers with programs for children, child protection programs with resources for housing, and so forth. The funding silos tend to develop small pieces of the systems, when a more comprehensive answer is needed. Funding opportunities must require more than “surface-only” collaboration efforts among grantees.
- The tribes must exercise their full jurisdiction when it comes to child protection issues. Tribal leadership must examine their priorities when it comes to our future generations. Although the Indian Child Welfare Act (ICWA) ensures tribal involvement in off-reservation child protection cases related to Native children and provides exclusive jurisdiction when it comes to cases in Indian country, many tribes do not exercise that jurisdiction. An intensive study should be done to determine the reasons for the failure to exercise jurisdiction, with obstacles identified and solutions found. Additionally, such a study might also examine the percentage of ICWA cases resulting from domestic violence in an effort to understand the co-occurrence of domestic violence and child maltreatment.
- Modifications and amendments to tribal codes or administrative procedures should look to traditional ways, customs, and culture, and not simply adopt Western procedures that have been used to oppress and colonize.
- Training and cross-training needs to take place across the board. Several excellent trainers reside within the communities, but regarding certain issues it may be more effective to have a trainer from another community.
- Housing, supportive housing, transitional housing, and chemical dependency treatment must be available to every protective parent in order to remain safe and retain custody of his or her children. The impact of lack of services and housing results in children being removed from their protective parent.

- The system must recognize that the perpetrator is the problem, not the mother. In several of the communities, there is a tradition of sending every mother that is a victim of domestic violence to mental health services, supporting the notion that the mother is the problem. A child protection case is never, or rarely, opened up solely in the name of the perpetrator. Consistently, the mother is the one who needs to follow the case plan. Case plans should be in the name of the perpetrator, and the mother should not be singled out unless there is specific identifiable abuse attributed to the mother (not failure to protect).
- Domestic violence advocacy programs should either be removed from social service departments or allowed some degree of autonomy within the department. Advocacy must be based in the advocacy model of empowerment, safety for women and children, and batterer accountability.





Introduction

Historically, within most tribal nations, children were considered sacred beings. Children were thought to be gifts from the Creator, and consequently, there were many ceremonies from the time the child was born to ensure that the child's spirit was protected and that the child would have many people within the circle of family and relatives to guide, teach, and protect the child. Native people believed that the bond that connects the mother and child was also very sacred. Women were considered sacred because they were the life bearers. Yet, sadly, through the course of history, it is Native women and children who have been the most frequently victimized through domestic violence and child maltreatment.

Since the late 1970s, much work has been done to address the rights of Native battered women and their children in efforts to help them find safety, ensure their rights are protected, and identify resources to help them build new lives free from the violence from which they escaped. Battered women in most tribal communities can access protection orders provided by tribal courts. Child visitation centers were created in some tribal communities to protect the child while visiting with the offending parent. New laws, policies, and protocols have been adopted to protect the rights of Native battered women and their children. Despite the progressive work, Native children are still being removed at disproportionately high rates from battered Native mothers. Often the reason given for removal is that it is in the "best interest of the child."

In 1999, the National Council of Juvenile and Family Court Judges published *Effective Interventions in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*. This publication, commonly referred to as the "Greenbook" due to its green cover, is helping child welfare, domestic violence service providers, and family and juvenile courts work together more effectively to serve families experiencing violence. The publication intended to offer communities a guiding framework to develop intervention and measure progress as they seek to improve their responses to families experiencing domestic violence and child maltreatment.

"I'm always struggling when the victim views the system not as their friend, but as a monster that creates more havoc in their lives. Their kids are going to be removed and their life is turned upside down, if they don't leave their home and they don't have resources of their own. What they learn is to not call the police. It's better to live in the environment [of violence]."

-Judge

The Greenbook has been an important resource outside of Indian country. Unfortunately, there are very limited resources on the Greenbook Initiative Website² or elsewhere that are specifically designed to address the unique issues related to the intersection of domestic violence and child maltreatment in Indian country. Jurisdictional complexities, drastically under resourced programs, unique cultural concerns, poverty, and the extremely high rates of domestic violence, sexual assault, and child maltreatment in Indian country are among the many issues that create a critical need for tribally specific resources.

²<http://www.thegreenbook.info/>

In addition, the issues involved in helping child welfare, domestic violence service providers, and family courts collaborate and work together effectively are different in Indian country. Consequently, the policies and practices that need to be developed in Indian country in order to effectively enhance coordination among courts and social service agencies in order to better serve families in need are also different.

The Tribal Law and Policy Institute (TLPI), with funding from the Office on Violence Against Women (OVW), has taken an initial step in the process to develop coordination through this study and report. This report looks at the issues specific to Indian country relative to the co-occurrence of domestic violence and child maltreatment, highlights those practices that seem to be moving toward Native-specific promising practices, and recommends further action be taken in Indian country.

"I wish we were doing a better job, but we're still trying to figure out what to do. A lot of what we're doing is generating discussion and trying to figure out how we can work together."

- Tribal Social Worker

Methodology

This report is based on four data sources:

1. Findings from an online survey,
2. Results of a focus group,
3. Four case studies involving four tribal communities, and
4. A comprehensive literature search on the co-occurrence of domestic violence and child maltreatment.

The original plan for this project was to provide a tribal-specific promising practices initiative addressing effective intervention in domestic

violence and child maltreatment cases. But as this plan evolved, it became very clear to TLPI staff that we needed to take a deeper look into the problem by focusing on four distinct tribal nations and exploring the various systems approaches and responses to the co-occurrence of domestic violence and child maltreatment. By focusing on four tribal communities, we could analyze their responses to the co-occurrence and discover the challenges they are encountering along with the successes they've achieved when addressing these issues in their communities. The successes would be written into the report as potential promising practices that other tribes could replicate when designing tribal-specific responses to the co-occurrence of domestic violence and child maltreatment. The four tribal nations selected were the Ho-Chunk Nation in Wisconsin, the Rosebud Sioux Tribe in South Dakota, the Eight Northern Pueblo Tribes in New Mexico, and the Cahuilla Tribal Consortium in California. Unfortunately, Alaska Natives were not included in the site visits or the focus group, due to the high costs of their inclusion. As there are differences in child welfare and domestic violence issues between Alaska Natives and other Native Americans, this report does not purport to describe the situation in Alaska Native villages.

Each of these tribal communities was selected for specific reasons as indicated below.

Ho-Chunk Nation:

- Public Law (PL) 280 state
- Tribal-specific battered women shelter
- Strong social services component within the tribe
- Tribal court addressing civil orders for protection with strong domestic violence laws
- Small tribal communities housed in tribal trust lands across the state (no reservation status)

Rosebud Sioux Tribe:

- First battered women shelter located on a reservation
- Progressive, tribally specific responses to domestic violence
- Tribal court addressing civil orders for protection with strong domestic violence laws
- Federal jurisdiction
- Large geographic area and large population on reservation

Eight Northern Pueblos:

- Progressive advocacy program
- Native-specific child abuse forensic interviewer
- Federal jurisdiction
- Large geographic area and large population

Cahuilla Tribal Consortium:

- One strong advocate who is also a tribal leader
- Small tribal communities formed a consortium
- Challenging geographic location where battered women need to travel through remote mountains to receive services outside of their communities
- PL 280 state

In addition to the case studies, as part of this report, TLPI also:

- Conducted an online survey of OVW grantees in order to describe their current interventions into domestic violence and child maltreatment cases,
- Convened a focus group on March 3–4, 2011 in Prior Lake, Minnesota, and
- Published findings.

TLPI joins the National Council of Juvenile and Family Court Judges in affirming the right to safety and stability for every maltreated child and adult in the United States and unites in its call on communities and institutions to come together in creating necessary changes.³ TLPI set out to discover how tribes are carrying out this task of ensuring that every adult and maltreated child find safety and stability.

³Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice, Recommendations from the National Council of Juvenile and Family Court Judges Family Violence Department, 1999.

Background

The relationship between domestic violence and child maltreatment is well established. We know that children who witness domestic violence may face substantial negative effects. Additionally, children living with batterers are at a much greater risk of being physically assaulted. Studies show that men who batter their companion also abuse their children in 49% to 70% of the cases.⁴ Child abuse cases document violence against the mother in 28% to 59% of the cases.⁵ These statistics highlight the occurrence in the general population; we do not have statistics that specifically represent the co-occurrence of domestic violence and child maltreatment in Native communities.

Statistics indicated that 37.5% of American Indian/American Native women were victimized by their intimate partners, with 15.9% raped, 30.7% physically assaulted, and 10.2% stalked.⁶ Considering that approximately two in five Native women are victims of domestic violence, higher than any other racial or ethnic group, the co-occurrence of child maltreatment and domestic violence poses a significant problem for Native families and Native communities.

When reviewing the co-occurrence of domestic violence and child maltreatment in Indian country, we must consider that we have criminal justice systems that hold perpetrators accountable, and child welfare systems that deal with child maltreatment that are specific to “Indian country.”⁷ Homelessness, alcoholism, poverty, violence, and despair brought about by the colonization of Native people need also be considered. One study of domestic violence and indigenous communities noted that the systems (justice/child welfare) continue to act as the oppressor, mirroring the relationship the battered woman has with her abuser:

1. Threatening her with harm if she doesn't cooperate,

“Unwarranted and unjust government interference with Indian family life is perhaps the most flagrant infringement of the right of Indian tribes to govern themselves in our time and the most tragic aspect of contemporary American Indian life. Indian children today are being removed from their families and placed in adoptive care, foster care, special institutions, and boarding schools.”

-The Destruction of American Indian Families, Association of American Indian Affairs 1977

2. Threatening her with the removal of her children if she doesn't do some thing,
3. Telling her when and how she can speak, and

⁴Lundy Bancroft, and Jay G. Silverman, *The Batterer as Parent* (Thousand Oaks, CA: Sage Publications, 2002), 42–44.

⁵Janet Carter, “Domestic Violence, Child Abuse, and Youth Violence: Strategies for Prevention and Early Intervention,” Family Violence Prevention Fund, <http://www.mincava.umn.edu/link/documents/fvpf2/fvpf2.shtml> (accessed November 28, 2011).

⁶Patricia Tjaden and Nancy Thoennes, “Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey,” (National Institute of Justice, 2000), 181.

⁷The term *Indian country* refers to Indian reservations, dependent Indian communities, and Indian allotments still in trust.

4. Labeling her as sick or uncooperative.⁸

One cannot discuss the issue of child maltreatment and the subsequent intervention of a government agency (child protection services) without also acknowledging the past efforts of the government to interfere with Native family life. In the 1970s, U.S. government acknowledged the significant impact of these intrusions in the 1970s. As a result of recognizing the devastating impact that the removal of children had on Native families, community, and culture, the federal government passed ICWA in 1978. Its purpose was to reduce the high rate of removal of Native children from their families and involve the child's tribe and family in the decision making when a child needed to be removed.

Criminal Justice System in Indian Country

Historically, a tribe had inherent authority over its members and others within its territory. However, the federal government has expressly limited the authority of tribal nations in a number of ways, which has limited the ability of a tribe to fully protect its women and children. A tribe has no criminal jurisdiction over non-Indians. This eliminates the ability of a battered Native woman to seek justice in a tribal court against an intimate partner who is non-Native, except possibly a civil sanction. The federal government has also limited the criminal penalties for incarcerating a Native American to one year in jail. The Tribal Law and Order Act of 2010 (TLOA) increased the possible period of incarceration to three years provided certain requirements are met by the tribe. No tribe has currently expanded its period of incarceration to three years, although some tribes are working on meeting the TLOA requirements.

In order for a tribal community to hold non-Native offenders accountable, they need to rely on the federal prosecutor to file criminal

complaints in federal court. State courts have no criminal jurisdiction over Natives or crimes against Native on most reservations, except those impacted by PL 280 or those that have other specific federal legislation directed at criminal jurisdiction. Federal courts have concurrent jurisdiction with the tribes over violent cases committed by Indians under the Major Crimes Act in many tribal communities and over crimes of general applicability, such as the Gun Control Act,⁹ 18 U.S.C. § 110, offenses relating to the sexual exploitation of children, habitual domestic violence,¹⁰ and many other general crimes. However, the maximum tribal incarceration penalty is one year, until a tribe meets the TLOA requirements to expand to a three-year period. Reliance on the federal criminal justice system to hold offenders accountable is crucial.

Through the Indian Country Crimes Act, more commonly known as the General Crimes Act, 18 U.S.C. § 1152, criminal jurisdiction over general federal offenses is extended to Indian country when the offenses are between Indians and non-Indians. Non-Indians could be prosecuted by the federal government for crimes against Indians under this law for general federal crimes. This law also incorporates the Assimilative Crimes Act, 18 U.S.C. § 13, the federal law that allows for the use of state law where there is no federal crime. The General Crimes Act did not extend to Indian against Indian crimes or Indian against non-Indian crimes, if the tribe already prosecuted the offense or a treaty stipulated that the power to prosecute members was exclusively reserved to the tribe.

⁸Thomas Peacock, Lila George, Alex Wilson, Amy Bergstrom, and Ellen Pence, "Community-Based Analysis of the U.S. Legal System's Intervention in Domestic Abuse Cases Involving Indigenous Women" (National Institute of Justice, 2003).

⁹18 U.S.C § 921–929.

¹⁰18 U.S.C. § 117.

It should also be noted that, absent treaty provisions to the contrary, the state would have criminal jurisdiction of a non-Indian versus non-Indian crime in Indian country.¹¹

Although tribes have the power to exercise criminal jurisdiction over Native Americans, many of them do not have the criminal justice systems, funding, or ability to exercise jurisdiction. Although the federal government has the authority to prosecute many of the crimes against Native women, many federal prosecutors have not made it a priority or are faced with difficulties in prosecuting cases due to insufficient or inexperienced law enforcement and many other problems.

Public Law 280

In 1953, the U.S. Congress passed a law that substantially affected criminal jurisdiction in Indian country. PL 280 conferred criminal jurisdiction over crimes occurring in Indian country to certain states. Six states (California, Minnesota, Nebraska, Oregon, Wisconsin [with certain exempted reservations], and Alaska [upon statehood]) were required to accept the jurisdiction over crimes in Indian country within their states. Other states were given the option of asserting jurisdiction.

Although tribes did not lose their criminal jurisdiction over Native Americans through PL 280, those affected did not receive funding to set up court and criminal justice systems until recently. Few tribes impacted by PL 280 have criminal justice systems at the present time.

In PL 280 states, the tribe must rely on the state to prosecute offenders for all crimes, in many circumstances. If a tribe has a tribal court and a criminal code, it may exercise concurrent jurisdiction with the state but has the

¹¹United States v. McBratney, 104 U.S. 621 (1882); Draper v. United States, 164 U.S. 240 (1896).

same limitation on incarceration as other tribes. The TLOA has given tribes the option of requesting federal concurrent jurisdiction as well. Some tribes are seeking to include federal jurisdiction as an option.

Dissatisfaction with PL 280 has led to the partial or full retrocession (return of jurisdiction from the state to the federal government) of 31 reservations once covered by PL 280.

The four case studies represent two Indian nations that were impacted by PL 280 (Ho-Chunk Nation and Cahuilla Tribe) and two that are not impacted by PL 280 (Rosebud and Northern Pueblo).

Indian Child Welfare Act

Another federal law that significantly impacts the co-occurrence of domestic violence and child maltreatment is ICWA. ICWA was passed in 1978 as a congressional response to the extremely high incidence of removal of Indian children from their families and tribal communities and the placement through foster care or adoption with non-Indian families. This separation of children not only from their families but also from their culture and tribe was recognized as destroying Native culture and tribal communities. This loss of culture and tribe was seen as destructive for the individual child as well.

The cornerstones of ICWA are the recognition of the importance of tribal integrity, social and cultural standards of the tribal communities, tribal authority over their members, and extended family involvement in raising children in Native society

"We need to educate and stop charging moms with failure to protect. How is that going to be beneficial to our kids?"

-Advocate

ICWA does not apply to a custody dispute or placement between parents. It does apply to other placements, such as foster care, adoptive homes, and other placements enforced by third parties, such as state or county child protective services. The law requires all states to comply with certain standards and requirements that recognize the Indian child as an Indian and recognize the rights of Indian tribes to their children. The law recognizes the need to do not only what is in the best interests of the child but also support the stability and security of the Indian family and Indian tribe.

When an Indian child resides or is domiciled in Indian country, where tribal courts oversee child welfare matters, the tribe generally has jurisdiction over child maltreatment cases. In PL 280 states, the state has concurrent jurisdiction with the tribe over child maltreatment cases. When there is a convergence of domestic violence and child maltreatment, and the child is not domiciled or residing in Indian country, ICWA requires that the state child welfare agency or court notify the child's tribe as well as the child's Indian custodian. The tribe has a right to intervene in the state case. The tribe or parent has a right to ask that the case be heard in the tribal court. If a transfer to tribal court is requested, the case will be transferred unless a parent objects or there is "good cause" not to transfer the case.

Once a case is transferred to tribal court, that court uses its own tribal laws, procedures, and standards in determining the involvement of the court or social services in the case. ICWA does not apply to child protection proceedings in tribal court, although some tribes have adopted codes similar to ICWA.

A tribe may also enter into agreements with the state, which transfer power to the state to handle child maltreatment cases in Indian country that could be handled in tribal courts and tribal social services. Although the Rosebud Sioux Tribe has exclusive jurisdiction over tribal maltreatment cases within the Rosebud

Reservation, the tribe has acquiesced (without a written agreement) in permitting South Dakota Child Protection Services to enter its jurisdiction and remove Indian children from their reservation homes, provide services, and place children on or off the reservation through tribal court. Because ICWA does not apply to children removed on the reservation through tribal court proceedings and because apparently no formal agreement exists between the tribe and South Dakota, no tribal authority exists over how child protection operates on the reservation.

The following are important ICWA requirements that every state must meet (when ICWA applies) when it places an Indian child outside the parental home for reasons of maltreatment or neglect:¹²

- ICWA requires a showing that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child before removing the child from his or her family. The determination must be supported by clear and convincing evidence, including the testimony of qualified expert witnesses.
- Notice of the legal proceeding for out-of-home placement (foster care/ termination of parental rights) must be given to parents and to the tribe in which a child is a member or is eligible for membership.
- The state must place the Indian child in the least restrictive setting (more similar to a family) and in close proximity to his or her home, and honor the placement requirements of placing the child first, with his or her extended family;

¹²Native American Rights Fund, "A Practical Guide to the Indian Child Welfare Act," September 2011, <http://narf.org/icwa/index.htm> (accessed November 9, 2012).

second, with a tribal foster home licensed or approved by the child's tribe; third, with an Indian foster home approved by a non-Indian licensing authority; and finally, with an institution approved by an Indian tribe and suitable to meet the child's needs.

- Prior to a placement outside the child's home, active efforts must be made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; these efforts must prove to be unsuccessful.
- No termination of parental rights may be ordered in the absence of a determination, supported by evidence beyond a reasonable doubt and including testimony of qualified expert witnesses that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Jurisdictional and ICWA issues, and the systems and procedures that have developed because of these laws, require different considerations than what we find in mainstream America. The systems and the challenges are different. There are also many different justice and child welfare systems within Indian country. Looking at the co-occurrence of domestic violence and child maltreatment in Indian country may identify issues that need to be addressed or effective programs, but there will be no one solution that fits the varying tribal systems. We can at least suggest possible improvements, but each community will need to find the answers that fit its particular child welfare and court systems.





Online Survey: Findings

The purpose of the survey was to begin to identify the scope of the issue of the co-occurrence of domestic violence and child maltreatment in Indian country. We also sought to solicit information on challenges that communities were experiencing and successful strategies being used. In addition, we wanted to identify potential sites for promising practice recognition and on-site visits.

An online survey was done through Survey Monkey. Fifteen quick multiple-choice questions were asked with an open-ended component to the questions. We sent an e-mail blast to all OVW grantees on the TLPI database. The survey was open for one and a half months. We received 54 responses.

Approximately 38% of the responses were from advocates, 18% were from tribal social services directors, and the remaining responses were from tribal court personnel, tribal law enforcement, and other positions.

Interesting findings included a response to the question "Does your program have a good collaborative relationship with your local child protective services, law enforcement, and criminal justice system on the co-occurrence of child maltreatment and domestic violence?" Approximately 78% responded that they did have a good relationship. Respondents were also asked the question, "How would you rank your current response to the co-occurrence of child maltreatment and domestic violence?" Approximately 43% responded "okay but could use some work"; 28% responded "definitely needs work"; and the rest responded either "good or very good."

"It is common knowledge victims of violence are hesitant to report any violence in the home if children are involved. Child protection agencies are seen as a threat and many victims do not trust them and fear their children being taken away."

-Survey Respondent

Current Challenges

Major themes or problem areas identified by the respondents when asked for current challenges in their programs in handling the co-occurrence of domestic violence and child maltreatment included:

- Safe housing/safe place for victims is needed.
 - * Women stay with the abuser because they have no place to go.
 - * Most reservations do not have shelters and uprooting their family to shelters in non-Native communities is not desirable.
 - * Often victims stay with family, but that may not be a safe place for the victim and her children.
 - * Women who end up in shelters with children may have no permanent option for housing, due to insufficient housing on the reservations.
- Collaboration is a challenge.
 - * It's difficult to manage conflict of interest and confidentiality in cases.
 - * Often no charges of domestic violence are brought.
 - * Others don't understand the advocate's role.

- * The federal staff does not understand tribal governments and culture.
- * Disagreements between agencies on placements of children.
- There are problems with law enforcement: insufficient numbers and untrained.
- Tribal council does not understand the needs of the various programs that deal with the co-occurrence of domestic violence and child maltreatment.
- A child advocacy position within our advocacy program is needed.
- Family fears and lack of trust.
 - * Families fear child protection workers removing children from their home.
 - * Women do not trust the system so will not ask for help.
 - * A great deal of revictimization by agencies occurs.
- Lack of training.
 - * Law enforcement has a difficult time enforcing protection orders that allow parents to talk “only about the children.”
 - * Child protection workers lack training.
 - * Sometimes law enforcement responds and sometimes it doesn’t.
- Funding is a challenge, and we lack the data and statistics needed to justify funding in grant proposals.
 - * Lack of sufficient staffing exists: over-worked and underpaid.

Successful Strategies

The following are major themes that emerged when respondents were asked for successful strategies in dealing with the co-occurrence of domestic violence and child maltreatment:

- **Collaborating and regular communication with others has yielded positive results including:**

“We used to attend child protection team meetings. Now we are very reluctant. We are constantly at odds with their case plans of placing children with perpetrators, holding only women responsible for the welfare of their children, requiring them to complete so many programs, meetings, classes, and not requiring the perpetrators usually the fathers to do the same, or do anything at all. The goal for family reunification is applied to all cases even those with domestic violence and other abuse charges. We have requested child protection staff to attend training and they have been receptive to the local education sessions we provide, but this has not brought about any significant change in stopping the revictimization.”

-Survey Respondent

- * Collaborations with neighboring tribes;
- * Regular meetings between child protection services and domestic violence advocates fostering cross-agency communication;
- * A focus on bridging gaps between Native and state services;
- * Department heads holding a regular monthly meeting;
- * A good relationship between the Bureau of Indian Affairs (BIA) Child Protection and Indian child welfare workers;
- * Supportive tribal relationships,
- * Operational agreements with tribal and nontribal agencies/ collaboration;
- * Development of Native Sexual Assault Response Team [SART] policies and procedures;
- * The close physical proximity of child protective services, adult services, and domestic violence services, which leads to collaboration and communication; and
- * A collaborative relationship with the judicial system resulting in quick orders

- **Training and education make a difference.**

Examples of training:

- * One-week intensive Healthy Family Workshop that includes elders;
- * Educating new administrations to ensure they know who we are, what we have done, and how we've worked with previous administrators;
- * Family violence prevention events in the community; and
- * Cross- training children's service workers to assist children who are victims or witnesses to domestic violence so that the children do not need to leave the community to receive services.

- **Services provided to support families.**

Example of services:

- * Victim compensation program available to victims fleeing their homes;
- * Mediation and counseling services available for families;
- * Transportation, groceries, and so forth provided for clients;
- * Children's support groups at family violence prevention events;
- * Safety plan contracts with parents lowers out-of-home placements; and
- * Court is creative when deciding domestic violence cases.

"In one case the children were removed from the mother after she had left the abuser, because she went to his location to talk to him and another domestic violence incident occurred that one of the children was involved in. It was difficult to get the social worker to understand the dynamics of domestic violence and what the mother was trying to do to get out of the situation."

-Survey Respondent



Focus Group Report: Themes / Findings



Introduction

A two-day focus group met in Prior Lake, Minnesota, on March 3–4, 2011. The group was facilitated by Maureen White Eagle and Barbara Bettelyoun, Ph.D. Seventeen professionals, who work in the field of violence against women and children in Indian country, attended as participants, as well as the staff from TLPI and OVW. After an overview of the project and a presentation of the Greenbook's guiding framework and foundational principles, there were presentations followed by extensive group discussion. The first presentation, "Domestic Violence and Problems Encountered by Battered Women as They Seek Safety, Protection and Custody/Visitation on Behalf of Their Children," was followed by a discussion focused on what was occurring in the participants' communities. Topics included initiatives that are keeping women and children safe and holding offenders accountable; protecting the mother/child relationships; and incorporating culture-specific programming.

Following the next presentation, "The Needs of Children Who Are Abused and/or Witness Domestic Violence," the focus group discussed the role of child protection services and courts in providing effective intervention in the co-occurrence of domestic violence and child maltreatment.

On day two, the discussion centered on the challenges in tribal communities to creating seamless system responses to battered women and their children. This was followed by a discussion on promising practices in Indian country. The remainder of the day was spent in discussions capturing major themes in identifying some preliminary recommendations.

Summary of the Focus Group Themes, Findings, and Recommendations

The focus group's vision of an "ideal tribal system" to effectively respond to child maltreatment and domestic violence requires that the system deals jointly with the two issues. Children's and mother's safety should be at the heart of the system, as well as perpetrator accountability. They envision a system that operates on tribal values, such as children and women are sacred and that the mother/child relationship is sacred. The system should act holistically, using the medicine wheel, and comprehensively, focusing on the family as a group. The system should have a goal to decrease the incidence of domestic violence by the next generation. Clear tribal values and beliefs are incorporated into codes, protocols, procedures, and education. The tribe is clearly passing on its tribal values to the next generation through its programming.

1. Collaboration Challenges

The justice system does not work together to protect families. Collaborations among domestic violence groups, child welfare agencies, and courts are very difficult. Each agency has its own agenda. Child protection agencies focus on the best interest of the child in mind, not considering that the best interest of the child is to stay with mother in a safe setting. Domestic violence services generally focus on keeping the mother safe and empowering the mother. Often services to support the children are unavailable.

What is needed?

- Cross-training,
- Showing respect for everyone,
- Fact-finding ability,
- Protocols or procedures to support confidentiality,
- Collaborative efforts to keep the family safe between domestic violence programs and child protection, and
- The need of tribal leadership to articulate the necessity to promote safety of the mother and children, recognizing that the child is not alone in the family system.

"How do victims leave when there is such a lack of housing and lack of economic opportunity?"

-Focus Group Participant

2. Service and Resource Gaps

There are large gaps in services and resources that make it impossible to meet the needs of families who are victims of domestic violence. As one participant said, "How do victims leave when there is such a lack of housing and lack of economic opportunity?" The lack of resources in the community makes mothers vulnerable to losing their children, as they may be without housing and support.

Lack of transportation and phones make it difficult to leave the abuser, access services, and comply with case plans. Michigan has two shelters in a two-county area that are empty because they are not accessible. The system revictimizes the victims by either transplanting them to the city, where they are not familiar with anyone or anything, or providing no services where they live.

What is needed?

- Close gaps in services,
- Expand/reallocate resources, and
- Add transitional and permanent housing for families.

3. Lack of Support from Tribal Leadership

The present justice system in tribal and state systems expects women to leave their abusers and assumes this will solve things for children. If she does not, the system may prosecute her for failure to protect, and/or remove her

children and even terminate her parental rights. The belief systems in tribal and state courts blame the victim/mother for not removing children from the batterer. Yet the systems continue to support the perpetrator in visiting his children. They don't acknowledge the harm his battering is causing. It is the mother who is being held accountable, not the batterer.

What is needed?

- Tribal leadership insisting on tribal values in the tribal and state systems (e.g., child protection, domestic violence, court, and law enforcement) that promotes family (mother and children) safety, honors the sacred relationship of mother/child, and holds perpetrators accountable;
- Identification of gaps in services and development of services that promote family safety;
- Requiring service plans and referrals that focus on family safety and family stability; and
- Holding domestic violence perpetrators accountable in the child protection system as well as in the criminal justice system.

4. Case Plan Focused on Mother, not Perpetrator

The case plan is focused on the mother, monitoring whether she is meeting the case plan requirements. She has 101 things to do. The father, the perpetrator, doesn't have that much to do and is able to do the few things asked of him. Then people start to see the mother as the problem, because she is unable to meet all the requirements of the case plan, and not the domestic violence. The system is set up to provide much more support to the batterer.

What is needed?

- There should be case plans for the father (batterer),
- Case plans and court action should be in

the batterer's names, unless there are specific incidents of abuse by mother/victim, and

- The perpetrator should be held accountable in child protection actions, not the mother/victim.

5. Native Mother's Leave Children with Perpetrator

It is not uncommon for Native moms who are victims of domestic violence to separate from the batterer and leave their children with the batterer. This happens because batterers often interfere with the mother's parenting, which teaches the children that the mother is the problem and women are weak. By the time the mother is ready to leave the abusive relationship, her children have turned against her. She may also have developed substance abuse problems, believe she is a bad parent, believe she would not get custody, and have no resources to support herself and the children. She may believe that the violence will stop if she leaves. She may have no records documenting the family violence, such as police reports and medical records. Family courts often award custody to batterers, so she may rightly believe that she would not be awarded custody in a contested custody case.

"One Native women victim died (at the hands of her perpetrator) with an open child protection case, but there was never a case plan for the perpetrator."

-Focus Group Participant

What is needed?

- A rebuttable presumption that the best interest of the child is to reside with the nonviolent parent in custody cases; and
- Active law enforcement involvement in domestic violence cases with good reporting and trained medical staff that document possible domestic violence.

6. Mother Charged with Failure to Protect

Two typical scenarios arise in “failure to protect” cases: the abuser commits acts of abuse against children or the children are exposed to domestic violence by witnessing it committed against their mother. Strict accountability applies toward the perpetrator and the victim/mother. The system holds them equally responsible; if not, the mother is held more responsible. Courts are holding the mother accountable and not addressing the perpetrator. Failure to protect discourages women from seeking protection orders because they are afraid that child protection or the police will get involved and are afraid of losing custody. This approach creates a disincentive for victims to get intervention, and it places children in greater harm. “Failure” (failure to protect) implies that circumstances are controllable and the victim is responsible, in a situation in which the victim has no control.

What is needed?

- Child protection services must seek a stay-away order instead of requiring the victim to get the order,
- Child welfare petition strictly in father’s name,
- Child protection should support mothers and children together, and
- Training/education—basic education about how you write a police report dealing with the removal of children or basic domestic violence training.

7. Tribe Lacks Social Service Department or Has Inadequate Social Services

The tribe either does not have a social service department or an overwhelming number of tribal communities have one person who plays role of prosecutor, law enforcement, and social worker. Responders and service providers aren’t receiving resources to do what they need to do. Even when they do get grants, in two to three years the money is gone. As one

participant stated, “Tribes have a lot of people that wear different hats and sometimes they get confused about what hat they’re wearing.”

What is needed?

- Tribes need to take responsibility for child protection/social services,
- Tribes need funding and training for social services,
- Tribes may need to share resources with other tribes to develop more specialization, and
- Tribes need to ensure that there are no conflicts of interests when a person is wearing several hats with differing responsibilities.

8. Grants Limit Addressing the Co-Occurrence Comprehensively

Multiple federal grants with different conditions (e.g., age groups) require advocates to work only with certain members of a family. Other grants focus on youth. If a program does not have a variety of grants, it is not able to work with all members of the family. Organizations are penalized for working with too many jurisdictions even though in Indian country that is a necessity because of multiple jurisdictional issues. Applying for more grants is not the answer as it is difficult to staff in a rural setting and is time consuming to manage several grants.

What is needed?

- Federal grants that encompass the whole family and deal with issues more holistically and comprehensively.

9. Focus on “Best Interests of Child” Marginalizes Women

Women are being marginalized because the focus is on the “best interest of the child.” We get away from the real issue of domestic violence when the focus shifts to only the best interest of the child. It minimizes domestic violence.

What is needed?

- It is imperative that the issues of child maltreatment and domestic violence be addressed as a family, and
- Training on domestic violence for all child protection workers.

10. Native Communities Have Replicated Western Social Service Model

Out-of-home placement for Native children is twelve times more than that for non-Native children. Unfortunately, Native communities have replicated Western attitudes by replicating Western models of child protection services and social services. The high out-of-home placement demonstrates how unsuccessful the models are in Native communities. Models that support Native attitudes and beliefs should be supported in Native communities.

What is needed?

- Tribal social service systems firmly entrenched in tribal values and culture, and
- Tribal court systems that recognize tribal values and culture and require social service systems to act consistent with tribal values and culture.

“Tribes have a lot of people that wear different hats and sometimes they get confused about what hat they’re wearing.”

-Focus Group Participant



Introduction to Case Studies

For the purposes of this study, four tribal communities with differing justice and child welfare systems were selected.

A site visit was made by Bonnie Clairmont or Lonna Hunter to each community, and extensive interviews were conducted with staff from child protection agencies (state and tribal), advocacy and domestic violence shelters, behavior health services, and court systems. By focusing on four tribal communities, we could analyze their responses to the co-occurrence and discover the challenges they are encountering along with their successes. The four tribal nations selected were the Ho-Chunk Nation in Wisconsin, the Rosebud Sioux Tribe in South Dakota, the Eight Northern Pueblos in New Mexico, and the Cahuilla Tribal Consortium in California.

Some of the questions raised in the site visits included:

- Are some tribal communities doing a better job of working together? Why or why not?
 - What's needed in tribal communities to see improved responses, better coordination, and collaboration to prevent children from being removed at disproportionately high rates and to keep Native children with their mother and their relatives?
 - What is needed to hold batterers accountable?
 - Are children being removed and mothers being held responsible for the abuse/neglect of their children for returning to the batterer or not leaving the batterer (failure to protect)?
- Is there adequate training for agencies that respond to domestic violence victims and their children?
 - How are agencies in tribal communities working together to protect battered women and their children, and what are they doing to protect that sacred bond between mother and child?
 - Is there an element of lateral oppression occurring in tribal communities in which tribes are abdicating their sovereign rights/duties/responsibilities to protect children from being removed and placed outside their homes and families?

"Anytime you have a domestic violence charge, you're going to have a child protection service case opened if there are kids in the home. It's all-together. I was so naïve I didn't know it was going to be that way when I started doing this work."

-Advocate



Case Studies

Cahuilla Tribal Consortium Site Visit

Who Manages Child Welfare Issues: Both state and tribe

Location: California

Area in Square Miles: 2,400

Population: 900 members

Jurisdiction: PL 280

Number of interviews: 6

Agency or Organization Interviewed	Service Area	Description of Services/Title
Riverside Juvenile Court	State	State court
Riverside San Bernardino Indian Health	Tribal Non-profit	Tribally controlled and managed health care organization, established to meet the medical and health needs of American Indians living on or near nine reservations in rural, medically underserved areas of Southern California. The organization manages five clinics and three outreach facilities.
Soboba Social Services	Tribal	Tribal social services, tribal Indian child welfare, and licensed family therapist that serves North San Diego and Riverside counties and San Bernardino County.
Indian Health Council Clinic	Tribal	Domestic violence/sexual assault program with the Indian Health Council Clinic covering 9 reservations in Northern San Diego County.
Cahuilla Consortium	Tribal	Consortium is made up of 11 bands of Cahuilla.
Avellaka Program, La Jolla Band of Luiseno Indians	La Jolla	Domestic violence and sexual assault program, La Jolla Reservation (650 members within the reservation boundaries).



Cahuilla Tribal Consortium Site Visit

Cahuilla Legend



The two rock formations depicted here are located on the Cahuilla Reservation in California. Legend has it that the rock formation with the larger rock surrounded by smaller rocks represents a Cahuilla woman who left her husband with her children, because he was not good to her and the children. The rectangular rock to her left represents her suitcase. The rock formation on the left is located across the road from the one representing the women and children. This one represents the man who was left behind. Here you see him standing alone on a hill, looking across the road at the woman and their children about to leave the reservation.

Summary of Services and Collaborations in Cahuilla

Soboba Social Services

Soboba Social Services is a tribal child welfare agency that intervenes in cases in which Native children have been removed by state social services. Soboba ensures that the immediate family is available for placement of a Native child when possible and, if not, the extended family. If no placement in the family is available, then they secure a Native family for placement. The last case scenario is to place children with a non-Native family. The most important factor when working with families is safety. Advocacy and autonomy of the battered woman is respected. Options to meet her needs are provided on a case-by-case basis. Additional services include referrals, support, and transportation to a shelter if needed. Soboba provides safe housing in hotels, food, and gift cards. Soboba will meet with the battered woman where she is located, so she doesn't have to travel, thus keeping safety in mind. The survivor can choose culturally specific services.

"We may find out that the Native client may not want anything to do with their culture."

-Social Worker

San Bernardino Behavioral Health

San Bernardino Behavioral Health (SBBH) provides services to a battered woman, once her children have been removed. SBBH can provide one-on-one counseling, referrals to court-appointed special advocates, shelters, or services that the battered women identify. SBBH only provides services when they are referred by child protection; 90% of the time children are referred because of their involvement with child protection. Usually they see the children for maintenance or as part of the placement plan. Once child protection is involved or takes over, they may see a woman a few times a week and follow the case plans ordered by child protection, which may include parenting, anger management, and substance abuse. However, if the women need treatment, they must leave the reservation. SBBH also provides services, although they are not court approved, that include addressing the cycle of violence, intergenerational trauma, psychiatric services, and dispensing medication. Although SBBH is working with battered women and children, it currently is not providing services to the batterer. Once the children are removed, there is a “no contact order” put in place to require the batterer leave and stay away from the home.

SBBH refers battered women to a shelter if they are in immediate crisis, although they can provide one-on-one counseling. SBBH works with the women to become more independent. SBBH is in the planning process of developing a family reunification curriculum.

“I got so fed up with trying to deal with shelters that I want to bypass them altogether. There are no Native shelters and the non-Native shelters don’t work for Native women. I put myself in their [the victim’s] shoes. Would I really want to go to a shelter in Escondido or Corona? Be in the city environment where I’m totally out of my element? Last time I assisted a victim there, she was there a week and her baby got sick. She said it was very unhealthy. She felt like she was in prison since they lock everyone in at night. She literally felt like she was in prison herself. “

-Advocate Cahuilla

Indian Health Council Clinic

Indian Health Council Clinic (IHCC) serves nine reservations in northern San Diego County. The program provides emergency services to women and children such as food vouchers, emergency transportation, and advocacy. IHCC provides legal advocacy for the battered woman to obtain temporary and permanent restraining orders. It makes referrals to other community resources and collaborates with other agencies to provide services that they are not able to provide, such as electricity payments and relocation costs. IHCC also provides transportation for medical appointments or to other agencies for women and children in order to ensure her safety net after leaving a domestic violence relationship. It provides counseling for women and children. IHCC has a child therapist who specializes in working with children who have witnessed violence. The mother may receive education on the cycle of domestic violence, coping skills, anger management, and depression. IHCC noted that it was common for battered women to suppress their anger and become depressed. IHCC uses a cognitive therapy approach. They find cognitive therapy helpful in working with children who may not have verbal skills and with women of any age.



Cahuilla Tribal Consortium Site Visit

Women are referred to them through a number of resources including self-referral, family, law enforcement, court, social services, and hospital. If the mother has been referred or ordered by the court to get involved with counseling or any other type of training, such as parenting.

Cahuilla Tribal Consortium

The Cahuilla Tribal Consortium includes three tribes: the Los Coyotes Band of Indians, Cahuilla Band of Indians, and Santa Rosa Band of Indians. The consortium works in conjunction with family services out of Temecula and with the Indian Child and Family Services. The consortium sets up a team decision meeting. Child protection will make recommendations after investigation and provide the recommendations in letter form to the consortium/tribe. If the tribe agrees with the placement letter, the tribe will make recommendation to the parents. The meetings with child protection are not happening consistently. However, the tribe does collaborate, and some relationship building has occurred. There are some child protection workers who have built strong relationships with the tribe and allow them to intervene. San Diego County has formed a tribal liaison unit, although its response is even less knowledgeable than Riverside County. When there is a case, the tribal liaison unit will contact the consortium.

La Jolla Band of Luiseno Indians, Avellaka Program

The Avellaka Program is two years old. In its first year, it assisted 12 women and in the second year the program served 50 women. The women were not repeat cases. La Jolla is approaching advocacy through analysis of colonization and lifeways, which means not blaming the victim and judging the woman for staying in that relationship. Avellaka has seen a substantial impact on women receiving services.

"The concept of what we're doing is traditional. Forming a consortium and helping people out—to me that's traditional."

-Advocate

In doing this work, La Jolla has called on other tribes and elders to ask how things were traditionally done. The cultural ways of knowing are starting to be revived. Currently, one of the only areas in which that culture is practiced strongly is the funeral. Working with elders has allowed La Jolla to do baby showers during which we put the woman in the middle; all the mothers and the elders give the young mother advice. La Jolla works with battered women whose children have been removed to keep the children with the mother, the protective parent. La Jolla does not provide counseling but has a contract with a therapist, because battered women may not want to receive counseling at the Indian Health Council, possibly due to confidentiality issues within the small community.

Superior Court of California, County of Riverside

The Riverside County Superior Court judge has received training in domestic violence, has committed to continuing education classes, and does community presentations on domestic violence at least four times a year.

Riverside Court utilizes a criminal protective order. It can order a batterer to attend a batterers' program and ensure that the batterer is following the protective order until given permission to stop attending the

Cahuilla Tribal Consortium Site Visit

program. The judge can order a criminal protective order anytime while the case is in motion, and if a batterer pleads guilty, the court must issue a criminal protective order for three years. The criminal protective order may order the batterer to stay away or have no contact. Another option is the “no harass order” in which the family can still have contact, but the violence is ordered to stop. Families may want to reunite or the batterer may have the financial resources, so the court will place a no harass order versus a no contact order to stop the violence but maintain the family unit.

In juvenile court, ICWA cases follow the standard “reasonable efforts” closely because there are many tribes that actively participate in the cases. The tribes come to court and assist the court to ensure that the children stay with the family or extended family. The court has found that the process goes more smoothly with local tribes than with tribes outside of their jurisdiction. For example, the Cherokee Nation of Oklahoma may send a letter stating that it is not able to place the child. The juvenile court meets regularly with mental health, the Department of Education, social services, the tribal courts, and tribal alliances. The juvenile court can’t address the victim of domestic violence, unless the tribe gives the court the tools and each tribe is unique. The Morongo Tribe has resources to help the family. However, if a tribe does not have resources, they have to write to the court and tell us what it recommends to be done for the family. The court looks to the tribe for help with resources for domestic violence.

“It’s difficult to paint social services as a group that is destroying families and being too heavy-handed. If they don’t remove the kid and someone dies, they are blamed. If they do remove, then they are blamed too and used as scapegoats.”

-Judge

In reference to the role of cultural tradition in the court, the judge stated:

For example, we’re required when we sentence for domestic violence to put the person on probation, to sentence under a specific penal code, and we are mandated to give them a 52 week batterers’ treatment program. It also says for “good cause” we can use a tribal cultural program and order people to attend that. Of course, we don’t have that tribal program here but we’re working on it.



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System Strengths

The following strengths were identified by the people interviewed in the community as helpful in addressing the co-occurrence of domestic violence and child maltreatment.

Tribal Leadership on Safety and Sovereignty

One of the advocates shared a story of a domestic violence case in which the tribe had exercised its sovereignty and removed a non-Indian batterer from the home and banned him from the reservation. They had to tell the victim that he was excluded from the home and, if he came back, she was putting her daughter in danger. As a mandated reporter, the advocate indicated that she would report reconciliation to child protection. Luckily that didn't happen. He got help.

The tribes share resources to address these issues specifically around safety and sovereignty in order to make a bigger impact. They encouraged other tribal nations to go after tribal monies in order to eradicate domestic violence and sexual assault and protect children of the nation. Tribal leadership is supportive and responsive. It was noted that one of the communities received \$1.9 million for law enforcement and for domestic violence and sexual assault programs, and it is committed to building the capacity to respond to domestic violence in the community.

Cultural Responses for Battered Women and Children and Traditional Protocols

In one of the battered women's programs, it was important to incorporate cultural programming; they utilized art therapy and traditional healing groups. They have also created opportunities for the women to make shawls, moccasins, and beadwork. Cultural programming that is more specific to Cahuilla is to work with gourds—designing, painting, and staining them, while some are etched with a special tool. They use the gourds to discuss what is happening in the woman's life. Cultural programming allows the women to bond with other women. In addition, sweat lodge, talking circles, and drum group are offered.

Challenges to cultural protocol include oral rules instead of written laws in order to enforce behavior or protocol. The Cahuilla Consortium is an example of traditional ways. All of the tribes that are in the consortium are in it due to custom and tradition, and they do not have a written constitution. This is difficult to explain to people or to funders when they want to see something in writing. In the past, tribes had an oral tradition, unwritten rules about how someone should live and how we should treat each other. Our values are written, but we know them.

Multidisciplinary Team/ Confidentiality

There is currently a multidisciplinary team that convenes on a monthly basis, ICWA caseworkers that meet biweekly, and a weekly clinical case meeting. Cases are brought up after there is a signed release of information. However, if the mother doesn't sign the release, then the advocacy program will not discuss the specifics of her case with the other agencies.

System Challenges

The following challenges were identified by the people interviewed in the community as obstacles to addressing the co-occurrence of domestic violence and child maltreatment.

Batterer Not Accountable, Victim Blaming, and Failure to Protect

Almost all of the case plans are opened in the battered mother's name, and in order for reunification to happen, child protective services tells her to get a protective order or it will remove the children. If she doesn't follow through, her children are removed and then she must work to get her children back. She may have to attend domestic violence classes, individual counseling, parenting classes, anger management classes, family counseling with children, and, if substance abuse is involved, she will have to attend substance abuse classes. The burden to stop the battering is on the woman, not because that's how we want it to be, but that's the way it is. The children often remain with the mother, but if the children are removed, the mother is the one that has to jump through the hoops. The abuser is not accountable, just the mother.

"When batterers are not held accountable, it is left to the battered mother to keep all the balls in the air and keep the batterer away. It's difficult to put the restrictions or sanctions on him. The reality is over 70% of families want to stay together. The battered woman says, "I love him and I just want the battering to stop." Jail is used as a sanction. We've not only taken the children away from the mother but the father as well and that isn't enough to stop the batterer from battering. ...The social change would be for the community to step up and say, "This is not acceptable behavior." The community has to have its own sanctions and Indian country is the best place to practice cultural responses because our communities are small and we can follow through with the intervention. If we can engage our communities to get involved, there would not be a need to remove the children."

-Child Protection Worker

Accountability is not as strong as it should be. As far as getting the services, often the court will order and want specific services for the mother and the children. When children are removed, they will go into foster care and not with family members. Both parties are held responsible to get the appropriate treatment; one may go jail and get the 52-week batterers program. Even though services are provided to both parents, the accountability for the battering is with the mother. Services are provided to restore custody of the child to the mother when she's back to a healthier place, so the victim and her child receive services. However, the court system should be holding the perpetrator accountable. We see perpetrators telling systems that they are following through with court orders; however, they are still battering and systems are still not holding them accountable.

Social workers receive superficial domestic violence training and most social workers give the victim the chance to go and get help and services. Then the social worker goes into the home and, if the worker finds the perpetrator in the home, removes the children. A judge says, "It is not black and white. Are they revictimizing the victim that has been battered or are they stopping further victimization and saving lives?" Social workers in Indian country are often viewed very negatively because of the perception that reporting



Cahuilla Tribal Consortium Site Visit

domestic violence will lead to children being removed from the home. The domestic violence victim's reward for seeking help is to have social services decide what she must do to get the children back. It's a very difficult area and challenging to everyone. An advocate commented on social workers, "They don't know anything about Indian country. They really need training. Some of them come to the reservation and they are very naïve. We do have some social workers who don't even want or recognize tribal sovereignty and have a cookie-cutter work plan for everyone across the board, whether they're in the city or rural area."

Law Enforcement Is a Major Barrier to Safety

Currently, the tribal communities interviewed experience domestic violence crimes at a high rate and were not receiving adequate assistance from law enforcement agencies. The tribal communities indicated that they did not have access to tribal courts or tribal social services in large numbers, and it was stressed they would like OVW to know how important these funding streams are.

Los Coyotes has the only tribal law enforcement agency. It has developed domestic violence codes and plans to develop cross-deputization agreements that would allow Los Coyotes law enforcement to assist other tribal communities. It was reported that law enforcement was not responding to 911 calls, or it may respond eight hours or two days later. Dual arrest (arresting perpetrator and victim) was identified as a barrier to safety. Police make dual arrests, even of victims who were trying to defend their children. Law enforcement officers are not documenting events with accurate reports, and arresting perpetrators is unusual. Programs are still battling old attitudes about domestic violence, and in one case, a deputy told the battered woman that she was wasting his time, because she wouldn't make a report. In another case, a battered woman called the sheriff's department and the sheriff used a great deal of threatening hand gestures when talking to her. She was intimidated. It is clear that training on the dynamics of domestic violence, safety, and mandatory arrest are not occurring to improve the relationship between the sheriffs and the tribes. A part of relationship building includes training to address the four topics: assimilation, history of Native peoples, colonization, and sensitivity. Even though members are working on educating law enforcement agents and court personnel, the challenge is that the officers leave and they have to start over with new officers.

A tribal attorney has worked to make the tribal restraining order stronger by revising the tribal restraining order form to look like the county and state orders. This change was made so law enforcement would enforce it. The law enforcement argument was that the tribal orders were not valid. This demonstrates a lack of training on full faith and credit. Los Coyotes has a tribal court, but the rest of the tribes go through the county.

"You work with child protection and you hear of cases all the time. Kids are witnessing the abuse and acting out and that's a huge one. Violence is reoccurring and not being able to treat the victim is a major hurdle. She picks up another perpetrator. It's a dynamic that needs to be addressed. The inability to order the victim to get services is a mistake and a major hurdle and the children are the ones that pay for that, the kids are removed because of failure to protect, when the victim allows the perpetrator to come back."

-Social Worker

"In some cases the victim was trying to defend the children from the batterer and she was arrested. It is challenging to get law enforcement to write a report much less put the batterer in jail."

-Advocate

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Collaboration among Tribal Agencies

There is resistance to the collaboration among tribal programs. Where there should be encouragement to work together on violent crime, the agencies' leadership tends to create divisions.

No Native Shelter Programs and Limited Housing Options for Battered Women

Battered women stay with batterers because of the family resources, such as the house and other benefits. In battered women's cases, the moms stay for the children, when their basic needs are met. Native women are resilient, protective of their children, and value their family, and for these reasons they may not leave the perpetrator. No Native women's shelters exist in California. There are two Native women's programs, Tuolumne and Kene Me-Wu, both located in Central California. However, there is a Memorandum of Understanding with four shelter programs that are non-Native throughout California, and both programs contract the shelters to house Native women. There is no transitional housing program, and often Native women will not leave their community for housing, because they feel discriminated against. When women do leave the perpetrator, they stay with grandma and grandpa, aunties, or at the mother's house. There is much prejudice and resentment against Native people because of casinos. Non-Indians assume that the tribe has a great deal of money and should take care of all needs. The tribe does not have a casino. Women need resources while they stay on the reservation. The closest non-Native shelter would be in Oceanside, 35 miles away, or San Diego, 62 miles away. Native women are not accessing the shelter services and opting to stay with family members that reflect our cultural sense of family. When women do go to a shelter, it must be her only option.

No Visitation Center

There is no visitation center and often advocates are asked to supervise a visitation with a child in a relative's home, but because of safety factors they have decided not to do so. Instead, the advocates meet half-way at a café and supervise the exchange of the children. The advocates will open their office if the mother opts for that, if the family has the children in foster care, although the social worker may prefer to have the mother come off the reservation. Safety is addressed in each of these situations. In La Jolla they rely on the sheriff's department or basically view the community policing as security.

"I have a hard time getting a battered women to file an order since this is just a piece of paper and the response time to a 911 call is going to take them an hour to get there. We are trying to get a deputization agreement to have a deputy at our disposal and even then it's still going to take him an hour to get there."

-Advocate

"There is a prejudice out there and I think everyone thinks every Indian is a gaming Indian. It is hard for a woman to go into a shelter. She'll usually find other resources."

-Advocate



Case Studies

Ho-Chunk Nation Site Visit

Who Manages Child Welfare Issues: Both tribe and state

Location: Wisconsin

Area in Square Miles: 8,717

Population: 7,192

Jurisdiction: PL 280

Number of interviews: 15

Agency or Organization Interviewed	Service Area	Description of Services/Title
Ho-Chunk Nation Department of Social Services	Ho-Chunk	Services are provided throughout Wisconsin for Ho-Chunk members.
Ho-Chunk Nation Behavioral Health Services	Ho-Chunk	Chemical dependency services and behavioral health.
Ho-Chunk Nation Department of Justice	Ho-Chunk	Tribal attorney within the nation's Department of Justice. Her primary practice area is child protection.
Ho-Chunk Nation S.A.F.E. Shelter	Ho-Chunk	The shelter opened two years ago and offers limited culturally specific services.

Summary of Social Services and Collaborations in Ho-Chunk Nation

Ho-Chunk Nation S.A.F.E Center

The Ho-Chunk Nation's domestic violence shelter was built two years ago. The services are culturally specific to the Ho-Chunk Nation, although services are limited.

Ho-Chunk Nation Judiciary

The Supreme Court has two chief justices, and the trial court has a chief judge and an associate judge. In traditional court there is a member (all men) from each clan.

Consent decrees, which are heard in traditional court, are an alternative to seeking a judgment in the trial court. An example of the use of a consent decree in a domestic violence case was shared. In the example, both parents realized domestic violence was an issue and were willing to have tribal Children and Family Services (CFS) work with the family. The agreement, which was incorporated into the consent decree, required the batterer attend a batterers' treatment program and the victim go to a domestic violence program. The family followed through on everything, and the tribal attorney heard no "new complaints" on the family. The attorney stated, "We were able to help them and the parents saw and admitted there was a problem and desired a solution." The decree in this case was good for six months and could be extended for an additional six months.

Ho-Chunk Nation Behavioral Health

Currently, there is no specific screening tool used for determination of domestic violence within Behavioral Health. During the intake process they identify primary problems. If it is determined that domestic violence is occurring, then Behavioral Health makes the appropriate referral to a program that can assist the individual. If a victim calls Behavioral Health in crisis, she will be referred to a domestic violence program or shelter.

Behavioral Health is able to meet with social workers and have brought them in with the client's permission to address concerns that the family may have. For referrals for alcohol and drug abuse and child protection services, Behavior Health will keep in contact with the referral sources to make sure the person is getting the services that were identified by the client. Behavioral Health is careful to make sure the client is getting the appropriate care and service.

At least 70% of Behavioral Health's clients are probation referrals and go to Black River to meet with probation or parole agents monthly. Behavioral Health has monthly meetings with tribal CFS and meets and talks about all the cases referred.



Ho-Chunk Nation Site Visit

Ho-Chunk Nation Department of Social Services

For domestic violence cases when child protection is not involved, Ho-Chunk CFS will do an intake, investigate, and interview the children, parents, and anyone involved and referrals are made. Intake includes identifying the following problem areas: domestic violence, behavioral health, and alcohol and other drug abuse. Tribal CFS determines any safety breaches (safety checklist) and may remove the child or keep the child with the protective parent. Recently, the tribal CFS went from two to ten workers; CFS is now able to do support groups and in-depth trainings. The ICWA position that responds to state social service cases has been expanded to provide better services. The CFS intake worker is also a licensed social worker and is trained for crisis response. If safety concerns are identified, then CFS will intervene and provide services to minimize the damage to the family. Its primary goal is to protect children.

If a state social worker identifies child maltreatment that is not criminal in nature, tribal CFS will conduct its own investigation. As tribal CFS investigates deeper in a maltreatment case, it may determine that domestic violence, not child maltreatment is a factor, which will prompt it to conduct a criminal background check on the parents as it does the investigation. There may be a determination of the primary aggressor, and in those cases, CFS will focus on the safety and well-being of child. CFS may bring in the domestic violence program because it understands that the children may be too traumatized to talk about the violence that they may have witnessed. Tribal CFS indicated that it is not trained in domestic violence and will call in the shelter advocates in order to determine the primary aggressor.

If it is determined to be child abuse or domestic violence, CFS will order counseling and education. The domestic violence education, anger management, and batterer's assessment maybe referred.

CFS spends an enormous amount of time establishing trust with families. It takes time to build trust with children. CFS is committed to do whatever it takes in whatever time it takes.

System Strengths

Coordinated Community Response

Ho-Chunk has a tribal Coordinated Community Response Team that meets once a month. It includes the domestic violence program and eight social workers. Interviews identified an underlying tension between child protection workers and domestic violence advocates.

Legal Services: Judicare

If battered women or other tribal members need legal assistance, the Ho-Chunk Nation Legislature, which consists of 13 elected representatives from five districts, has a contract with Judicare, a low-income statewide legal services program. The Ho-Chunk Judicare Indian Law Office provides services to Ho-Chunk tribal members statewide. They have increased the income limit for services, so it will not prevent a tribal member from accessing an attorney due to per capita or other income requirements.

Children's Codes

There are good examples in the Ho-Chunk Children's Code incorporating Ho-Chunk culture. In the Ho-Chunk Nation there are extensive familial connections. Grandparents have significant rights identified in the code. Any of a child's mother's sisters are considered the child's mother, and it is considered normal for a child to be raised by an aunt. Any member of the extended family is invited to participate in a court proceeding relating to a child. Ho-Chunk relies heavily on the familial system to provide services to protect and support family members that are in the children's court system.

The placement preference for children removed from their home is also culturally specific in the Ho-Chunk Code. The first preference in placement outside the home is on the paternal side with Tega, who is the uncle. The Ho-Chunk are patriarchal, and Tega is considered the discipliner. Requiring language instruction and providing children with cultural opportunities are also mentioned in the code. In cases in which the father is the perpetrator, the first option is still to place with the father's brother. Social services are required to conduct background checks on placements because they receive federal funding that mandates such background checks. If an individual cannot pass the background check then that placement cannot be an option. There is no presumption that because the father is abusive, the father's family is also abusive.

Traditional Court

Traditional court is a recognized court of the nation. It consists of clan elders who are appointed for life. Parties can choose to go to traditional court, rather than going to the trial court of the tribe. The traditional court renders a decision that cannot be appealed.



Ho-Chunk Nation Site Visit

Clan Mothers

Clan mothers work with the families, or young moms, some of the clan mothers are involved with child protection services. Clan mothers are there to help provide positive choices. Clan mothers are a division of tribal social services. The clan mothers figure out the individual's clan. If the person is part of the Bear Clan, they would bring all the Bear Clan mothers together to meet with that individual. It differs from traditional court; with clan mothers you are with your own clan, and in traditional court you are in front of all the clans. Clan mothers work with women in child protection services who have experienced domestic violence. Clan mothers can meet with girls and women to share stories and clan history in order to give women a sense of who they are, as some may not know their family clans. Clan mothers can identify extended family to talk to for support. Oftentimes, child protection reports by the county are sent to the Ho-Chunk Nation regarding teenagers in domestic violence relationships; the teenager may not want anything to do with the services.

A young mom's support group was started with open weekly meetings in Wisconsin Dells, as a pilot program. Young moms are trained on the five factors of protective parenting.

Interventions with Children Family Services

An intervention program within Ho-Chunk CFS provides early intervention with families for counseling and respite care, so children do not have to be removed. CFS has seen an increased caseload since beginning this intervention. CFS is working on establishing a relationship with the district attorney's office and staff. CFS needs client consent to intervene; ultimately it is the prosecutor's decision to intervene. The CFS believes the prosecutor would be more willing to work with families when there is an advocate involved. If tribal CFS is notified immediately, it can be there from the very beginning.

If, at intake, CFS determines that a crime may have taken place, then the case is referred to law enforcement for investigation. Ho-Chunk does not have criminal jurisdiction. If CFS determines that it has a protective parent who is able to take the child and the child is not removed, CFS will instead provide services. During a crisis, law enforcement is called, the county CFS is called immediately, and during the next day Ho-Chunk is informed and tribal CFS assigns a worker. At the hearing, tribal CFS is a party to the case for temporary child removal and CFS informs the court that it is there to intervene on behalf of the child.

The CFS placement coordinator recruits placement homes in the nation for relative placements to maintain contact with the parent(s); the coordinator then provides the county with a list of placement families. Currently, the nation has 60 court cases; 45 to 50 are ICWA cases throughout the country. CFS is committed to preserving the families it serves. A uniqueness of the program is the spiritual contact. Ho-Chunk Nation has a plethora of resources and the worker provides resource referrals and choices.

System Challenges

The following challenges were identified by the people interviewed in the community as obstacles to addressing the co-occurrence of domestic violence and child maltreatment.

Children Removed Based on Poverty or Failure to Protect

Actual physical abuse cases are just a handful of the 100 cases that Ho-Chunk CFS handles. Most of the caseloads are neglect cases. The screening for “failure to protect” and assessment of the child’s safety is part of the checklist in the box. CFS is aware of safety issues for domestic violence. If a woman doesn’t want domestic violence services, it is seen as a barrier to protecting her children. If any of the questions are answered yes in the safety form, the child is removed. The protective parent may be reunified with the child within a few days or 72 hours.

If tribal CFS determines that the mother has the ability to protect her children, the mother keeps custody of the children. It can determine if she was the protective parent, but that usually occurs once there is a state CHIPS (Child in Need of Protective Services) action that has commenced. If there are reports to CFS that the mother is not protecting her child or has gone back to the abuser, tribal CFS can remove the child. A conversation would take place with the mother about failure to protect, and the child protection supervisor is consulted.

Tribal Court Offender Accountability

The tribal court orders as a condition of a protection order: anger management, mental health counseling, and/or alcohol and drug counseling. The batterers need to show the court progress in each of the areas.

Reasons for Immediate Removal Safety Evaluation Checklist

- One or both parents/caregivers cannot control behavior.
- One or both parents/caregivers are violent.
- One or both parents/caregivers have failed to benefit from previous professional help.
- There is some indication that the parents/caregivers may flee.
- One or both parents/caregivers intend(ed) to hurt the children and do not show remorse.
- Maltreating parent/caregiver exhibits no remorse or guilt.
- Child has exceptional needs that parent/caregivers cannot/will not meet.
- No adult in the home will perform parental duties and responsibilities.
- One or both parents/caregivers fear they will maltreat the child and/or request placement.
- One or both parents/caregivers lack knowledge, skill, and motivation in parenting, which affects safety.
- Child is perceived in extremely negative terms by one or both parents/caregivers.
- Child is seen by either parent/caregiver as responsible for the parents/caregivers problems.
- Parents/caregivers do not have the resources to meet basic needs.

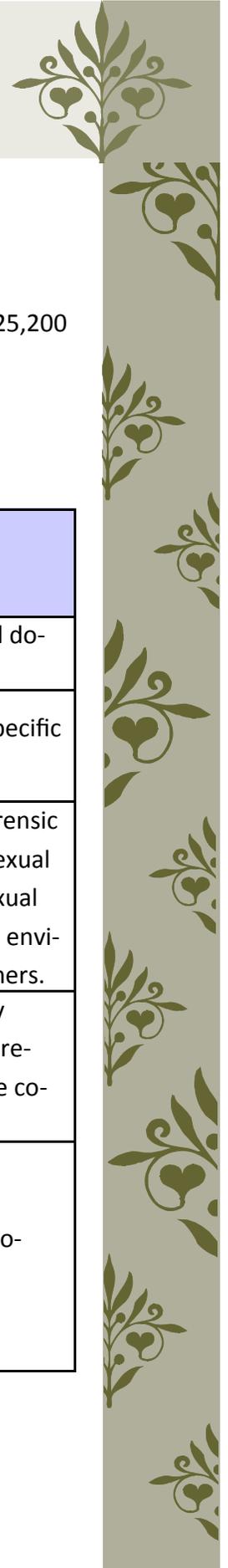


Ho-Chunk Nation Site Visit

Analysis of Domestic Violence and Removal of Children

“Domestic violence is usually intertwined with neglect. Mom or dad is abusing the other or one another; the child intervenes and is hurt. Usually neglect is what triggers an incident report. And then it snowballs from there. Then mom, once child is removed for physical, mental, or emotional abuse or neglect, asks, “What if I just left him, can I get my kids back without going through the process?” Most cases are general neglect due to alcohol and drug abuse issues or both parents are engaging in domestic violence. They are given a list of batterers programs through the state. We have to ask, “Do you want your daughter involved in a relationship like this? Do you want your son to be in jail or act like this?”

-Tribal Social Service Worker



Case Studies

Eight Northern Pueblos Site Visit

Who Manages Child Welfare Issues: BIA

Location: Northern New Mexico **Area in Square Miles:** Not Applicable **Population:** 25,200

Jurisdiction: Non-PL 280 **Number of interviews:** 15

Agency or Organization Interviewed	Service Area	Description of Services/Title
Strengthening Families	Santa Clara	Behavioral health services, children's therapy, and domestic violence advocacy to Santa Clara Pueblo.
Circle of Life Nonprofit	Eight Northern Pueblos	Chemical dependency, therapy that is culturally specific to the eight Northern Pueblos.
Tewa Women United	New Mexico, National	Tewa Women United provides services such as forensic interviewing for children who have experienced sexual abuse, culturally specific services for victims of sexual assault, healing services for sexual assault victims, environmental programming, and Circle of Grandmothers.
Nambe Pueblo	Nambe	Domestic violence program, chemical dependency counselor and tribal judge provide services to the remote pueblo, in addition to an Indian child welfare coordinator.
BIA Social Services	Federal Agency Serving the Eight Northern Pueblos	The agency for the Eight Northern Pueblos that provides social services.

Eight Northern Pueblo Site Visit



“A few years ago we had two young women that were molested by a medicine man and the community was divided on what side they’d support. It was a horrible time. One of the worst things I’ve had to experience. I wasn’t the judge at the time but a judge in training. It was something that really got the attention of the leaders at the time. The girls that had been molested, one child was 15, the other child was 13. The feds wouldn’t prosecute the case because they said the girls’ stories were too much alike. Of course their stories would be the same—they were in the same house together. He would molest one girl one night and the next night the other one. It wasn’t until the younger one went to the older sister and told what was happening to her. The older girl finally told the aunt what was happening. They went through the trial and testified. The court was partitioned off so they couldn’t see him and he couldn’t them. They testified via TV and VCR. The prosecutor was able to have them give testimony without seeing him. They went through all this and the individual went to jail for 6 ½ months and the tribal council released him. The girls will probably never forget it. The man was high ranking and a religious leader. I could have gone to him and said, I need this done and he would have done it. When it snowed, he’d help elders get their vehicles out. He was good in so many ways. The council picked up on that and didn’t give any thought to what happened with the children. These men on council, because they knew the good side of him, felt he could come back to community, give to the community, and bring good things to the community with his spiritual ways. They just didn’t see what he did to the young women; it left a deep scar on these young women and their families. One of those little girls is now 19 and she came to me a week and a half ago. She had been brutalized by the boy she was living with and she came to me for an Order for Protection. I asked her if she reported him to the police and she said, “No, I don’t want to.” I told her you need to report him. She said, “I’ll talk to them but I’ll never testify in court again. Look what it did to me.” The crime occurred in the Pojoque Pueblo and I got an interview set up and had an incident report taken. This young man was on probation for a domestic violence case there. He violated his probation. Although we didn’t have a trial, at least we have the incident and medical reports. Something to prove it happened.”

-Judge

Eight Northern Pueblo Site Visit

Services and Collaborations in the Eight Northern Pueblos

Tewa Women United

Tewa is located in Espanola, New Mexico, outside of the Eight Northern Pueblos. Tewa chose its location in a neutral area because of the desire to maintain confidentiality of families using its services. Women and children need the anonymity. In some small Native communities, if women receive services, everyone knows about it.

Tewa has a crisis center for children. They have identified therapists who are comfortable working with three to seven year olds, adolescents, and adults for referrals. Tewa's services are sensitive to trauma: historical, intergenerational, complex, and individual trauma. Tewa offers support groups for grief.

"We need to educate and stop charging moms with failure to protect. How is that going to be beneficial to our kids? "

-Children's Forensic Interviewer

Shelter services in Indian country include the Navajo Nation's Farmington Chapter, Haven House in Albuquerque, and a youth shelter in Santo Domingo. Santo Domingo is the only pueblo that has a youth shelter. Tewa does not provide services for domestic violence. However, it does participate in the Coalition to Stop Violence Against Native Women and refers domestic violence victims to members of the coalition. Tewa has developed a sexual assault response that is culturally responsive. Tewa offers the Circle of Grandmothers, forensic interviews, and advocacy in the Tewa language. Its programming promotes values and language. Tewa provides healing modalities for survivors (primary victims and secondary victims). This includes access to healing medicine men or women and may include massage.

Tewa works hard to provide whatever the families identify that they need. It lets families know when healers come in to share healing and different healing techniques. It offers four healing sessions per family. Tewa provides bilingual counselors and Native counselors, who receive training to become more comfortable facilitating the healing modalities.

Strengthening Native Families

Strengthening Native Families (SNF), located in Santa Clara Pueblo, began in 2007. The outpatient treatment program was started with a SAMSA grant for substance abuse. Currently, the program is funded through a PL 638 contract with Indian Health Service.. SNF primarily serves substance abusers and their children who are affected by substance abuse. They provide play therapy for children and mental health services and have a domestic violence advocate on staff.

Tesuque Pueblo

In Tesuque Pueblo, tribal court is developing a children's code that will be more extensive. At the time of the interview, Tesuque did not have certified foster families, so the state of New Mexico agreement will not allow foster care placement if a child does not have close family. The BIA Social Services oversees and monitors the child protection cases, as Tesuque is not fully staffed. However, it plans to hire two case



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managers and a family therapist soon. It is currently contracting with a child therapist in order to treat children who witness violence or are victims of sexual abuse. Tesuque partners with the Circle of Life, so each family member has services options.

Tribal court does oversee a variety of cases from criminal, traffic, juvenile, domestic, domestic violence (orders for protection), restraining orders, torts, contracts, repossessions, child support, child custody, probate, and all family matters.

Nambe Pueblo

Nambe Pueblo members may have difficulty accessing services due to its remote location. Recently, Recovery Act funding enabled the pueblo to hire a domestic violence advocate and chemical dependency counselor, which allowed the women's advocate to start a women's group. Nambe Pueblo plans to hire a victim's specialist once funding is secured. It also contracts with Tewa Women United for programming. During Domestic Violence Awareness Month, it plans to work with the Father's Group Alliance in Santa Fe to organize the fathers. Recently the pueblo developed a batterer's reeducation program with Cangleska using the Duluth Model. The images and cultural models were changed to reflect the culture of the Southwest—corn, foods, and images of our lands.

One of the most important tools is to have an advocate there for the victim. In state court they have found that if the victim is without an advocate, the victim will not participate in the state court proceedings, at least 75% of the time.

Circle of Life

Circle of Life received \$5.4 million to develop a new resident treatment program for women and men. It will be located in Taos Pueblo and will be completed by 2012. Circle of Life identified a need for money for prevention because it believed it should go to the very beginning with the children, so it can stop the violence and cycle of addiction completely. It serves the Eight Northern Pueblos, which are separate and distinct communities. They attempt to work with the

protocols for each community to provide services. Ninety percent of clients are ordered by the tribal court to participate. However, they are not forced to use a therapeutic process that is foreign to the Native culture. Circle of Life engages clinical staff who are Native from the pueblo community to help incorporate culture. Circle of Life attributes its success to its cultural sensitivity.

"The country is all suffering and Indian country in particular is suffering. Circle of Life has made a difference. We're not here to punish or point fingers of blame. When we go to leaders, we're not going to compartmentalize as is done in Western methods. This is a community problem; family problem and individual problem."

-Service provider at Circle of Life

Cultural liaisons are contracted by Circle of Life to provide direct relationships to the pueblos. Circle of Life will contact a spiritual person from an individual's community to provide help for an individual in need of spiritual guidance. It provides trainings to the cultural liaisons. Also, it receives referrals from the BIA, and indirectly from the pueblo's court and ICWA workers. If a case comes from tribal court or traditional court, it will go to the BIA as a referral, and the BIA makes a decision to refer to Circle of Life.



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Bureau of Indian Affairs Social Services

There is only one social worker to serve the eight Northern Pueblos. Some of the pueblos have ICWA workers who are supervised by the BIA. Some pueblos have social service directors to take care of ICWA cases. Some pueblos contract part-time or half-time with the BIA to address specific services and needs in the cases. The BIA does not have a screening process for domestic violence in its child maltreatment cases.

If the children are in the next room and hear the violence, it is considered when making a determination of child abuse. If children are involved or present in a domestic violence situation, it is considered child abuse. An investigation will be done to determine what the children heard and the emotional impact. Some children wake up screaming from nightmares. There is a general risk assessment done by just seeing the mother with two black eyes. No separate risk assessment is done when a woman is found to be battered and determined to be maltreating her child. This is assessed on a case-by-case basis.

“Our safety net is all of us. When a perpetrator is charged with a sex crime, we have to overcome male privilege which is so prevalent in our pueblos because of patriarchy.”

-Children’s Forensic Interviewer



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System Strengths

The following strengths were identified by the people interviewed in the community as strengths to addressing the co-occurrence of domestic violence and child maltreatment.

Tribal Court Upholding Tradition and Culture

Tribal courts are considered to have the best of both worlds, which will allow tribes to take a different approach. Many are family in the pueblos; they know their family history—grandparents, aunts, and uncles, and it hurts the community to see violence occurring in the community. Alternative approaches to violence include circles, which are equivalent to a family meeting. It is a traditional response when something occurs between families. Typically, it may be both families, but it depends on what the issue may be. The BIA social worker indicated that some pueblos may utilize children’s codes in a tribal court or there may be a traditional family meeting. If there is a traditional family meeting, the BIA would not be invite to attend. The social worker would make his or her recommendations prior to the meeting, and the governor or the officials present his or her recommendations at the meeting. The pueblos are looking at innovative approaches to restoring and redefining traditional values. They do not want them to be punitive or punishing, but are working to build in traditional accountability.

A number of stories were shared by the service providers about the role of culture in restoring justice and healing. For example, if someone harms someone from another family, what may happen is an elder from that family may call a meeting and whoever called the meeting is given respect. The elder will ask “Why did you do what you did?” and give the person that caused the harm traditional advice. The advice may be from an elder or aunts, uncles, parents, and siblings. Accountability is built into the process. They are held accountable for their wrongs by the families. It is similar to the circle.

Another traditional role is storytelling with a focus on relationships and trying to redevelop and find that spiritual connection. There is also a Wellness Center, and many of their programs are just being implemented.

In Circle Courts, in order to heal, the individual must ask for forgiveness for any disrespect or shame brought to the family. The council of elders may tell the individual to go to the other family and ask for forgiveness. If the victim is in agreement, a spokesperson is designated to speak for the family and find out their intentions.

Another traditional ritual was the use of mask dancers and stories, which allowed the mistreatment to be acted out. The tradition is still practiced today, but it is not as strong as it was. If there was misbehaving, the pueblo responded. However, the Western court system took the power away from those traditional ways, and now procedure is written in black and white. One service provider asked, “How will we reinforce respect for one another without culture? . . . We need to be caring for each other. We need to be addressing the harm, instead of putting those who committed harm away. We need to pull them closer in

“We have men that have been unemployed for a year and a half and they’ll say “I know you’re going to make me pay child support. What am I to do?” I tell them I know your wife has a wood stove. You have a week to get a cart of wood over there. I keep trying to keep them accountable.”

-Tribal Judge

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so you're bringing them under your wing; your teaching them and holding them accountable for their behaviors. Instead, we're sending them to prison and away from the community."

Full Faith and Credit

A pueblo tribal judge explained that he was a cochair for the New Mexico Tribal Judicial Consortium, which is comprised of seven state supreme court and seven tribal judges, a committee of the New Mexico Supreme Court. This collaboration provided the opportunity to work on Project Passport (orders for protection). The Project Passport work group held three regional meetings throughout New Mexico and invited all disciplines. The second year was an educational endeavor to find out from state judges if we had uniform order for protection forms. The third year was planning and developing meetings to educate the state legislature in New Mexico. The Project Passport committee worked with tribal leaders to adopt the first page of orders for protection.

Cultural Programming in Healing

Tewa Women United and Circle of Life work to ensure that traditional healing is incorporated into their programs. Pueblos expressed strong cultural and traditional ties. Tewa has a strong commitment to language as well.

Prevention

The domestic violence program provides programming for children and youth. It provided an opportunity for the children to attend

Gathering of Nations, host a family movie and dinner night, create a teen nightclub, and establish a sense of family to prevent violence. The teen

coalition is like a teen club. Most members may be described as high-risk teens. The program builds leadership skills in teens.

Federal Multidisciplinary Team

A federal multidisciplinary team that includes criminal investigations systems, victim specialists, crisis centers, the Federal Bureau of Investigation, and Tewa Women United was integral in developing a regional federal multidisciplinary team. This ensures that the federal entities are supportive of tribal programs and that entities are communicating and collaborating.

"We can't get them [the United States] to take a case unless great bodily harm or death happened. We had a young woman who was raped and they called it date rape. They told me they don't prosecute date rape. It was really pathetic. I was the one that took the first report. I know it's a crime and I have to report it. I told her, "You're in danger with him still out there." It took a lot for her to agree to report. We got a female officer (our creator must have been looking out for us that day) to take the report. The powers that be didn't want to prosecute because they knew his family. They said his family would get a lawyer and would want a jury trial. We need a 6-member jury; we could have done that. But they would not prosecute. They felt she had agreed to have sex with this man and changed her mind at the very last minute and it was her fault. I don't care what the situation is: she has the right to change her mind. But they wouldn't listen. You're looking at this from dinosaur days; that case got a lot of attention because people were talking. They were cousins of the girl that wanted to go after the young man."

-Tribal Judge



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System Challenges

The following challenges were identified by the people interviewed in the community as obstacles to addressing the co-occurrence of domestic violence and child maltreatment.

No Screening for Domestic Violence or Sexual Assault

There were several agencies that did not screen directly for domestic violence or sexual assault, even though the agencies identified domestic violence or sexual assault to be a major issue for many of the clients. In the initial intake, they may complete a psychological assessment form, and it may only have room for family history and trauma. Usually the referral is due to substance abuse, not domestic violence.

No Tradition or Culture Incorporated into Some Services

A tribal program developed a family protocol for the pueblo and stated that there were no cultural traditions incorporated into the protocol. It was strictly conventional. However, they indicated that if a domestic violence incident involved children, the family would have the right to use tribal traditions. When asked how the family would know this, it was stated, "They would know." The victim or the perpetrator asks for the family meeting, then that would be arranged, but they would have to know to ask. In some cases, it would never happen.

In some programs, the traditional way is not considered. The probation officers are not thinking about any cultural aspects for the family. Even if a victim asks for a family meeting, it is fighting a losing battle with probation.

Recent funding changes at OVW present new challenges to having resources and funding in place for food, because the grant does not allow for food. In Native cultures food is really more than food, it is a part of the culture; it is a prayer. It is offered to be consumed, and you're consuming a blessing and sharing. It is a basic traditional way.

"How will we reinforce respect for one another without culture? We need to be caring for each other. We need to be addressing the harm, instead of putting those who committed harm away. We need to pull them closer in and bring them under our wing; we need to teach them and hold them accountable for their behaviors. Instead, we're sending them to prison and away from the community."

-Children's Forensic Interviewer

Victim Services Petitioning the Tribal Court

Advocacy services were, at times, within the social service agency. Sometimes, this resulted in a social work perspective rather than an advocacy perspective toward a victim.

In working with battered women and children who witness the violence, at least one advocacy program feared for the safety of women and children who receive services and program liability. If a woman, or client, does not follow through with the recommended services or if she stopped returning phone calls, the program petitions the tribal court. The service provider said, "It's a cycle of them coming in and getting

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reports, I look at how bad they're battered and that's what worries me, when they come in as a repeat. I don't want to be responsible, or our program responsible, for people saying that we didn't try to intervene, so I go a little bit further by writing letters for the program to the court to protect them and say I tried, with my victims."

Tribal Leadership and Accountability and Gender Bias within Services

In one of the pueblo communities, an advocate looked at the statistics in the pueblo of who they serve. It was clear that they were serving more women in terms of numbers. The challenge for her was looking at how women are viewed in the community, the sense of inequality, their voice unheard, and how the younger women are viewed and respond to that inequality: "We have to start with young women, with the very young, the children. We need to look at how they relate to their family of origins, and how they take that family relationship to their intimate relationships. It's a huge concern because a lot of young women are in domestic violence situations and that correlates to substance abuse and other drugs. The young women talk about not being seen or heard; and that's what tribal leaders and members need to be aware of."

Accountability

The need to be aware of offenders and perpetrators, and publicly hold them accountable is imperative, but it is difficult to overcome male privilege in the pueblo. When it comes to domestic violence it is treated like it is not really that important, that it shouldn't be the business of the communities. The safety net has to be everyone's responsibility. In the community, women are expected to be subservient to men.

Lack of Prosecutors

A nonprofit organization, Peacekeepers, provides advocacy and prosecutorial services to several pueblos that may not have these paid positions. An agreement is made with Peacekeepers that if a domestic violence case comes into tribal court, it serves as special prosecutors and ensures that the victim has access to services. The TLOA provides tribal courts the option to hold offenders accountable with elevated sentencing; however, the pueblos will fall short because they do not have legal counsel, nor can they meet other requirements of the TLOA.

"I know in one of my tribal jobs substance abuse was #1 on the list and domestic violence was #2. In a 5-year period, it switched. I think it goes hand in hand and usually that's the case. Yet we continue to not pay a lot of attention to it. In New Mexico it needs to be addressed like DUIs and not taken lightly."

-Advocate

No Funding or Services for Chemical Dependency

Many pueblos stated that a huge challenge and obstacle is sustainable funding. Much of the programming and services for victims, children, and batterers are piecemeal funding. Some funding is only for adults, other funding is for children, when victims cross all generations. It is hard to piecemeal those services. A large funding stream was Medicaid or third-party billing, but the challenge for many advocacy programs was that they did not meet the clinical standard for medical billing, even though many of the programs do a great deal of work around mental health.



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Many funders look at numbers served. When it is a small tribe of 400, numbers are small. It should be about changing the attitudes and values in people, not numbers.

Sustainability of a program or project proves impossible once federal funding stops. It is also difficult to make changes or advances when funding can't be utilized for varying areas of programming.

Agencies at the state or federal level cannot or will not take into consideration the cultural and/or traditional aspects that are important in our community. There is a financial push from funders to provide the rest of the funding needed for our residential facility; they only give us 75% of what we need. One substance abuse program has not seen an increase in money in four years, so it is doing more with less and serving more people. Substance abuse, suicides, and violence are so interconnected in communities but are funded separately.

Many women who are victims of domestic violence cannot get help addressing substance abuse unless they are criminally charged. If you participate in an inpatient program, you're sent away from your community. The only residential treatment program available for women with their children is a non-Native program in Albuquerque. Finding care for children is a huge barrier for women who need treatment.

Children Witnessing Violence

One pueblo was utilizing a contract children's therapist who accepted Medicaid, because the pueblo did not have funding. The therapist had been seeing one child, who was extremely traumatized by what the child witnessed, for a year. Many of the children can't verbalize what they witnessed and are scared.

There is only one BIA social worker that covers all eight Northern Pueblos. Meanwhile, the Albuquerque office has five Indian social workers that serve the urban population. Most of the pueblos do not have social services and utilize BIA social services. In addition, law enforcement is also utilizing BIA social services for investigation in pueblos. There is insufficient staffing for the area.

Tewa Women United stated that there needs to be more proactive, early interventions with children who witness violence.

BIA social services stated that if the mother attempted to shield or provide safety for the child, she would not separate the family. However, she believed that in situations when there is a repeat offender then an alternate plan is needed. There has to be a safety plan—car keys and money stashed somewhere else—because the violence will escalate. In another pueblo, the protocol requires that if there are children at the scene of a domestic violence incident, law enforcement immediately calls social services.

Written Laws and Protocols Lacking

Oral tradition is strong within the Pueblos and incorporating those traditions into written laws and protocols is needed. One tribal court was working on a Children's Code. The need to ensure that the code includes traditions and is not a replica of a Western-style Children's Code is important.



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Certified Foster Families Lacking

The requirements to certify foster families prevent many families in the pueblos from opening their homes to the placement of Indian children. In some pueblos, the only placements were in extended families.

Everybody Related

The small community and family connections can cause conflicts or influence program and court staff decision making.

Case Studies



Rosebud Sioux Tribe Site Visit



Who Manages Child Welfare Issues: State of South Dakota

Location: South Dakota

Area in Square Acres: 1 Million Acres

Population: 10,469

Jurisdiction: Non-PL280

Number of interviews: 20

Agency or Organization Interviewed	Service Area	Description of Services/Title
Indian Health Service	Federal	Forensic interviewer, behavioral health unit, and physician's assistant.
White Buffalo Calf Society	Tribal	Domestic violence shelter, batterers program, legal advocate, battered mother, SANE/SART trainings, batterer's reeducation, and courts personnel. They provide training to other tribal governments on SART teams, and education to law enforcement, schools, Indian Health Services, and to the children who are in detention.
Rosebud Attorney General's Office	Tribal	Attorneys, Defending Childhood Initiative Grant, and domestic violence prosecutor.
Rosebud Police Department	Tribal	Law enforcement officer, sergeant, and police chief.
Rosebud Tribal Court	Tribal	Judges and court personnel.
Sicangu Family Services	Tribal	Indian child welfare director/worker.
State of South Dakota Social Services	State	Serving Rosebud Sioux Tribe and Mellette County.

“He was a good dad, but when he was drinking he was abusive, I couldn’t look at anyone. He made me stay inside and isolated me. When I shared with my grandmother who raised me, she told me to listen to your husband; deal with it, that what happened was between me and him and my grandmother told me to stay. My grandfather went into shock and told me to leave. My children were removed and placed with my grandparents. I lost my kids because of domestic violence and alcohol. I was ordered to go to treatment. Everything fell on me to get my kids back. He never got charged for domestic violence or ordered to go to any classes.

I came to White Buffalo Calf a couple of times and they helped me get into treatment and parenting classes. This was the only safe place I could go. I would call law enforcement when he was beating me, but he left before the law enforcement came. They seemed helpful. They would just ask me to provide a description, but they never picked him up. He used to laugh and say he wouldn’t get caught. He knew the systems and he would rub it in my face.

I think being a Native woman I wasn’t treated fairly. I never went to court to get a protective order. He was never charged with domestic violence. When child protection got involved they never offered me any resources or asked me about the domestic violence, they just cared about my drinking. They didn’t ask him about his drinking either. The only way I was supported was they didn’t let my children out of my family, because they thought it would be harmful for my kids. They did offer counseling for my kids, but for the violence I experienced, they turned the other cheek.

I am still waiting for housing for me and my kids. There is a five-year waiting list. It is hard to find apartments and the tribe doesn’t help you if you are a battered woman. They aren’t supportive of you being able to take care of your kids. For some mothers, they really have a hard time working with child protection services. They find it intimidating and they give up. They usually don’t have family or any support. The tribe needs to understand that women need housing. It is like we don’t exist. Domestic violence is not talked about. We need more awareness and more people taking about it in the community and we need to get laws changed.”

-Battered mother at the White Buffalo Calf Shelter



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Services and Collaborations on Rosebud

Behavioral Health Indian Health Service

Behavioral Health is on call 24/7 and responds in person to offer services if anyone has been sexually or physically abused. It works collaboratively with shelter services and offers follow-up care, but only one-third of victims ever come back to seek services. It focuses on trauma reduction, anxiety, and posttraumatic stress disorder. Victims fear that accepting services may allow the courts to get involved, or they fear getting involved with “victim” services, especially if it is in the middle of the night, and he is not arrested for battering.

Sicangu Family Services

Sicangu Family Services provides foster care parenting training, family group decision making, and the ICWA program for the tribe. Sicangu has developed its own practice and guidelines for services. It offers Native- and non-Native-specific services to families. They do not assume anything as far as culture is concerned. Sicangu uses family group decision making, except in cases of domestic violence. It uses it as a tool to focus on the needs of those taking care of children. Sicangu will request tribal council assistance to provide for the personal needs of the family such as transportation.

White Buffalo Calf Women’s Shelter

White Buffalo Calf Women’s Shelter offers domestic violence shelter to 30 women and children. There is also a shelter in Pierre, which is one and a half hours away. It provides legal advocacy to battered women.

Rosebud Tribal Law Enforcement

The Rosebud Tribal Law Enforcement serves the Rosebud Sioux Reservation, which is 1 million acres, or the size of the state of Connecticut. When law enforcement responds to a call of child abuse or alcohol and drugs, it will remove the children. It looks for family placement first and then follows up with social services. The Department of Social Services is not immediately available because on-call workers are located in Winner, which is about 45 to 50 miles away. In cases in which there is domestic violence, law enforcement agents provide White Buffalo Calf Women’s Shelter referrals or cards. Law enforcement officers are trained annually on domestic violence.

Tribal Court

The judicial power of the Rosebud Sioux Tribe is vested in the Rosebud Sioux Tribe court system, which provides quality, effective, and efficient judicial services to tribal members and nonmembers within the jurisdiction of the Rosebud Sioux Tribe. Judicial authority and jurisdiction of the Rosebud Sioux Tribal Court extends to all cases arising under the constitution, ordinances, regulations, customs, and traditions of the Rosebud Sioux Tribe and shall be exercised to the fullest extent of the Rosebud Sioux Tribe's inherent powers as a sovereign nation.

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It is the purpose and intent of the judicial offices to provide a means of recourse to resolve problems, seek to give life to the traditional and cultural ways, and pursue justice on behalf of those who deserve and require such advocacy.

Attorney General Office for the Rosebud Tribe

The Attorney General is the chief law enforcement officer for the tribe. Two attorneys provide legal advice; direct supervision; rewrite codes, including a new sexual assault code, and sex offender registration; handle all election challenges; supervise the prosecutor's office; serve on tribal board and committees; manage background and the investigation office; and perform employee background checks for the tribe. They also supervise the children's violence initiative, the Defending Childhood Initiative. The Attorney General's office is also in charge of drafting legislation for SORNA—Sex Offender Registration and Notification.

The Defending Childhood Initiative

Defending Childhood Initiative is a program of the Rosebud Attorney General's Office. The Defending Childhood Initiative Grant provides funds for strategic planning around children witnessing violence. The initiative completed a needs assessment to identify gaps in services and communication.

The needs assessment found:

1. There are 584 crimes that involved a child, but there are no tribal victim services for children.
2. In Todd County, 2,884 children are Native American, 916 of those children were police code violators, which means they have done these things on school grounds.
3. There have been 309 cases of domestic violence; 22 cases each week in 2010, or 3 cases each day.
4. There have been 50 suicides since 2006.

"We need to talk to our men, we should never fear an Indian man, and we need to mentor the young men, but the men have to do that."

-Elder Advocate

Needs Assessment Recommendations:

- Training and professional development for service providers,
- Training on secondary trauma and stress to children,
- Database that will allow coordinated services and early intervention, and
- Code revision and policy recommendations in schools, Head Start, and childcare.

The planning and implementation process and will focus on:

1. Prevention and education,
2. Work in collaboration, and
3. A public health approach.



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In addition, there will be tracking of children who have been exposed to violence and identifying of areas of intervention for children who have witnessed violence by looking at juvenile offenders, tracking back 90 days for that family, and noting if there was domestic violence in the home that the child witnessed. For example: Johnny Doe experienced four domestic violence incidents at home, has ended up in truancy court, and has not been in school for months. By identifying domestic violence and intervening to assist children witnessing violence, rather than waiting to intervene later in truancy court or juvenile court, we may be able to support children at a younger age through coordinating services. The cultural infusion or cultural roots of this grant is creating Lakota traditional way wraparound, rooting these initiatives in cultural beliefs. The community awareness or engaging factor will continue until 2014.

Batterers Reeducation

In addition to shelter services at White Buffalo Calf Women's Shelter, it offers a batterers' reeducation program that follows the Duluth Model and curriculum and utilizes the hoop as a model to introduce traditional teachings and values to batterers. The traditional teachings include the role of men when they were hunters, gathers, and protectors. The primary goal is to help batterers change and to know there is another way to live.

The curriculum involves accountability to elders, family, immediate families, and friends of the victims. White Buffalo Calf uses the traditional ways of thinking; violence against women was never part of Native culture. Native men don't understand their roles, and a majority of the batterers witnessed violence in their homes. Part of the reeducation is to talk about them as children witnessing violence in their homes. It was a traumatic event in their lives. It is what their father did, and it is what they do now.

Domestic Violence Court

The Rosebud Tribal Court has a domestic violence prosecutor and associate judge, which has increased reporting and prosecution of domestic violence on the reservation. Prior domestic violence convictions are taken into consideration in sentencing. Prior to 2010, the court only had one prosecutor and public defender. Currently, there are six prosecutors under the Attorney General and four public defenders. Having a Domestic Violence Court has allowed prosecutors to provide more individual attention to cases.

"There is no way to identify the protective parent when law enforcement writes a report and says both parents are drunk and fighting. There is no protective parent."

-Child Protection Worker

System Strengths

The following strengths were identified by the people interviewed in the community, as strengths to addressing the co-occurrence of domestic violence and child maltreatment.

Providing Culturally Specific Services to Battered Women and Children

White Buffalo Calf continues to be a strong presence on the Rosebud Reservation. They provide a domestic violence shelter for 30 women and children and also participate in the SART team responding to sexual assault victims at the Indian Health Service. It provides an opportunity for the women at the shelter to participate in a sweat lodge and talk about Native traditions. The shelter has a pipe and women can participate in Sundance and other ceremonies. White Buffalo Calf uses sage and cedar to smudge the shelter and makes referrals to Behavioral Health or a spiritual advisor. It identifies safe people and good resources that victims can call on to develop a support system. It believes that it is imperative and integral to services for women to engage spiritually.

At one point, White Buffalo Calf was funded for sexual assault healing camps in Bear Butte, which is a spiritually significant place to Lakota people. Healing camps were a way to engage victims in the community who may not want to go to a shelter but would spend the weekend at healing camp. The women were able to make and offer tobacco ties.

Screening for Domestic Violence and Sexual Assault Exams

Indian Health Service currently screens for domestic violence. It will flag the individual's file for domestic violence, and the provider or nurse will explain options and provide information on the shelter or a card with resources. It has a separate card for teens and doesn't have policies or screening to identify the co-occurrence of domestic violence and child maltreatment. If a woman comes with her boyfriend/partner, the nurse or provider will separate them and ask questions apart from partner. There are also referral cards and posters that highlight safety planning in every room in the clinic and in the hospital.

For the exams, each nurse will explain the evidence collection, that the nurses and staff are available to support the victim on an ongoing basis and not just for the exam. The nurses explain that if the case goes to court they will be there with an advocate to support them. At the end of the exam, they let the victims know there are sweats available for them to attend. Getting support from elders and women is an option for them. They let the victims know that the Lakota culture is not a violent culture and that women and children should be protected and also provide the parents or children the name of a mental health official and contact information. The nurses let victims know that anger or depression is a normal part of domestic violence, and many find it helpful to talk to an elder, women, or counselor.

Forensic interviews with children and service providers include interviews on the scene and in the hospital. The Indian Health Service advocate and sexual abuse forensic interviewer need to have a protocol so children do not have to tell their story and be retraumatized, shut down, or refuse to talk again about the sexual abuse or rape that occurred.



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Defending Childhood Initiative

Although the Defending Childhood Initiative has not yet concluded, it is evident that thus far it has provided an opportunity for the tribe to focus on the issues of violence and children. The opportunity to research this issue and plan suitable responses should impact the problem of child maltreatment and domestic violence.

Staff Continuity

White Buffalo Calf, Sicangu, and the ICWA have staff who have remained in their jobs for lengthy periods of time and this longevity has provided program stability that is lacking in many tribal communities.

System Challenges

The following challenges were identified by the people interviewed in the community as obstacles to addressing the co-occurrence of domestic violence and child maltreatment.

Accountability

Domestic violence with children present needs to be addressed in sentencing, possibly by ordering the batterer to parenting classes. Most of the time children are not talked about in court, although one judge ordered supervised visitation for the batterer due to his recidivism, which we will look at in unintended consequences.

Unintended Consequence: Recidivism

The court systems are inundated with more and more domestic violence cases. Out of 300 cases that went before tribal court, 119 of them were domestic violence. There needs to be review hearings and follow up with offenders, and if they are not following through with court orders they need to be held accountable. The court system is not mandating that batterers pay for classes, but the court should be requiring them to pay fines in order to ensure accountability. Now there is no incentive for follow through. What is happening is that the batterers are being arrested over and over, and because of the high volume of domestic violence cases, the system is not effectively intervening. The batterers are calling victims from jail, resulting in many women recanting.

Inadequate Response to Native Families of Rosebud

Currently, there are approximately 3,891 minors, ages ranging from 0 to 18, residing on the Rosebud Reservation. There are 1,263 homes according to the Sicangu Housing Authority, approximately 2,881 students attending school in Todd County School district, and 500 students at St. Francis Indian School. There are 315 students enrolled in Rosebud Sioux Tribe Head Start and 1,230 enrolled in the Women Infant Children program.

We do not have enough staff at the hospital to meet the needs and we need more trained law enforcement. Law enforcement often do not believe it necessary to investigate a sexual assault because they don't believe her

-Indian Health Service Staff

Disparities exist for Native children living on the Rosebud Reservation in out-of-home placement. Currently, there are 200 in care, 108 statewide tribal children represented, and 180 substantiated allegations of child maltreatment/neglect; at this time, the children are not represented by the tribe and the tribe does not have jurisdiction over the Department of Social Services. However, the state of South Dakota does.

At least 65% of referrals to child protection come from the schools and the remainder comes from family, community, hospitals, and law enforcement. When law enforcement takes custody of children in Rosebud, Child Protection Services responds. It will intervene if there is physical or immediate danger. Child Protection Services is very short staffed, which is often an issue in responding.



Rosebud Sioux Tribe Site Visit

The Department of Social Services (Division of Child Protection Services) has control over all of the Rosebud child welfare cases in South Dakota, on and off the reservation. There are more than 120 ICWA cases. Many children are placed with non-Indians, and children are not returned to their families in many of those cases, but parental rights are terminated and Rosebud children end up in non-Indian homes. In some cases, judges have terminated rights because the mother doesn't have a home or because she doesn't have enough bedrooms. The Department of Social Services is not familiar with Native families and doesn't understand that it is normal to live with multiple families in one household.

Perpetrators Participating in Traditional Ceremonies

If there is a history of domestic violence or a perpetrator has sexually abused children, the perpetrator should not be allowed to go to Sundance or to ceremonies. Perpetrators are still allowed to participate.

No Housing Available for Battered Women

Often the batterer has the job and house, and the victim stays because he won't let her take the children. If she leaves without the children she is charged with abandonment. The woman or victim is economically challenged and may not have anywhere to live and struggles with homelessness. There are very limited housing options, and the waiting list is five years. Transitional housing is available, but it is 110 miles away and the women do not want to leave the reservation. If a woman is raped in her tribal housing, she has to stay there because there is nowhere for her to go. She cannot get out of her tribal housing lease, so she just has to stay in her home. There is some housing available in Nebraska, which is 35 minutes away, but many women have credit issues and/or law enforcement has responded to her house too many times, so she gets in trouble, kicked out, or cannot rent an apartment.

No Visitation Center

Rosebud does not currently have a visitation center. One is located in Winner, which is 45 to 50 minutes away. If the state has jurisdiction of the children, it finds options for visitation through friends or family or advocates accompany the women. Often there is no supervised visitation even if there are allegations of physical/sexual abuse. He is granted unsupervised visitation.

"There is a need to establish a more positive relationship with the South Dakota Department of Social Services/Child Protection Services, they have such rigid rules, policies, protocols, and they should be more in a position to offer resources rather than taking children. Child Protection Services have the fewest caseworkers and the highest caseload in the entire state. They are charging a woman with child neglect and protecting perpetrator, they need to start charging the perpetrator with child abuse/neglect for battering victim. There are no resources for a woman who may be losing her children; there is a huge gap and need."

-Advocate

"I have these kids and I am one of two officers on duty waiting for child protection. It is Friday night, and the abusive partner is running back and forth from the home and social services is coming from Winner or not coming at all. I am calling every family member to take the kids at 3 AM. I could be finding the batterer."

-Law Enforcement Officer

Tribal Codes Need to Be Updated

The Domestic Violence Code needs to be updated. Currently, the order for protection is up to a year only, while in a neighboring tribe, Pine Ridge, you can receive a lifetime order for protection. Legal definitions are not clear. There is language covering a sexual partner or intimate partner, but it does not cover dating domestic violence. In one case, a mother was beaten by the daughter. She was convicted of domestic violence, but she appealed arguing that “we don't live in the same household” as required by the code.

Inadequate Staffing of Law Enforcement Services

Under the tribal code, law enforcement can place a child with a responsible family member; however, law enforcement may only have two officers on each shift responding to calls for more than one million acres of land. Spending time placing children, rather than finding perpetrators, is not effective.

Law enforcement needs to effectively and consistently be able to provide first responder services to domestic violence victims. There was an identified need to enforce or serve protection order. The tribe also needs a victim witness protection program due to the large number of victim witnesses recanting.



Conclusion and Recommendations

To gain perspective on the different social welfare and legal systems that deal with the issue of the co-occurrence of domestic violence and child maltreatment within Indian country, a literature review was done, an online survey was conducted of professionals working on violence issues, a focus group of professionals working in Indian country was held, and four case studies that included site visits and numerous interviews were completed. These efforts helped inform the authors of positive activities and programs and of critical needs within Indian country.

There are three primary systems involved in this study, the child protection system (state and tribal), the network of domestic violence programs (state and tribal), and the court systems (state and tribal). It may be more accurate to say that, in Indian country, there are six primary systems that deal with the issue of the co-occurrence of domestic violence and child maltreatment, not three. In some places, state and tribal divisions of child protection systems, court systems, and domestic violence programs seem to coordinate their programs fairly well. However, for the most part there seemed to be difficulties in working across state and tribal divisions. Although the law enforcement system was not a system studied, it was mentioned often as a key problem relating to this issue, Native women could not rely on the law enforcement to enforce protection orders, respond appropriately or timely to 911 calls, or accurately report an incident. This had an effect on the victim's response.

There were also major problems in working across professional lines. Domestic violence advocates and child protection staff were often at odds when it came to addressing the needs of the family. Again there were some domestic violence programs that were outstanding in meeting the physical and emotional needs of the victim; they weren't addressing the needs of children. Some child protection tribal programs appeared to have the funding to provide financial resources to children but were not able to meet the needs of the domestic violence victim/mother.

Although we looked for potential promising practices that address the issue of the co-occurrence of domestic violence and child maltreatment, we did not find any systems that effectively collaborated to deal with the issue. Although we found healthy and productive programs within the domestic violence field, the child protection field, and court services, they generally did not exist in the same community.

What currently exist are systems that blame the victim, usually the mother, for the domestic violence that occurs within the home, and as a result of that require the victim to rehabilitate herself or lose her children. Although most of the communities did not track the domestic violence, unless it was the original reason for a child protection intervention, social workers indicated that a high percentage of women in the child protection system are victims of domestic violence. For this reason, it is imperative that tribal, federal, and state leadership address this issue.

Although the systems in Indian country may be substantially different than those in other areas of the United States, many of the Greenbook principles still apply. The Guiding Framework section of the Greenbook is very relevant to the needs in Indian country and provides a very useful overall structure for Indian county specific recommendations:

Community leaders should join together to establish responses to domestic violence and child maltreatment that provide meaningful help, supports, and services for families. Simultaneously, communities should hold violent perpetrators responsible for their behavior and provide legal interventions and services to stop this violence. This first principle is an overriding one from which flow most other principles and recommendations in the book.

Three core values. *To implement this guiding principle, interventions should be designed to create safety, enhance well-being, and provide stability for children and families.*

Children in the care of their non-offending parents. *To ensure stability and permanency, children should remain in the care of their non-offending parent (or parents), whenever possible. Making adult victims safer and stopping batterers' assaults are two important ways to do this.*

Community service system with many points of entry. *To provide safety and stability for families, a community service system with many points of entry should be created. This service system should be characterized by the provision of services in appropriate settings as soon as problems are identified; services providers trained to respond meaningfully and respectfully; services designed to minimize the need for victims to respond to multiple and changing service providers; and adequate resources to allow service providers to meet family needs and avoid out-of-home placements.*

Differential response. *Community leaders should design interventions and responses that are appropriate to the diverse range of families experiencing domestic violence and child maltreatment. Families with less serious cases of child maltreatment and domestic violence should be able to gain access to help without the initiation of a child protection investigation or the substantiation of a finding of maltreatment. Because domestic violence encompasses a wide range of behaviors—from the extremely dangerous to the less serious—families require a range of interventions, some of them voluntary and some mandated.¹³*

¹³National Council of Juvenile and Family Court Judges, "Executive Summary," *Effective Intervention in Domestic Violence and Child Maltreatment Cases (1999)*, 3.

The three core values do not go far enough, and a fourth value should be added for Indian country:

Tribal cultural integration. Tribes should design interventions and responses that are consistent with tribal traditional ways and culture. Adoption of Western forms and styles of interventions and placements have not proven successful for tribal communities, and tribes must find the answers in their own traditional ways, ways that do not increase danger or allow for the batterer to maintain power or control by manipulation of resources or services. The child protection and justice systems need to be examined with a historical context, examining multigenerational trauma and the current situation.

Several additional recommendations emerged from this project.

- Federal funding needs to be more flexible, allowing small tribal communities to maximize the benefits of funding by being more comprehensive in the services they fund. Holistic services to the family are needed, such as domestic violence centers with programs for children, child protection programs with resources for housing, and so forth. The funding silos tend to develop small pieces of the systems, when a more comprehensive answer is needed. Funding opportunities must require more than “surface-only” collaboration efforts among grantees.
- The tribes must exercise their full jurisdiction when it comes to child protection issues. Tribal leadership must examine their priorities when it comes to our future generations. Although the Indian Child Welfare Act (ICWA) ensures tribal involvement in off-reservation child protection cases related to Native children and provides exclusive jurisdiction when it comes to cases in Indian country, many tribes do not exercise that jurisdiction. An intensive study should be done to determine the reasons for the failure to exercise jurisdiction, with obstacles identified and solutions found. Additionally, such a study might also examine the percentage of ICWA cases resulting from domestic violence in an effort to understand the co-occurrence of domestic violence and child maltreatment.
- Modifications and amendments to tribal codes or administrative procedures should look to traditional ways, customs, and culture, and not simply adopt Western procedures that have been used to oppress and colonize.
- Training and cross-training needs to take place across the board. Several excellent trainers reside within the communities, but regarding certain issues it may be more effective to have a trainer from another community.
- Housing, supportive housing, transitional housing, and chemical dependency treatment must be available to every protective parent in order to remain safe and retain custody of his or her children. The impact of lack of services and housing results in children being removed from their protective parent.

- The system must recognize that the perpetrator is the problem, not the mother. In several of the communities, there is a tradition of sending every mother that is a victim of domestic violence to mental health services, supporting the notion that the mother is the problem. A child protection case is never, or rarely, opened up solely in the name of the perpetrator. Consistently, the mother is the one who needs to follow the case plan. Case plans should be in the name of the perpetrator, and the mother should not be singled out unless there is specific identifiable abuse attributed to the mother (not failure to protect).
- Domestic violence advocacy programs should either be removed from social service departments or allowed some degree of autonomy within the department. Advocacy must be based in the advocacy model of empowerment, safety for women and children, and batterer accountability.



Appendix A

Annotated Bibliography



1. Thomas Peacock, Lila George, Alex Wilson, Amy Bergstrom, and Ellen Pence, Community-based Analysis of the U.S. Legal System's Intervention in Domestic Abuse Cases Involving Indigenous Women, (National Institutes of Justice, December 2002).

The study investigates and examines experiences of indigenous women and domestic violence survivors with the U.S. legal system. The report analyzes how the U.S legal system processes domestic violence and protection order cases, in order to explore which of the aspects tribal nations should use for the implementation of a response to indigenous women who are abused by their partners.

2. Larry EchoHawk, "Child Sexual Abuse in Indian Country: Is the Guardian Keeping in Mind the Seventh Generation?" N.Y.U. J. of LEGIS. and PUB. POL'Y Vol. 5, p.83 (2001). http://www.unified-solutions.org/pubs/child_sexual_abuse_in_ic_larry_echohawk.pdf (accessed December 22, 2011.)

This article discusses the need for the federal government to aggressively address the issue of child sexual abuse in Indian country as well as provides an understanding of the impact of sexual abuse on Native communities.

3. Tribal Law and Policy Institute, A Victim's Centered Approach to Crimes Against American Indian and Alaska Native Children, August 2008. http://www.tribal-institute.org/download/CCC_February_2009.pdf (accessed December 22, 2011).

This is a resource developed by TLPI for tribes interested in developing tribal laws criminalizing certain acts against Native children. It provides extensive commentary and examples of laws adopted by various tribal communities.

4. B. J. Jones, "The Role of Indian Tribal Courts in the Justice System," March 2000. <http://www.icctc.org/Tribal%20Courts-final.pdf> (accessed December 22, 2011).

This article describes the history of tribal courts and specifically describes their role in protecting women and children.

5. Native American Rights Fund, A Practical Guide to the Indian Child Welfare Act, updated September 2011, <http://www.narf.org/icwa/index.htm> (accessed November 8, 2011).

The guide is intended to answer questions and be a comprehensive resource on the application of the ICWA. It has a topical index for ease in responding to inquiries.

6. Sarah Deer, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle, *Sharing Our Stories of Survival: Native Women Surviving Violence* (Lanham, MD: AltaMira Press, 2008).

Sharing our Stories of Survival is a general introduction to the social and legal issues involved in acts of violence against Native women. This book's contributors are lawyers, advocates, social workers, social scientists, writers, poets, and victims. In the United States, Native women are more likely than women from any other group to suffer violence, from rape and battery to more subtle forms of abuse, and *Sharing Our Stories of Survival* explores the causes and consequences of such behavior. The stories and case studies presented here are often painful and raw, and the statistics are overwhelmingly grim, but a countervailing theme also runs through this extremely informative volume. Many of the women who appear in these pages are survivors, often strengthened by their travails, and the violence examined here is human violence, meaning that it can be changed, if only with much effort and education. The first step is to lay out the truth for all to see, and that is the purpose accomplished by this book.

7. Judicial Council of California, Tribal Law and Policy Institute, "Native American Community Justice Project—Beginning the Dialogue: Domestic Violence, Sexual Assault, Stalking and Teen-Dating Violence Research Report," May 2010, <http://www.tribal-institute.org/lists/domestic.htm> (accessed November 17, 2011).

This research represents the experiences and wisdom of more than 500 Native Americans concerned about family violence in their communities and constitutes the most comprehensive look at this issue in California to date. The research report compiles information shared during multiple tribal community meetings that took place across the state during the Native American Community Justice Project, divides it into separate themes, and thematically identifies problems and solutions articulated by meeting participants.

8. Judicial Council of California, Tribal Law and Policy Institute, "Native American Community Justice Project—Beginning the Dialogue: Domestic Violence, Sexual Assault, Stalking and Teen-Dating Violence Policy Paper," May 2010, <http://www.tribal-institute.org/lists/domestic.htm> (accessed November 17, 2011).

This policy paper was developed by TLPI, partnering with the California Administrative Office of the Courts, and provides a California lens on the national public safety crisis in tribal communities and helps to ensure that tribal voices inform the direction state courts take to address the issue of family violence in Native American communities. The policy report reviews the history and prevalence of family violence in these communities, describes the project goals, summarizes the research findings, and identifies the next steps that should be taken in response.

9. Tribal Law and Policy Institute, "Tribal Legal Code Resource: Domestic Violence Laws, Guide for Drafting and Revising Victim Centered Tribal Laws Against Domestic Violence," January 2008. <http://www.tribal-institute.org/lists/domestic.htm> (accessed November 17, 2011).

This victim-centered approach to domestic violence against Native women resource guide includes exercises, examples, and discussion questions to help you customize your laws to meet the needs of your tribal community.

10. Tribal Law and Policy Institute, "Listen to the Grandmothers Video and Discussion Guidebook," 2008, <http://www.tribal-institute.org/lists/domestic.htm> (accessed November 17, 2011).

This video and guidebook was developed by TLPI in order to assist tribal programs with incorporating cultural traditions into contemporary responses to violence against Native women. The "Listen to the Grandmothers" video features Native elders speaking to the problem of violence against Native women. The video provides a historical overview of violence against Native women, traditional responses to such violence, and an analysis on incorporating cultural traditions into contemporary responses to violence against Native women. For information concerning the video and accompanying guidebook, please contact the Minnesota office of the TLPI.

11. Honorable Melvin R. Stoof, "Domestic Violence, Child Welfare and Supervised Visitation in Native American Communities" (n.d.), <http://www.mshoop.org/brochures-pdf/DV%20Child%20Welfare%20and%20SVC%20in%20Native%20communities.pdf> (accessed November 18, 2011).

The article provides an overview of violence against Native women, including a discussion of jurisdictional issues. It then presents the need for visitation centers in Native community and the challenges to establishing visitation centers.

12. James G. White, Hallie Bongar White, and Jane M. Larrington, "Criminal Prosecution of Battered Women for Failure to Protect" (2005), <http://www.swclap.org/pdfs/FAILURETOPROTECT.pdf> (accessed November 30, 2011).

The article discusses the disturbing trend to criminally charge battered women for failure to protect their children in tribal and state courts.

13. Hallie Bongar White and Jane Larrington, "Intersection of Domestic Violence and Child Victimization in Indian Country" (2005), at http://www.ncdsv.org/images/SCLP_IntersectionDVandChildVictimizationInIndianCountry.pdf (accessed November 30, 2011).

The resource describes the impact of colonization on Native Americans and the impact of domestic abuse on children and discusses the need for early intervention.

Appendix B

Focus Group Evaluation Results



1. Welcome to the Tribal Greenbook Initiative Survey!

The Tribal Law and Policy Institute is conducting a short survey on the co-occurrence of child maltreatment and domestic violence in tribal communities. Your answers will be used to help us better understand how tribes currently address these issues and identify promising practices. Please take a few minutes to answer the questions below. Contact Bonnie Clairmont with any questions at bonnie@tlpi.org. Thank you in advance for your time!

1. Does your program provide services to children exposed to domestic violence?

Yes

No

If yes please describe and briefly explain any significant challenges and/or successes you have had.

2. Of the women that you serve, how many of these are also involved with child protective services due to a child abuse report, investigation or case management?

All

Almost all

Some

None

Don't know

3. Upon intake of women using your services for the first time, are you screening for child abuse or neglect?

Yes

No

Don't Know

If yes, please describe



4. Are the women that you serve also reporting that their child or children were also abused by the batterer?

- Yes
- No
- Don't Know

5. Are you aware of any battered women who are being charged or investigated for failure to protect or for child abuse/maltreatment or neglect?

- Yes
- No
- Don't Know

6. When children are seen at local hospital emergency rooms or clinics for injuries and possible child abuse, are the parent or custodian asked if there is a history of domestic violence?

- Yes
- No
- Don't Know

7. Do you have a grant under the Office on Violence Against Women (OVW) or another Federal agency that includes objectives relating to the co-occurrence of child maltreatment and domestic violence?

- Yes
- No

If yes, please describe the grant objective and briefly explain significant challenges and/or successes that you have experienced.

8. Does your program have a good collaborative relationship with your local child protective services, law enforcement, criminal justice system, batterer programs on the co-occurrence of child maltreatment and domestic violence?

- Yes
- No
- Don't Know

Please describe

9. Are there any aspects of your program that work particularly well, that you would like to share?

- Yes
- No

If yes, please describe.





10. Is there a child protection team in your jurisdiction?

- Yes
- No
- Don't Know

If yes, is your program represented on that team and briefly explain significant challenges and/or successes that you have experienced.

11. Have you collaborated with your local child protective services program to address the intersection of domestic violence and child maltreatment? For example, have you had any cross trainings, attended meetings where this issue was addressed?

- Yes
- No
- Don't Know

If yes, please describe.



12. How would you rank your current response to the co-occurrence of child maltreatment and domestic violence?

- Very good
- Good
- Ok, but could use some work
- Definitely needs work

Comments

13. Does your response to the co-occurrence of child treatment and domestic violence incorporate cultural traditions?

- Yes
- No
- Don't Know

If yes, please describe.

14. Are there any significant challenges encountered by your program that you would like to share?

- Yes
- No

If yes, please describe:



15. Which of the following best describes your position?

- Advocate
- Tribal Services Director
- Tribal Court Personnel
- Tribal Law Enforcement
- Other (please specify)

16. May we contact you for more information about your program and to set up a site visit to learn more about your response to child maltreatment and domestic violence?

- Yes
- No

If yes, please provide your name, phone number and email address below:

Thank you for completing this survey!!!



Appendix C

Focus Group Evaluation Results



Tribal Greenbook Initiative Focus Group							
	Poor (1)	Fair (2)	Average (3)	Above Average (4)	Excellent (5)	Average	Total Responses
Q1 The presenters communicated the information well.				4	40	4.9	44
Q2 Focus groups were well facilitated.				12	30	4.7	42
Q3 I was able to fully participate in the discussions.				4	35	4.9	39
Q4 The length of the 2 day meeting was appropriate.				8	30	4.8	38
Q5 The session provided me with information which will help me in advocating for Native women.				8	30	4.8	38
Total				36	165	4.8	

Q6: What one point was positive about these discussions?

- There were many points, but the biggest thing was it allowed us to speak about these issues from a Native perspective.
- I felt at ease discussing my own issues and solutions. I felt that everyone listened to one another and more importantly, I learned so much from all of the "wisdom" in the room. Awesome experience!
- There was adequate time for participant participation and participants were free to share their ideas on a wide range of topics.
- Respecting all voices.
- That we are taking time to dialogue and listen to differing perspectives, loving the conversations (thoughtful)
- To be able to be a part of it. Thank you. I was honored.
- Awareness and hope for better outcomes for our mothers and children.
- Excellent discussions; raising a huge spectrum of issues.
- Native Centered.

Q7: What one thing would you change about this focus group?

- Maybe have more testimonials on women/people who have been through the system
- Perhaps brainstorming in smaller groups (by table), then bringing ideas together as one later. Some individuals are more vocal than others and perhaps this would "flesh out" more ideas. Overall though--everything was well done.
- The facilitators did an excellent job -nothing to change!
- More guidance in the facilitation of discussion.
- More Native people from child programs: CP, social services to really ascertain what the reality of response is. Enhance the dialogue between inter-tribal departments and the welfare of our children.
- I would include PS workers to better inform the work.
- Some brainstorming about what to do next.
- Additional voices, however, size was helpful to discussion.

Q8: Are there additional topics that you would like to discuss that you did not have the opportunity to?

- Enforcement/prosecution--how jurisdictional issues relate as well as TLOA—and how this will or will not add to the total picture.
- There was adequate time for discussion.
- Bringing in the issue of sexual assault.
- Diversity of tribal response: what is happening with tribes in the east, west, plains, south, Alaska? What response or programs in place. Topic paper on the current level of out of home placement, backed up by real data.
- Thank you for doing the work!
- How to organize to change this nationally.
- Urban Indian context of this discussion. Excellent. Groundbreaking!

Responses to the Co-Occurrence of Child Maltreatment and Domestic Violence in Indian Country: Repairing the Harm and Protecting Children and Mothers

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