

# Violence Against Children in Indian Country: What World Do We Leave for Seven Generations to Come?

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The prevalence of child abuse and endangerment in Indian country is tearing apart families and what remains of tribal cultures teetering on the brink of extinction. Left in the turbulent aftermath of violence in the home are children who live in environments replete with tension, danger, and unhealthy behaviors. We have learned to forget that violence hurts not only the victim's body but also the mind and spirit. Assimilation into the dominant philosophy and tolerances of today has replaced longstanding indigenous paradigms, ceremonies, and customs. For Native Americans, physical abuse has been historically unacceptable. For generations, social and cultural norms reinforced respect and reverence to women, children, and elders. Those days are gone. Children in Indian country suffer needlessly, unprotected by their communities and government agencies. What world have we created? What world do we leave for seven generations to come?

## What Has Led to Child Abuse and Neglect in Indian Country?

Much of what has led to the profound occurrences of child abuse and neglect in Indian country originates from a series of systematic institutional abuses associated with the process of relocating Indian tribes to reservations. Indian children being forced into boarding schools has also proved to be a contributing factor. Beginning in 1887, the federal government attempted to "Americanize" Native Americans by sending them against their will and/or the will of their parents to boarding schools located great distances from their homes. By 1900, thousands of such children attended almost 150 boarding schools around the United States. The U.S. Training and Industrial School founded in 1879 at Carlisle Barracks, Pennsylvania, was the model for most of these schools. Boarding schools such as Carlisle provided vocational and manual training and sought to strip away tribal culture systematically. School doctrine insisted that students drop their Indian names, forbade the speaking of native languages, and cut off the long hair of both male and female students. Officials were either ignorant of or ignoring the cultural significance of hair to American Indians.

Military style regimen became the norm at government boarding schools, following the motto of General Richard Pratt: "Kill the Indian, save the man" (1892, p. 46–59). For the government, boarding schools were a way of making savages and heathens "civilized." For Indians, they were instruments of abuse and cultural desecration. Boarding schools prohibited the conduct of traditional religious activities and made Indian people ashamed of their heritage. The trauma of internalized oppression and the resulting shame, fear, and anger among Native Americans have passed from generation to generation. The outcome is the rampant alcoholism, drug abuse, and domestic violence that plague Indian country today.

The collapse of the traditional family structure is partially the result of the federal government's sustained policy of placing Indian children in boarding schools where parental modeling was nonexistent. Newly learned dysfunctional behaviors, such as sexual abuse and physical punishment, were inconsistent with native traditions and relatively unknown in Native American communities prior to European conquest.

Another significant event was the Indian Adoption Project of 1958, which lasted from 1958 through 1967. It placed 395 Native American children from 16 western states with white families in Illinois, Indiana, New York, Massachusetts, Missouri, and other states in the East and Midwest. This program aspired to systematically place an entire child population across lines of nation, culture, and race (Lyslo, 1968). Through five hundred years of assimilation and acculturation, American Indians have internalized Western discursive practices. Newly accepted unhealthy practices manifest in ways mirroring the dominant society in America. Today, Native Americans must maintain an equilibrium and live between two parallel worlds. Tied with gossamer tethers to ancestral ways of life, they struggle to navigate the complexities of the modern, dominant society. Often, individuals intertwine the dominant culture and their Native American identity, resulting in a convoluted cocktail of confusion and self-medication by drug and alcohol abuse to ease the pain and strife.

When comparing child abuse and neglect suffered by Indian children with that of other groups, Indian children experience neglect and abuse at a much greater rate. In 1995, the United States Bureau of Justice reported a per capita rate of one substantiated report of child abuse or neglect for every 30 American Indian children aged 14 or younger (Earle, 2000). Native infants reportedly die at a rate of 8.5 per every 1,000 live births compared with 6.8 per 1,000 for the U.S. all races population (2000–2002 rates) (Indian Health Service, 2006).

People living on reservation communities tend to underreport due to the shame associated with certain crimes, such as child abuse, child neglect, and domestic violence. Culture plays a prominent role in maintaining silence with even the most heinous of crimes. Because of shame, cultural mores, and trepidation from uncertainty that the reservation community will be able to safeguard those who report crimes, much goes undocumented. Another factor that hinders reporting is the inherent intimacy of the community through ceremony, consanguinity, and complex familial and clan relationships among victims, offenders, and also police officers.

Sadly, many tribes have wrapped themselves in a blanket of denial about the complicity of their own tribal members. Despite a popular, long-held belief that federal government employees in Indian schools are the perpetrators of the majority of the child sexual abuse, in reality, the Indian children's relatives, adult authority figures, and community members are the actual ones responsible for the crime. In many Indian families, the traditional extended family has withered to nonexistence. Traditional child-rearing practices and cultural–religious rituals are no longer conducted. Language native to the family is no longer spoken because speakers who would promulgate learning and culture are on the brink of extinction.

### Indian Country Child Abuse Data

According to some studies, Native Americans experience child sexual abuse at a rate consistent with the non-Indian population in America. Other studies assert that child abuse and neglect may be more prevalent in Native American communities (Fischler, 1985). Unfortunately, substantial reliable data regarding child sexual abuse in Indian country are limited, making a definitive analysis difficult.

Seventeen states and ten regional Indian Health Service (IHS) sites provided the data for a study conducted by the National Indian Justice Center (NIJC) in 1994. The NIJC documented that the greatest proportion of abuse cases reported were neglect (48.9%), sexual abuse (28.1%), and physical abuse (20.8%) (National Indian Justice Center, 1994). Thirty-four percent of Indian children were determined to be at risk of becoming victims of abuse and neglect. However, only one in five reported cases of abuse and neglect could be substantiated. It is estimated

that one out of every four girls and one out of every six boys fall victim to molestation in Indian country before the age of 18 (Strong, 1999).

Steven Perry, a statistician with the Bureau of Justice Statistics (BJS), prompted controversy when he reported that nearly four out of five American Indian victims of rape or sexual assault identified their assailants as white (Perry, 2004). How accurate is the BJS data? The problem of effective, accurate criminal justice data collection in Indian country is widely noted by policy makers. Without methods for systematically collecting and analyzing crime data, Indian police departments tend to underreport crime. To further compound the issue, tribal governments are not required to provide crime statistics to the Federal Bureau of Investigation (FBI). Requiring data submission from tribal agencies raises emotional, legal, and political issues of sovereignty and self-governance. To properly address the problem, providing accurate data is required to facilitate the discussion. Without precise information, policy makers and service providers can only at best guess how dire the situation is and only imagine the plight of children in Indian country.

### Tribal Self-Determination

Compounding the complexity of the issues is the varying definition of *child abuse* from jurisdiction to jurisdiction and tribe to tribe. The definition can be limited to behavior that causes intentional inflicted injury or refer to a broad spectrum of actions, including any that might impair the developmental potential of the child. In addition, jurisdictional issues often increase bureaucratic obstacles and impede timely responses, rendering of services, enforcement of laws, and adjudication of legal matters. Governments in the United States, including the federal government, have two comprehensive powers: civil jurisdiction and criminal jurisdiction. Criminal jurisdiction is the power of the people to establish rules of conduct and, subsequently, to punish violators. Typically, a government can exercise full authority within its borders. However, in Indian country, criminal jurisdiction is a confusing hodgepodge of federal, state, and tribal laws. The U.S. government permits an Indian tribe to exercise criminal jurisdiction over Indians under its jurisdiction as a component of retained sovereignty (U.S. v. Wheeler, 1978). Civil jurisdiction regulates taxation, zoning, marriage, divorce, child custody, and adoptions. A government without the ability to regulate civil matters and safeguard the culture and values of the community is a government without an identity.

It is clearly the responsibility of tribal nations in Indian country to ensure the safety of the community (*Official Report*, 1892). However, the ability of tribes to do so was limited by the U.S. Supreme Court decision in *Oliphant v. Suquamish Indian Tribe* (1978). Furthermore, Congress determined the punishment levied by tribal courts be limited to the ability to impose sentencing only up to one year in jail and a maximum fine of

\$5,000. In addition, Indian courts lack necessary criminal jurisdiction over non-Indians.

Congress, which affects every Indian nation to some extent, has passed three laws: (1) Public Law 83-280 (18 U.S.C. Sec. 1162, 28 USC Sec 1360); (2) Indian Country Crimes Act (18 U.S.C. Sec. 1152), and (3) the Major Crimes Act (18 U.S.C. Sec. 1153). Public Law 83-280 requires six “mandatory states” (Alaska, California, Minnesota, Nebraska, Oregon, and Washington) to exercise complete criminal jurisdiction in Indian country with certain reservations within those states being excluded. In the mandatory states, Native Americans are subject to state criminal jurisdiction and may be prosecuted in state court for crimes committed on reservation land. The remaining 44 states (“opinion states”) are permitted to accept similar jurisdiction at their discretion. The Indian Country Crimes Act authorizes the federal government to extend all federal criminal laws to reservation land except (a) crimes committed by an Indian against the person or property of another Indian, (b) crimes adjudicated by tribal court for which the defendant has received a punishment, and (c) crimes that by treaty remain exclusively under tribal jurisdiction. The Major Crimes Act, empowered in 1885, originally gave the federal government jurisdiction over seven “major”

crimes: arson, burglary, larceny, murder, manslaughter, assault with intent to commit murder, and rape. These offenses have been expanded to over a dozen crimes that include kidnapping, incest, sexual abuse of a minor, and sexual assault with a dangerous weapon.

In 1978, Congress passed the Indian Child Welfare Act (ICWA) in response to the high number of Indian children removed from their homes by both public and private agencies. The intent of ICWA is to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families” (25 U.S.C. § 1902). ICWA establishes specific federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe. The Indian Child Welfare Act affords tribal governments a powerful voice concerning the custody proceedings of Native children. ICWA gives tribes exclusive jurisdiction over custody cases involving children residing on reservation land and children who are wards of the tribe, as well as concurrent but presumptive jurisdiction with states over off-reservation child foster care placement proceedings (Indian Child Protective Services and Family Violence Prevention Act, 1990). In 1983, President Ronald Reagan endorsed tribal self-determination, saying,

This administration intends to restore tribal governments to their rightful place among governments of this nation and to enable tribal governments, along with State and local governments, to resume control over their own affairs. (p. 4)

The accepted law of the land, however, is that federal courts maintain exclusive jurisdiction over an offense committed on a reservation by a non-Indian against the person or property of an Indian.

### Drug Endangered Children

The roots of dependency on alcohol and drugs in Indian history run deep, nurtured by a constellation of dire socio-economic, cultural, and geographic issues. Native Americans have experienced substantial problems with alcohol since its introduction to their culture by early European settlers. Epidemiological data indicate that elevated morbidity and mortality attributable to alcohol abuse among Native Americans remain at alarming levels. In Indian country, finding culturally appropriate treatment facilities can be difficult, if not impossible. Subsequent to completion of a formal inpatient treatment protocol, outpatient treatment can be difficult to access due of the geographical isolation of most reservations, lack of public transportation, and the common poverty level of the individual.

Hopelessness, despair, and historical trauma combined with drugs and alcohol construct unsafe and unhealthy environments for the children of those caught up in the use of illicit substances. Drug-endangered children (DEC) are at risk from all drugs to which a





child may be exposed. Often the caretaker's substance misuse interferes with his or her ability to parent and provide a safe and nurturing environment. Children living in drug-abusing environments exist in a climate of danger and unhealthy behaviors. They often experience severe neglect and run a higher risk for physical and sexual abuse.

Although crystal methamphetamine use is pervasive in America, it has spread like an aggressive cancer in Indian country. A myriad of complex social issues contribute to the expansion of meth use in Indian country and there are several risks to children (Table 1). A Bureau of Indian Affairs (BIA) survey of tribal law enforcement agencies reported on the outcome of the National Methamphetamine Survey. The BIA stated that 74% of the 96 Indian law enforcement agencies to respond indicated that "methamphetamine poses the greatest threat to the members of the communities they serviced" (Bureau of Indian Affairs, 2006, p. 2). It was reported that American Indian and Alaskan Natives (AI/AN) "use meth at two to three times the rate of Caucasians with the highest rate of use among young people age 15 to 44. Since 2000, the Indian Health Service (IHS) observed profound increases in the number of meth-related problems climbing from 3,000 cases in 2000 to 7,004 cases in 2005. Meth use increased from 6% in 1993 to 20% in 2003" among pregnant American Indian/Alaskan Native women (Generations United, 2006, p. 6). The BIA Law Enforcement Survey also reported an increase in child neglect-abuse cases due to recent increases in meth use. The Yavapai-Apache Nation in Arizona estimated that approximately 90% of its open child welfare cases are related to methamphetamine. The California Indian Legal Services (CILS) estimated that nearly every case involving Indian children being taken from their home has one or both parents using methamphetamine, or the baby had a drug toxicity at birth, indicating exposure to meth (One Sky Center, 2006).

### Law Enforcement in Indian Country

When the reservation system was established in the early 1800s, federal soldiers provided most of the law enforcement. Soldiers

were responsible for maintaining levels of order sufficient to prevent violent activity from spilling beyond reservation boundaries, that is, for enforcing the laws and policies that restricted tribes to reservations. They were responsible for prohibiting activities that were deemed as immoral or criminal, and for overseeing the rationing of food and supplies. Basically, the military arm of a colonial government policed Native American communities.

Today, service calls in remote reservations could commit a police officer for half a day or longer, especially in inclement weather. Facilities and technology supporting Indian country police officers are often in dismal states of disrepair or otherwise inadequate. A typical department is administered either by the tribal government or by the Bureau of Indian Affairs (BIA) through a Miscellaneous Public Law 93-638 contract. A typical agency serving a tribal nation comprises approximately 32 employees (i.e., 9 civilians, 6 detention officers, 16 police officers, and 1-3 command staff). Usually sworn officers are high school graduates and may be graduates of certified law enforcement training academies. Only a slight majority of the officers serving in Indian country are of Native American heritage.

The department's area of responsibility can cover areas up to 500,000 acres without closed borders and lack authority to deny access. It is not uncommon that areas for police to patrol are closely equivalent to a land mass the size of Delaware. The populations served can be up to 10,000, yet they are patrolled by no more than three police officers (and as few as one officer) at any one time. The level of police coverage in Indian country is much lower than in other urban and rural areas of America (Wakeling, Jorgensen, Michaelson, & Begay, 2001). The Navajo Nation and the state of West Virginia are similar in geographic size. West Virginia employs approximately five thousand police officers; the Navajo Nation employs approximately two hundred police officers.

Generally, current law enforcement responses in Indian country do not recognize the nexus between domestic violence and child abuse. A child's exposure to domestic violence is seldom regarded

**Table 1. Risks to Children From Methamphetamine Use and Production**

- Exposure to explosive, flammable, toxic ingredients stored in kitchen cabinets, bathrooms, and bedrooms
- Access to methamphetamine and paraphernalia
- Presence of loaded weapons in the home and booby traps (due to the paranoia of methamphetamine users)
- Physical and sexual abuse
- Exposure to high-risk populations (sexual abusers, violent drug users)
- Neglect, including poor nutrition and poor living conditions

**Source:** National Native American Law Enforcement Association, 2006.



as criminal. Many officers when responding to an incident of domestic violence are either reluctant or completely fail to interview and examine the children. In many Indian country jurisdictions, cross-referrals to Child Protective Services (CPS) do not happen. It is imperative that law enforcement and child protective agencies begin to cross-screen for the presence of domestic violence or child abuse. It is crucial that interagency and cross-profession information exchanges become a norm instead of an anomaly. A nationwide protocol for police and child protective agencies responding to domestic violence cases to examine children for signs of abuse and neglect and conduct preliminary field interviews would be beneficial. Information indicating sexual or physical harm potentially could be gleaned from the field interview and a subsequent forensic interview could be coordinated.

## Child Abuse and Neglect Statistics

Child abuse statistics in Indian country are exclusively representative of child welfare activities. The National Child Abuse and Neglect Data System (NCANDS), a voluntary national data collection and analysis system, does not tally information as rudimentary as the percentage of cases that are reported to tribal law enforcement agencies. Law enforcement data have only recently been collected to provide researchers with a perspective from the criminal justice point of view on child abuse equivalent to the child welfare system perspective generated by NCANDS.

The National Incident-Based Reporting System (NIBRS) for law enforcement agencies was implemented in 1988 to gather more detailed information about crime and its victims. "NIBRS data are derived from local, state, and federal automated records' systems. The NIBRS collects data on each single incident and arrest within 22 offense categories made up of 46 specific crimes called Group A offenses. For each of the offenses coming to the attention of law enforcement, specified types of facts about each crime are reported. In addition to the Group A offenses, there are 11 Group B offense categories," which report only arrest data (Federal Bureau of Investigation, n.d.). Tribal law enforcement agencies have no method of submitting their data directly to the FBI. Some tribal statistics are incorporated into a state's data collection, which is subsequently incorporated as statistics for the respective state and not the specific tribal nation. Unfortunately, criminal justice data from Indian police agencies are not consistently incorporated with local agency data collection.

To properly comprehend the harm inflicted upon children by physical and sexual abuse, agency leaders need a clearer understanding and appreciation of the role played by law enforcement in effectively responding to incidents of child maltreatment. Investigations conducted by child welfare agencies corroborate about one third of allegations made in all child abuse reports. The role of law enforcement in investigations of child abuse varies from state to state and city to city. In a few Indian country jurisdictions, police and child welfare investigators conduct concurrent and often joint child maltreatment investigations.

## Conclusions

Original teachings of Indian people are timeless and still relevant. Historically, the Native American community provided many things for the family, and the most important was a sense of belonging. Once upon a time, how it felt to belong to the people, to Mother Earth, and to the Great Spirit was common. Today, many people in Indian country are unable to conceptualize and appreciate that feeling. The restoration of healthy communities must become a priority so future generations are

guaranteed a safe place to live where culture flourishes and language sustains life ways. In Native American traditions, the focus is not egocentric but on a web of relationships inherited at birth. Connection to something bigger than oneself is important. Without that connection, it is easy to become lost and vulnerable to negative influences. Concern for children in Indian country is essential for their well-being.

Many people talk about their rights, but they never talk about their responsibility. What kind of world have we created? What we do today will affect the next seven generations to come. We must be mindful of our responsibility to them today and always. Each generation has a responsibility to ensure the survival until the seventh generation. Let us put our minds together and see where we could do more. Let us hold not only others but also ourselves accountable for the protection and care of our sacred little ones.

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