

Review of Native American Children in State Custody

While improvements between Maine’s tribal communities and the state child welfare system have been made, both systems recognize the need to further this work. Improving outcomes for native children and families will only occur if these systems improve their collaboration beginning at the time of report.

In the fall of 2009, the ICWA Workgroup (composed of tribal and state child welfare staff) developed a process by which the 24 native children in state custody at that time were reviewed by a team of two people that consisted of a Tribal Child Welfare staff member and Performance & Quality Improvement Specialist from the Office of Child & Family Services. In 2012, the decision was made to have a second review to assist in the evaluation project of Maine’s collaboration with its tribal child welfare partners being developed by a graduate student. This review was expedited as it was believed to be important for current data to be viewed versus reviewing data that was 2+ years old.

In order to facilitate the expedited review the decision was made to have two members of the state PQI unit review the 15 native children that were identified in the Macwis system as being in state custody.

The instrument used in the second review was similar to that in the first with the exception of a few questions that were not relevant to the current process due to a delay in OCFS management disseminating the Indian Child Welfare policy. Staff would have been rated in areas where there were not expectations laid out for them in practice which would skew the results. This tool was comprehensive in terms of starting the review for tribal involvement at the time of report, through the assessment period and then during the time the child has been in foster care. Key focus areas were notification by DHHS of involvement, the degree of contact between the state caseworker and tribal caseworkers, involvement in the Family Team Meeting process, involvement in placement of children and involvement in the child’s case plan as well as permanency planning.

Demographics:

- Of the cases reviewed, the dates of initial reports ranged from 2002 through 2011:

| Year of Report | Number of children |
|-----------------------|---------------------------|
| 2002 | 1 |
| 2007 | 1 |
| 2009 | 3 |
| 2010 | 6 |
| 2011 | 4 |

- In terms of where the cases originated from by OCFS Districts:

| OCFS District | Number of Children |
|---------------|--------------------|
| 2 | 1 |
| 4 | 2 |
| 6 | 1 |
| 8 | 11 |

- Length of time in foster care:

| Length of time in foster care | Number of Children |
|-------------------------------|--------------------|
| <1 year | 4 |
| 1-<2 years | 5 |
| 2-<3 years | 4 |
| 3-<4 years | 1 |
| 5+ years | 1 |

Outcome:

The review tool was organized in terms of reviewing a number of areas during the assessment phase and then again following the child’s entry into foster care.

Assessment Review Outcomes:

- In 53% of the cases reviewed, intake asked if ICWA applied to the family (*in the 2009 review that number was 50%*).
- In 87% of the cases reviewed DHHS notified the tribe by phone (*in the 2009 review that number was 79%*).
- In 80% of the cases it was evident that DHHS staff tried to involve the tribal child welfare staff at the beginning of the assessment in terms of going out with the state caseworker (*in 2009 review that number was 58%*).
 - In one case there was a 3 month delay in contacting the tribal child welfare caseworker. In 2 cases there didn’t appear to be contact with tribal child welfare until the children entered state foster care 5 weeks following the report.
- Family Team Meeting- In order for a ‘yes’ to be prescribed to this series of questions, it would need to be evident that the activity occurred in every FTM:
 - In the cases of 4 children there was no evidence of a FTM being held.
 - Of the remaining cases, 71% of those indicated that tribal child welfare staff had been invited to the Family Team Meeting (*in the 2009 review that number was 69%*). In the majority of those cases it did not appear that tribal child welfare staff were included in scheduling the FTM rather they were told when the meeting was being held.
 - There was no evidence that state child welfare workers engaged with tribal child welfare staff in terms of asking tribal staff about other people who should be invited.

Foster Care Review Outcomes:

- It was evident that in the majority of cases child welfare staff notified tribal staff of the filing of the petition by phone or letter. There were 2 cases where it couldn't be determined in the record review as to how this notification occurred.
- In 60% of cases reviewed, there was evidence that the choice in placement for the children was a joint activity between tribal and state child welfare workers (*in the 2009 review that number was 92%*). There was 1 case where the DHHS chose the placement with tribal consultation; 2 cases where it was evident that the tribe chose the placement and 3 cases where it was evident that DHHS chose the placement.
- 53% of the children reviewed were placed in a Native American Foster Home (*in the 2009 review that number was 50%*).
 - 14% of those children not placed in a native home were placed with a non-native relative, the rest were placed in other foster care settings and one in a residential program.
 - Of those children placed in a non native resource parent or relative placement, 57% were brought to cultural events (*in the 2009 review that number was 58%*).
- Family Team Meetings- In order for a 'yes' to be prescribed to this series of questions, it would need to be evident that the activity occurred in every FTM:
 - 54% of the reviews indicated that tribal child welfare staff had been invited to every Family Team Meeting.
- In 67% of the cases reviewed it was evident that tribal child welfare staff were involved in case planning for the child/family (*in the 2009 review that number was 41%*).
- In 66% of the cases reviewed, it was evident that tribal child welfare was involved in permanency planning and it was evident in 64% of the cases that tribal child welfare staff were present at all court proceedings. [In considering this area of question, credit would have been given had there been evidence that tribal child welfare was notified but unable to attend] (*in the 2009 review these numbers were 66% and 54%*).
- Contact (phone &/or face-to-face) between tribal child welfare and the DHHS caseworker broke down as follows:
 - 33% of the cases found at least monthly contact (*in the 2009 review that number was 41%*).
 - 6% of the cases found evidence of contact every other month (*in the 2009 review that number was 12%*).
 - 47% of the cases found evidence of contact less frequently than every other month (*in the 2009 review that number was 33%*).
 - 20% of cases found no evidence of contact with tribal child welfare staff (*in the 2009 review that number was 12%*).

Conclusions

In contrasting the outcome data from the 2009 review to the 2012 review, it is evident that there has been progress made in terms of how state child welfare staff are working with tribal child welfare staff, although more progress needs to be made for this to be a true collaborative. It is still concerning that the outcomes were not stronger given that 67% of the children reviewed entered state custody in 2010 & 2011- following the last review.

Based on the data, it is apparent that the work done in the assessment phase has improved in terms of intake exploring for Native American heritage, notifying tribal staff and trying to coordinate with tribal staff at the onset of an assessment. The data supports that state caseworkers are doing slightly better with inviting tribal child welfare staff to the Family Team Meetings in the assessment phase however the data continues to demonstrate that state child welfare staff are not planning with their tribal partners when scheduling the FTMs.

Based on the data it is apparent that there has also been some progress made when considering the foster care portion of the review. There was a significant drop in terms of how placements are chosen as there was lack of documentation that this is a joint activity between state and tribal child welfare staff. There was an increase in the percentage of cases where tribal child welfare staff were invited to every Family Team Meeting, as well as significant increase in the number of cases where it was evident that tribal child welfare were involved in case planning as well as permanency planning.

Contact between state and tribal child welfare staff seems to be more problematic than found in the 2009 review. The documentation suggests that the majority of contact between the two systems is infrequent, less frequently than every other month. That said, based on the other numbers, it would appear that these contacts do occur at key times that facilitate joint case and permanency planning.

Recommendations:

- Indian Child Welfare (ICW) policy be finalized and disseminated along with the expectation that child welfare supervisors will review and discuss this policy in individual unit meetings. *This was a recommendation from the 2009 review that was never achieved. This policy has now been completed and will be sent out to staff and stakeholders for final comment by the Director of Policy & Practice.*
- The ICW policy should be reviewed in a state wide supervisor meeting with participation of a couple of the ICWA Workgroup members.
- The portion of the OCFS Family Team Meeting policy that highlights the expectation that, in cases involving native children, tribal child welfare caseworkers are to be co-facilitators and involved in scheduling, setting an agenda and indentifying invitees to the meeting should be referenced during the statewide supervisor meeting when the ICW policy is reviewed.

- The outcomes in the cases that were housed in districts that had tribal communities within the region were more likely to be positive than those that did not. This suggests that more education/training should be provided for those districts to ensure that ICWA and the ICW policy be adhered to.
- As noted in this review, there has been improvement between the 2009 and 2012 review in several areas. There needs to be a continued focus on this work to ensure that Maine is in compliance with ICWA as well as continuing to build relationships between state and tribal child welfare systems for the betterment of the families they both serve.