

## Annotated Bibliography -- Child Welfare

Blue highlight = entry that was not ultimately cited elsewhere

American Indian Policy Review Commission (Task Force Four). (1976). *Final report: Report on federal, state and tribal jurisdiction*. Washington, DC: U.S. Government Printing Office. Retrieved from <http://www.narf.org/icwa/federal/lh/76rep/76rep.pdf> and <http://www.narf.org/icwa/federal/lh/76rep/76rep5.pdf>

Task Force Four of the American Indian Policy Review Commission was one of eleven task forces created by Congress to investigate the relationships between tribes and the federal government. This report to the full commission addresses numerous areas of jurisdiction, including adoption and foster care placement of Native children by state foster care agencies. Among the findings of Task Force Four were that “the removal of Indian children. . . has been and continues to be a national crisis,” that non-Indian agencies show “almost no sensitivity to Indian culture and society,” and that the U.S. Government has failed to protect Native children, and should do everything within its power to “to insure that Indian children remain in Indian homes” (p.87).

At the request of Task Force Four, the Association on American Indian Affairs conducted a nationwide survey of adoption and foster care placement for Indian children. Maine had the second highest foster care placement rate in the country for Indian children, with 75.8 Indian children placed in foster care per thousand Indian children. In comparison, four non-Indian children per thousand were placed in foster care. While Maine’s reported adoption rate for Indian children in 1975 was similar to that of non-Indian children, Maine’s foster care placement rate for Indian children was 19 times higher than for non-Indian children. Although still a staggeringly high number, the report suggests that this rate was an improvement from earlier years, attributed to the concerted efforts of tribal organizations to effect change. However, when one examines the numbers used to generate the rate of foster care placement, it is evident that the improvement in the comparison in rates is entirely attributed to a reduction in the number of non-Indian children in foster care. The actual numbers of Indian children in foster care (82) and the rate (1 out of 13.2 Indian children) for 1969 and 1975 were identical.

Among the staggering statistics found in this report, the most striking figure was for Aroostook County in 1972. For Aroostook County alone in 1972, one out of every 3.3 Indian children were estimated to be in foster care -- a rate 62.4 times higher than the statewide rate for non-Native children. More than half (73 out of 136) of the Indian children in foster care in 1972 were from Aroostook County.

This analysis was based on 1970 US Census population reports and data provided by the Maine Department of Human Services (DHS) -- in particular, phone and letter correspondence with Freda Plumley of Maine DHS). 1972 was the only year for which Maine DHS was able to provide county-by-county data.

This report is significant in that it provides a pre-ICWA baseline of consistently disproportionately high rates of state child welfare involvement with Native children and families in Maine from 1969 through 1975. However, the phrase “disproportionately high” fails to convey the extremity of the situation described for Aroostook County, where, with 1 in 3 Native children in foster care, not a single family could have been untouched.

Brightman, L., Dana, G., & Marks, S. (1983). Native American lifestyles: Issues for human services professionals. *Rural Education*, 1(1). (55-57). Retrieved from [http://jrre.vhost.psu.edu/wp-content/uploads/2014/02/1-2\\_4.pdf](http://jrre.vhost.psu.edu/wp-content/uploads/2014/02/1-2_4.pdf)

This article discusses the findings of a 1980 survey by the Northeast Indian Cultural Training Program in which Native people on and off the reservations in Maine were interviewed, and their responses were compared to interview responses of low-income white families. The article describes significant cultural differences that the authors suggest lead to frustration and misunderstanding between social services professionals and Native families. Differences noted include the importance of tribal affiliation, closeness with family members, and kinship care of children/movement of children among various relatives' homes. The findings of this study are relevant in that the study itself was conducted shortly after the passage of ICWA. One of the authors of the study is Gail Dana, who was the coordinator of the training program.

Central Maine Indian Association. (1993). *Agreement between the Maine Department of Human Services and the Central Maine Indian Association January 1993 [Draft]* (1640-1301, Box 1, File: Agreements, Interagency). Child and Family Services Records, Maine State Archives, Augusta, ME.

This working agreement, found signed only by the director of the Central Maine Indian Association (CMIA) and sent to the state for review and signature, outlines the responsibilities of CMIA and the Maine Department of Human Services (DHS) with regard to coordination and services for Indian children encountered through the state's child welfare work (for various reasons) with reference to applicable laws, including ICWA. Initially, the language used in the document is that DHS is to: “Do all child protective assessment and screening process, and check Indian status.” And then the language used is variously, “[i]f the caseworker knows a child or parent in an open child protection case is Indian,” “[i]f the caseworker suspects that the child or parent in a child protective case is Indian,” “[w]hen an intake worker or a case worker is aware that the client or applicant for services is Indian” and “Indian children who are believed to be affiliated with non-federally recognized tribes.” This language suggests that, in reality, DHS workers often did not determine ICWA eligibility early on in a case, in spite of the agreement to “check Indian status” in the assessment/screening phase of a case.

This document is an example of the formalized cooperation structures around relationships between the state and, in this case, CMIA, in implementing ICWA. The first working agreements found in the archives between the state and a tribe (or CMIA) were from the mid-1980s. Although these working agreements were in place, the absence of other material related to ICWA compliance in trainings or reports begins to lead to an assumption that the tribes or

Native organizations were predominantly shouldering the burden of making sure that ICWA was being enforced within their own jurisdictions. However, since CMIA did not have a “jurisdiction” since it was not a tribe with a reservation, and existed in essence, for Native people not living on reservations, it seems that CMIA may have had an even greater stake and been more active in reaching out to the state to make sure caseworkers were “checking Indian status” of all children coming through the system.

Child Welfare Advisory Committee. (1989). [*Summary of meeting June 13, 1989*] (1640-1308, Box 8, File: CWAC). Child and Family Services Records, Maine State Archives, Augusta, ME.

This meeting summary identified the Indian Child Welfare Act as the purpose of the meeting. Child Welfare Advisory Committee (CWAC) members Lisa Gosnell (Department of Human Services staff from the Penobscot Nation) and Judy Litz (Houlton Band of Maliseets) presented a “most informative socio-historical explanation of the Indians of Maine, and about the Indian Child Welfare Act.” This included a discussion of cultural differences and “isolation from mainstream society” which was identified as low self-esteem, poverty, limited opportunities, migratory lifestyles (for work), and poor health. Gosnell and Litz also presented about the structure of tribal government and social services. The purpose of ICWA was also part of the presentation, as well as the existence of working agreements related to child welfare between the state and the Penobscot Nation and the Houlton Band of Maliseet Indians, including the state’s responsibility to notify the tribes if an Indian child who does not reside on a reservation becomes part of a child welfare intervention. Ongoing problems identified were “caseworker-state-tribal relationships” and “non-Indian foster parents.”

The information presented at this meeting seemed to be fairly basic, possibly indicating a very low level of knowledge about ICWA or even that the tribes in Maine had their own governments and social services departments. However, it is not possible to know for certain the level of knowledge of the CWAC membership, and it is noted that although the Commissioner of Human Services appointed members to CWAC, CWAC included a range of members, predominantly *not* State DHS employees, but private citizens, past recipients of services, professionals and others. Additionally of relevance to the TRC is the reference to ongoing problems with “caseworker-state-tribal relationships.”

Collinson, L. G. (1979, January). Indian foster care explained (2512-0112, File: Clippings). *Wabanaki Alliance*, p. 9. Indian Affairs Records, Maine State Archives, Augusta, ME.

This article describes Northeast Indian Family Support project, a federally-funded effort to study foster placement of Wabanaki children as well as cultural bias in state standards for abuse and neglect. Surveys were to be conducted in Aroostook County, in the area served by the Central Maine Indian Association and on the three reservations. The project also seemed to include an advocacy effort to make it easier for Native homes to be approved by the state for fostering children, as well as making changes to licensing to include cultural standards. It is possible that

this is the same study that is referenced in this bibliography as “Northeast Indian Cultural Training” (see Brightman et al. 1983 and Collinson 1979).

Consortium of Maine/Massachusetts Indian Communities & Boston Indian Council. (1977). *Northeast Indian family structure and welfare delivery systems in Maine and Massachusetts: A research and demonstration project* (2512-0203, Box 21). Indian Affairs Records, Maine State Archives, Augusta, ME.

This proposal to develop a state agency model program for Indian foster care and adoption services, provides valuable background information about the status of Native children in the child welfare system in Maine and the New England region in the late 1970s. The proposal also is an example of an active effort to assert greater cooperation and collaboration between tribes and Native organizations and official state agencies handling child welfare and foster placement. The proposal references a report titled “Maine Indian Adoption and Foster Care Statistics Report” as mischaracterizing information about supposed progress in reducing the numbers of Native children placed in foster care in Maine. (The Maine Indian Adoption and Foster Care Statistics report is listed in this bibliography as the final report of the American Indian Policy Review Commission.) In this report, the proportion of Native children removed compared to non-Native children decreased from 25.8 times higher in 1972 to 19 times higher in 1975 -- however, this decrease is entirely attributable to a reduction in the number of non-Indian children in foster care. The actual numbers of Indian children in foster care (82) and the rate (1 out of 13.2 Indian children) for 1969 and 1975 were identical.

In addition, the report cites that there were only three licensed Native foster homes serving eight Native children in Maine, and that the state had failed to meet the recommendations of the US Commission on Civil Rights to secure funding to increase the number of Native foster homes and to upgrade state-built homes on the Passamaquoddy reservation that failed to meet state foster home standards. In addition, the report referenced that many children placed in foster care in Maine experienced abuse and that the state supported the foster parents, rather than protecting these children.

Of relevance to the TRC, this grant proposal highlights a discrepancy between an official understanding of the situation of child welfare removals of Native children in Maine (in which no change in the numbers of Native children removed were characterized as progress), as well as ongoing, known problems that had continued to go unaddressed related to the lack of Native foster homes. The report’s reference to hostility expressed toward Native groups in New England during this time also provides important social context during the time leading up to the passage of ICWA.

Dana, G. (1979, February). Awareness program aims at state social workers (2512-0112, File: Clippings). *Wabanaki Alliance*. Indian Affairs Records, Maine State Archives, Augusta, ME.

This article describes the Northeast Indian Cultural Awareness Training program, which was a federally-funded effort to study differences between Native values and non-Native values in

order to create a curriculum for social services providers working in Native communities in Maine. The article describes the recently-launched program, including the advisory board created to oversee the field research and develop the curriculum and ultimately create a training manual. (See entry for *Brightman et al. 1983* in this bibliography for more on the outcome of this program.)

Doyle, L. L. (1968, Oct 3). *Re: The Sockabasin children*. Unpublished document. Maine State Archives, Augusta, ME.

*Doc log (IA): 1968 letter from Louis Doyle (Division of Indian Services, Catholic diocese) to Charles King (Supervisor of Child Welfare) re: Sockabasin children*

In this letter from Doyle (Division of Indian Services, Catholic Diocese) to Charles King (Supervisor of Child Welfare), Doyle expressed concern over reports made about fostering situation of Sockabasin children and asks King to follow up. Doyle expressed a report of possible mistreatment, that the children were not being allowed to practice their own religion (Catholic), and that their father (Edward Sockabasin) had been denied access to the children. In his response to Doyle, King defends foster family and actions of the state and dismisses the reports of mistreatment as being retaliatory.

This letter raises questions about the oversight and conditions at foster homes, as well as documenting a Native parent's attempts to stay connected to his children. As with other letters to the state child welfare department, this letter gives one the feeling that the department was highly self-contained and did not collaborate with other departments or outside agencies. Along with this is the sense that it was difficult for "outsiders" to penetrate the department if there were concerns about something going on with a child in the care of the department.

Hagan, R. (1970, March 4). *Material relative to Mr. and Mrs. John Sapiel of Indian Island*. Maine State Archives, Augusta, ME.

*Doc log (IA): 1970 correspondence between Ruth Hagan (District supervisor of child welfare) to Ronald Schoppes (District director of child welfare)*

In this letter, Ruth Hagan (the district supervisor for child welfare) wrote to Ronald Schoppes (district director) about John Sapiel and his wife, who were fostering children at their home on Indian Island. Hagan described the condition of the home and how many children were being fostered there. She wrote that two children in the custody of the department are housed there, along with one child placed by probation and parole, "four Francis children" whose father pays the Sapiels money to house them, and "six Yarmal children" who are being paid for by the Indian agent. She wrote that the Sapiels would like the Yarmal children to be "committed" because they have been "pretty much abandoned by both parents."

Not only does this letter identify specific children involved with state child welfare, but it also deals with the home fostering situation on a reservation. A letter written in the same year by Dr. Pearson, the Indian health official, expressed shock at the poor conditions and overcrowding in the Sapiel home.

Hodge, S. (1993, June 11). [*Response to letter from BIA about Passamaquoddy tribe at Pleasant Point*] (1640-1502, Box 18, File: Sandi's memos/letters 1992-1994). Child and Family Services Records, Maine State Archives, Augusta, ME.

In this letter, Sandi Hodge (Assistant Director of the Maine Bureau of Child and Family Services) responds to a letter from the federal Bureau of Indian Affairs (BIA) about complaints the BIA received from the Pleasant Point Passamaquoddy tribe about the state not responding to requests for information. Hodge responds that the state has no record of being asked for the specified information, but would be "more than willing to cooperate with the tribe in setting up procedures to accomplish this very important and legitimate task." The letter from the BIA was not attached to Hodge's letter in the archive.

This letter suggests a communication breakdown between one of the tribes and the state, and raises questions about why the tribe felt it had to go through the BIA to address problems in collaborating with the state.

Hodge, S. (1994, November 3). *Child protective services supervisors' meeting*. (1640-1502, Box 18, File: Sandi's memos/letters 1992-1994). Child and Family Services Records, Maine State Archives, Augusta, ME.

This document is the agenda for an upcoming meeting and the minutes from the Child Protective Services Supervisors' Meeting on 9/27/94. The minutes reported that Nancy Goddard gave a presentation on ICWA, including ICWA's Evidentiary Standards and procedures staff must use when filing a petition, and that "[t]he information was extremely helpful as there had been some confusion about the entire matter." There was no elaboration on the nature of the confusion, however, the minutes do report that Nancy Goddard gave out some "updated, corrected information" implying that caseworkers previously had had incorrect information.

Prior to this discussion of ICWA at this supervisors' meeting, no mention of ICWA had been found in meeting minutes since a 1984 meeting of the Child Welfare Advisory Group, and a 1984 CFS Division meeting minutes references that Indian child welfare was added to the plan for the new worker orientation.

Houlton Band of Maliseet Indians & State of Maine. (2003). Intergovernmental agreement: Houlton Band of Maliseet Indians and State of Maine. In Maine Office of Child and Family Services, *Child and Family Services policy* (pp. Indian child welfare policy, Appendix 3). Retrieved from <http://www.maine.gov/dhhs/ocfs/cw/policy/>

In this agreement between the Houlton Band of Maliseet Indians and the state of Maine, signed in September 2002, the history of state child welfare intervention in Maliseet families is recognized, in addition to the clear articulation of rights and responsibilities of the state and the tribe in child welfare cases involving children who are tribal members. The agreement states that

its purpose is to “ensure that the Houlton Band of Maliseet Indians (‘Tribe’) have maximum participation in determining the disposition of cases involving the Tribe’s children. Both parties agree that the history of child welfare and adoption services within the Tribe have ceded authority to the State and resulted in placement outside of Maliseet homes” (Section III, para. 1). The Houlton Band of Maliseet Indians’ website states that this inter-governmental agreement was signed at a historic ceremony on the Maliseet reservation.

ICWA Training Workgroup. (1999). [*Minutes from December 8, 1999 meeting*] (1705-0611, Box 9, File: BCFS/CWTI/DSHTI training). Child and Family Services Records, Maine State Archives, Augusta, ME.

In these minutes from a meeting in December, 1999, members of the ICWA training workgroup discussed and planned five one-day trainings on ICWA that were to be offered to Maine Department of Human Services (DHS) staff and possibly adoptive/foster parents. The discussion included identifying what kind of training the foster/adoptive parents and DHS workers were receiving at the time related to ICWA. The minutes reported that there are materials on ICWA for foster/adoptive parents, but no curriculum was taught in training. For DHS workers, ICWA was covered in the legal part of training, but there was no cultural component to learning about ICWA. Although workgroup members felt strongly that training should be mandatory, it was not going to be. The workgroup also felt that supervisors and program administrators were the most important to train, however, it was unclear if this would be able to happen or not. Workgroup members also discussed what areas the training would cover, including legal issues, cultural context/history, and additional cultural components. Sandi Hodge (member of the workgroup and formerly of various leadership positions at DHS) offered that old DHS records could be used in the training to document the way in which tribal members were treated by the department.

ICWA Training Workgroup. (2000). [*Minutes from March 7, 2000 meeting*] (1705-0611, Box 9, File: BCFS/CWTI/DSHTI training). Child and Family Services Records, Maine State Archives, Augusta, ME.

In these minutes, workgroup members checked in on planning and preparation for five upcoming one-day trainings on ICWA. The trainings were scheduled for May 2000 in Presque Isle, Machias, Bangor, Portland and Augusta. The content of the trainings was not discussed in detail, other than referencing the use of videotaped interviews with Micmac, Maliseet, Passamaquoddy and Penobscot individuals (not identified in the minutes) for a panel discussion. The minutes indicated that there would be one more meeting of the workgroup before the training, however, the minutes from this meeting were not found in the archives.

Loring, D. (1979, December 7). [*Letter regarding Central Maine Indian Association’s programs and the continuation of the Department of Indian Affairs*] (2512-0203, Box 21). Indian Affairs Records, Maine State Archives, Augusta, ME.

In this letter, Central Maine Indian Association (CMIA) Director Donna Loring wrote to Maine Governor Joseph Brennan to advocate for the continuation of the Department of Indian Affairs and for the continuation of funding for CMIA's programming. She described CMIA's prisoner program in which an outreach worker supports inmates about to be released around transportation, finding a job and lodging. The prisoner program worked with inmates from the Maine State Prison, the Maine Youth Center, the Bangor and Augusta Mental Health and Adult Corrections Center. Loring also described CMIA's Foster Care Research and Demonstration Program, which found that Native children were being separated from their families at a rate 19 times higher than that of other children in Maine. This appears to be the same study that was part of the federal American Indian Policy Review Commission.

This letter references a study that is frequently cited, even still today, that demonstrated the drastic overrepresentation of Native children in the child welfare system in Maine during the time of the passage of ICWA. It also highlights the complexity of the situation of the land claims lawsuit and settlement on state policy with regard to Native people in Maine, as well as for Native people who did not live on reservations and/or were not members of federally-recognized tribes. In addition, the letter references a prisoner program for Native people, suggesting that this was previously an unmet need.

Maine State Legislature Office of Policy and Legal Analysis & Orbeton, J. (2001). *Final report of the Joint Standing Committee On Health And Human Services review of the child welfare system*. Office of Policy and Legal Analysis: Augusta, ME. Retrieved from [http://statedocs.maine.gov/opla\\_docs/62](http://statedocs.maine.gov/opla_docs/62).

The Joint Standing Committee on Health and Human Services recommended that the state legislature require Maine Department of Human Services (DHS) to monitor compliance with certain state and federal laws, including the Indian Child Welfare Act, specifying that DHS should track numbers of Native children placed with extended family, with Native American families who are not related to the child, and with tribal placements. In addition, the committee recommended strengthened training in ICWA, as well as cultural diversity training, among other areas for DHS staff, DHS contract workers, and adoptive and foster parents. This report was created at a time when there was increased attention to compliance with the Indian Child Welfare Act in Maine.

Maine State Legislature Office of Policy and Legal Analysis & Reinsch, M. (2001.) *Final report of the committee to review the child welfare system*. Office of Policy and Legal Analysis: Augusta, ME. Retrieved from <http://legislature.maine.gov/opla/childprorpt.PDF>

The state legislature created a committee to review the child welfare system and make recommendations to the Joint Standing Committee on Judiciary. Although ICWA was not specifically studied, the committee heard testimony related to ICWA compliance and then made recommendations. In particular, the testimony seems to have been related to the ongoing problem of placing Maliseet children with non-Native foster placements. The committee



recommended that the state legislature enact a bill that would allow Maliseet child protective cases to be heard in Penobscot Nation courts. The committee invited testimony from Brenda Commander, chief of the Houlton Band of Maliseets and Jaqueline Gomes, the child protective attorney for Penobscot Nation. This report was created at a time when there was increased attention to compliance with ICWA in Maine.

Murphy, J. (1970, Jan 5). *[Regarding John Sapiel foster home]*. Unpublished document. Maine State Archives, Augusta, ME.

*Doc log (IA): 1970 letter from James Murphy (Pine Tree Legal staff atty) to Mike Crawford (IA)*

In this letter to the Deputy Commissioner of Indian Affairs, Mike Crawford, Murphy wrote about the situation of John Sapiel fostering “six girls” at home but getting no support from the state because the children were not wards of the state. He suggested to Crawford that the Department of Indian Affairs take more initiative to starting state custody proceedings for Native children because the state seems to “move much slower where Indians are involved.”

It seems possible that the “six girls” mentioned are the Yarmal children, mentioned in another letter regarding the Sapiel foster home. This letter offers a rare insight into how the state was perceived to act with regard to child welfare in Wabanaki communities, with the author’s opinion that the state is reluctant to take custody action where Native children are concerned, which according to the author, creates unfortunate situations. The author attributes this to the state not wanting to spend limited money. Also noteworthy is that the Department of Indian Affairs seems to be largely removed from involvement in child welfare, with the author advocating for a more active role. It does not appear that the DIA ever shifted to taking a more active role in child welfare issues.

National American Indian Planning Project. [undated]. *Juvenile code chapter*. Unpublished document(?) [if published, may have been published at University of South Dakota: Vermilion, SD]. Maine State Archives, Augusta ME.

*Doc log (IA): [Undated] National American Indian Planning Project proposal*

The National American Indian Planning Project (NAIPP) was housed at the Department of Sociology at the University of South Dakota (Vermilion, SD). It also appears to be linked to the Association of American Indian Social Workers. This proposal outlines a recommended ordinance to be taken up by tribes in addressing issues related to children (primarily abused or neglected children or children in the juvenile justice system). It asserts that the tribal court “should have original jurisdiction of all Indians within the territorial jurisdiction of the tribe as defined in the tribal constitution” (p. 4).

The context of this proposal is unknown. It seems possible that the type of language in this document was taken up by existing tribal courts in order to establish greater jurisdiction around child welfare decisions (custody, foster placement, termination of parental rights), or maybe was part of an effort to support tribes in establishing tribal courts.

O'Neal, B. (1978, March). Indian program keeps kids in Indian homes (2512-0112, File: Clippings). *Wabanaki Alliance*. Indian Affairs Records, Maine State Archives, Augusta, ME.

This article is about a new program that was a joint effort of the Central Maine Indian Association, the Association of Aroostook Indians and the Boston Indian Council called the New England Indian Foster Care Project, in which caseworkers would visit homes threatened with losing a child. In addition, the project staff members were going to research the effects of Native children being placed in non-Native homes. The article references but does not cite or name "studies in Maine" that demonstrated that Native children were placed in foster care at a rate 19 times greater than for non-Native children, and that two-thirds of those Native children were placed in non-Native foster homes. The origin of these statistics is the federal American Indian Policy Review Commission, cited in this bibliography.

Polchies, B. (1980, September). Aroostook notes. *Wabanaki Alliance* (2512-0112, File: Clippings). Indian Affairs Records, Maine State Archives, Augusta, ME.

This brief article on happenings in Aroostook County discusses the establishment of a social services director position by the Association of Aroostook Indians. The article states that the primary emphasis of the position will be in "restricting free flow of Indian children being placed in non-Indian foster homes." The position was funded by an ICWA-related federal grant.

This article highlights both the high incidence of child welfare removals of Native children in Aroostook county, as well as proactive steps taken by the Association of Aroostook Indians (AAI). In addition, the article gives insight into the importance of ICWA in terms of raising the issue of disproportionate removals of Native children, as well as the importance of funding associated with ICWA that made it possible for AAI to hire their own social services director to address the issue.

State of Maine 122<sup>nd</sup> Legislature. (2006). Final report of the committee to study state compliance with the federal Indian Child Welfare Act of 1978. Augusta, ME: State of Maine.

The legislative committee to study state compliance with ICWA met only once in 2006, and created this report based on that meeting. The committee included state legislators as well as the Penobscot Nation tribal representative to the state legislature, and representatives of the tribal governor's offices from the four tribal nations in Maine. The committee found that Maine's compliance had "improved tremendously" (p. i), and that fewer children were being removed from Native families. In addition, the committee found that there were improved relationships between the tribes, Maine Department of Health and Human Services (DHHS) and the Attorney General's office. The committee also found that training for state workers had improved, and the court system had modified procedures to address ICWA eligibility. The committee found that training for DHHS contracted agency staff was still inadequate. Among the recommendations of the committee was that the successful agreement between the state and the Houlton Band of

Maliseet Indians be examined in more detail, that more efforts should be made to recruit Native foster families and that more outreach should be done with non-Native foster parents of Native children.

According to the Office of Policy and Legal Analysis staff member for the committee, Jon Clark, there was not statistical information presented in support of the committee's findings that compliance had improved, or that fewer children were being removed from Native families by the state, but rather that these findings were based on the committee members' own shared experiences. In addition, although the committee found that the agreement between the state and the Houlton Band of Maliseet Indians was highly successful, the committee did not have the time to review the agreement itself.

This report documents a strong sense of improvement in terms of outcomes as well as relationships between the state and tribal nations on child welfare work. However, the fact that the committee only met once and endorsed this sense of accomplishment without having reviewed any data raises some questions about how seriously their findings and recommendations can be taken. This is not to diminish the experiences shared by committee members, but rather suggests a sense that the committee was forced by time constraints to reach a hastier decision than they may have otherwise reached had they more time and information to consider. In particular, one questions the finding that fewer Native children were being removed from their families when there was no information included in the committee's considerations to quantitatively support that finding.

State of Maine Department of Health and Human Services, Office of Child and Family Services. (2009). *Review of Native American Children in State Custody*. Unpublished document, retrieved through Maine Wabanaki REACH.

This 2009 review marked the first attempt to move from a more anecdotal sense that state caseworkers were not fully collaborating with tribal child welfare staff on cases involving Native children in state custody, to a data-driven method of tracking ICWA compliance. In this first of two reviews (*see* State of Maine, 2012, for the second review), the ICWA workgroup developed a review instrument to review all 24 cases involving Native children in state custody. The findings of the review supported a conclusion that state caseworkers were asserting control over cases involving Native children in state custody instead of co-managing these cases with tribal child welfare staff. For example, Maine Department of Health and Human Services (DHHS) involved tribal child welfare staff at the beginning of a case in only 58 percent of the cases reviewed, and tribal child welfare staff were invited to family team meetings by state caseworkers in only 69 percent of cases. Additionally, the report concluded that the findings dispelled the belief that although the state historically did a poor job of collaborating with tribal child welfare staff, collaboration had improved.

This report demonstrates an important commitment by state and tribal child welfare staff to actively and honestly engage in assessing collaborative efforts, while simultaneously documenting a current status in which tribal child welfare staff are not routinely informed or involved by state child welfare caseworkers. It was later determined, through inquiries at

DHHS, that this case review only included cases of Native children from Maine tribes. Numbers of Native children entering state custody, obtained through Maine DHHS, suggest that approximately half to two-thirds of all Native children entering state custody are not from Maine tribes.

State of Maine Department of Health and Human Services, Office of Child and Family Services. (2012). *Review of Native American Children in State Custody*. Unpublished document. Retrieved through Maine Wabanaki REACH.

In this second of two reviews (*see* State of Maine, 2009 for the first review), two state DHHS Performance and Quality Improvement (PQI) specialists reviewed the cases for all fifteen of the Native American children in state child welfare custody to assess ICWA compliance. (In 2009, the review was conducted by one tribal child welfare staff member and one state PQI specialist.) The review team concluded that improvements in ICWA compliance had been made for steps taken during the assessment phase. In particular, improvements were made in notifying tribal staff (from 79 percent of cases in 2009 to 87 percent of cases in 2012) and the involvement of tribal child welfare staff by state DHHS workers in the assessment (from 58 percent of cases in 2009 to 80 percent of cases in 2012). Also noted was a lack of documentation of tribal child welfare staff involvement in choosing foster care placements. The report flagged the frequency of contact by state workers with tribal child welfare staff as problematic: the incidence of contact from the state to tribal child welfare staff appeared to have decreased since 2009. However, the report also noted that outcomes were better in regions in which there were tribal communities. In addition, the need for state workers to share planning and facilitation of Family Team Meetings with tribal child welfare staff was noted. Finally, this report honestly acknowledged the need for more improvements, as well a sense of concern that outcomes were not stronger compared to 2009, given that most of the cases reviewed began after the last review had occurred in 2009.

That the state has engaged in systematic reviews of cases for ICWA compliance marks a significant positive step toward improving ICWA implementation. In addition, the review asks rigorous and specific questions aimed at not only assessing basic ICWA compliance, but also aimed at gauging the ways in which state workers take steps to inform and involve tribal child welfare staff in a truly collaborative manner. On a positive note, the fact that outcomes were better in regions where there were tribal communities suggests that significant improvements have been made in these regions, considering that these regions also historically had the most egregious state child welfare intervention overreaches involving Native families. However, some of the report's positive conclusions appeared to be somewhat overstated. For example, the report noted that there was an improvement in asking about Native American heritage at intake, however the improvement only increased from 50 to 53 percent of cases. While technically an improvement, it seems much more significant that in 2012, intake workers only asked about ICWA approximately half of the time. It leads one to wonder in what percentage of cases of children *not designated as Native American* (and therefore not reviewed) were children asked about Native American heritage at intake. That outcomes were not significantly stronger from 2009 to 2012 suggests that the state needs to seriously consider what steps will need to be taken

to be fully ICWA compliant. It also should be noted that there was a significant decrease in the overall number of Native American children in state custody, from 24 in 2009 to 15 in 2012.

State of Maine Department of Health and Welfare. (1960, 1961, 1962, 1963, 1964). *Selected data on formal complaints*. Unpublished document. Maine State Archives, Augusta, ME.

*Doc log (corrections): 1960 to 1964 reports: Selected data on formal complaints (meaning reasons for child welfare intervention)*

These reports, found for years 1960-1964 in the archives, document “complaints” (child welfare allegations) received by municipal, district and probate courts. One of the reasons for the Department of Health and Welfare to get involved was "juvenile offenders including the danger of falling into vice and incorrigible behavior." This reason accounted for between 7.6 percent and 16.2 percent of the incidents of child welfare services involvement for the years reviewed. The percentages for 1960 to 1964, respectively, were as follows: 7.6, 16.2, 15.6, 15.5, 10. It was noted that for the years reported, police officers and sheriff’s departments combined accounted for the majority of the complaints reported.

While the focus is often on youth having criminal justice system contact after having been involved with child welfare, in the case of the 1960s, it appears that youth who were juvenile offenders became part of the child welfare system *because of* their offenses.

State of Maine Department of Health and Welfare. (1965). *Characteristics of Maine Public Child Welfare Service (1965)* (2512-0414, File: Child welfare). Indian Affairs Records, Maine State Archives: Augusta, ME.

This report aggregated demographics of children involved in child welfare system in Maine in 1965, stating that there were 108 American Indian children in the child welfare system, or 11 percent of the state’s under-21 American Indian population. Overall, state child welfare was involved with minority children at a disproportionately high rate compared to white children: "The excess in the rate of non-white children over white children receiving services is attributed to a high rate among Indians" (p.3). This statement is somewhat unclear, but seems to suggest that the rate of removal was especially high for American Indian children -- also suggesting an embedded assumption that child welfare is by nature poorer in Native communities. Eleven percent, or just over 1 in 10, is an extremely high rate of child welfare involvement. Even though Indian Affairs seemed very separate from child welfare issues, it seems strange with such a high rate of involvement that there are so few records within the Indian Affairs archives related to child welfare complaints or appeals for help. Versions of this same report were later found in the state archives for a number of other years in the 1960s and 1970s. All indicated that Native children were present in the child welfare system at disproportionately high rates.

State of Maine Department of Human Services, Bureau of Child and Family Services. (1991). *State Child Welfare Services Plan FY'91/'93* (1640-1305, Box 5). Child and Family Services Records, Maine State Archives, Augusta, ME.

This report references that the Penobscot Nation, the Passamaquoddy tribe and the Houlton Band of Maliseets have “exclusive jurisdiction” over child custody proceedings on their respective reservations. The document indicates that the state Bureau of Child and Family Services (BCFS) supports the tribes as appropriate in seeking funding for their child welfare services. The report says that the tribes and the Central Maine Indian Association were contacted by BCFS for a needs assessment meeting of the Child Welfare Advisory Committee and “KRA group.” The report acknowledges that Native people make up the largest minority group in Maine. In the section of the report titled “History of Significant Events Affecting the Child Welfare Program in Maine” in which federal and state laws, as well as other events, reports and commissions are identified, there is no mention of the Indian Child Welfare Act.

This report demonstrates an awareness of the services tribes provide related to child welfare, as well as a basic need for coordination with tribes. However, even in the section about coordination with the tribes and the services provided, there is no reference to ICWA being a federal law that not only grants the tribes jurisdiction over child welfare proceedings involving children who are tribal members, but mandates the state to determine a child’s ICWA eligibility. In addition, ICWA is completely absent from BCFS’ own presentation of “significant events” that have impacted child welfare policy and practice in Maine.

State of Maine Department of Human Services, Bureau of Child and Family Services. (2002). *Annual progress review*. Augusta, ME: State of Maine.

This report for the Bureau of Child and Family Services’ State Plan contains an addendum dedicated to the Indian Child Welfare Act. The ICWA addendum primarily deals with evaluating the state’s progress toward stated goals around training and establishing written agreements between the state and individual tribal nations. The state reportedly had met its goals, and set a new goal of maintaining improvements made thus far. The report also stated that an Abneki Child Welfare Coalition had been formed by tribal child welfare agencies to collaborate with the state. In the addendum dealing specifically with training, ICWA was listed as one of nine in-service training topics. The ICWA addendum also stated that a new statewide training would be developed.

This report was issued several years after the first ICWA training in early 2000, and documents the steps the state had taken in response to organized advocacy to improve ICWA compliance. As such, it continues to mark an end to the virtual silence of earlier reports and training materials on issues such as ICWA compliance and the unique needs of Wabanaki children involved in the state child welfare system.

State of Maine Department of Human Services, Bureau of Child and Family Services. (2003). *Annual progress review*. Augusta, ME: State of Maine.

See above entry for 2002 report. The 2003 report again contained an addendum dedicated to ICWA. The report also stated that the state of Maine and the Houlton Band of Maliseet Indians had signed a “historic agreement” related to child welfare. In the addendum about training, ICWA was again listed as one of three in-service training topics.

State of Maine Department of Human Services & Central Maine Indian Association. (1987). Interagency agreements: Maine Department of Human Services and Central Maine Indian Association. In Maine Department of Human Services, *Child and Family Services manual* (1681-1601, Box 1, File: Agreements, Interagency, etc. 1997-1999). Child and Family Services Records, Maine State Archives, Augusta, ME.

Central Maine Indian Association and Maine Department of Human Services (DHS) signed an interagency agreement in December 1986. Penobscot Indian Nation and Maine DHS signed an interagency agreement in February 1987. The Houlton Band of Maliseet Indians did not sign a similar agreement with the state of Maine until 2003, and the Passamaquoddy tribes have still not signed any formal child welfare agreements with the state of Maine.

The agreement between Maine DHS and CMIA applied for Indian children and families not living on reservations in Maine. Among other areas of coordination of child welfare services for Indian children and families, in this document, the state agreed to coordinate service plans with CMIA. CMIA agreed to assist in verification of tribal status of Indian children, and CMIA and the state agreed to coordinate in recruitment of Indian foster and adoptive parents.

State of Maine Department of Human Services & Penobscot Indian Nation Department of Health and Human Services. (1987). Interagency agreements: Maine Department of Human Services and Penobscot Indian Nation. In Maine Department of Human Services, *Child and Family Services manual* (1681-1601, Box 1, File: Agreements, Interagency, etc. 1997-1999). Child and Family Services Records, Maine State Archives, Augusta, ME.

The Penobscot Indian Nation’s 1987 interagency agreement marked the first comprehensive child welfare agreements between the state of Maine and a tribal nation in Maine. Central Maine Indian Association and Maine Department of Human Services (DHS) signed an interagency agreement in December 1986. The Houlton Band of Maliseet Indians did not sign a similar agreement with the state of Maine until 2003, and the Passamaquoddy tribes have still not signed any formal child welfare agreements with the state of Maine.

The agreement between Maine DHS and Penobscot Indian Nation applied for children residing on the Penobscot reservation, as well as children who were tribal members who were not residing on the reservation. The agreement outlines jurisdictional boundaries for the state and tribe, and steps that will be taken by both agencies in terms of verifying tribal membership, developing case plans, and coordination of services.

Taylor, L. (1993, April 22). *Legal summary for termination of parental rights* (1640-1502, Box 18, File: Sandi's memos/letters 1992-1994). Child and Family Services Records, Maine State Archives, Augusta, ME.

In this memo to an Assistant Attorney General and Sandi Hodge (Maine Department of Human Services administrator,) state adoption specialist Leonore Taylor strongly suggests having clearer language in Termination of Parental Rights forms that asks caseworkers to explain how they know whether or not a child has Indian heritage. She writes that the current form only has a place to mark that someone is “not of known Indian heritage” but points out the problem that this doesn't mean the worker is actively asking about Indian heritage. She says that there are currently “two cases of children of Indian heritage unduly delayed after TPR” and adds “[a]s you know, there are many people who do not look Indian but do have significant Indian Heritage which would qualify them as members of a U.S. recognized tribe under the Indian Child Welfare Act.”

This memo demonstrates that even in 1993, caseworkers were not routinely finding out if ICWA applied for a particular child, even at the point when a worker was seeking to terminate a parent's rights.

U.S. Children's Bureau. (1984). *Child Welfare Research Notes #7* (1672-0104, Box 4, File: VCIS 10/81-9/82). Child and Family Services Records, Maine State Archives, Augusta, ME. Also retrievable online at <http://digitalcollections.library.cmu.edu/awweb/awarchive?type=file&item=594288>

This report was based on state-reported data on race and ethnicity in state foster care for the national VCIS survey in 1982. Maine ranked in the top quintile, meaning among the top ten states, for highest placement rates for Indian children. Maine's rate was based on a reported 38 Indian children in state foster care out of a total Indian population under age 21 of 2,013. This number did not include Indian children in tribal foster care, only those Indian children in state-operated foster care. This report indicates that in 1982, five years after the passage of ICWA, Maine still had very high rates of child welfare involvement with Native children compared to other states.

U.S. Department of Health and Human Services, Administration for Children and Families. (1999). *Final report of the Child and Family Services pilot review*. Unpublished document. Retrieved through Theresa Dube, Maine Department of Health and Human Services.

In 1999, Maine Department of Health and Human Services (DHHS) agreed to participate in a pilot of a new federal review process for evaluating positive outcomes for children and families who were part of state child welfare systems. The findings of the pilot review were presented in this report. One of the key recommendations in the report was for the state to “continue outreach to the Native American tribes, and continue to work on state/tribal relationships” (p. 4). This recommendation is elaborated on in the “systemic factors” section of the report, in which agency responsiveness to the community is evaluated. In particular, the review examined the extent to



which the state was engaging in ongoing consultation with tribal representatives, as well as other groups, in the development of the state's Child and Family Services Plan. The report found that "In the past, DHS [*sic*] has not consistently identified Native American children early on, creating delays for children and tension between DHS [*sic*] and the tribes. However, increased training and awareness of staff is improving both Agency and court practices relative to ICWA" (p. 26). And finally, in the chart in which details about timeframe and agency leads for recommendations are outlined, the state is directed to "Focus particularly on outreach to the tribes and improved implementation of ICWA" (p. 22 of chart).

Although the language related to state consultation of tribes in the key recommendations is somewhat neutral, the language used in the detailed chart is more emphatic, and is suggestive of a situation in which the state's implementation of ICWA was less than adequate. In addition, although the recommendations are somewhat limited, this federal review has been credited as being a significant factor in the state ultimately making a significant effort toward improving relationships with tribal child welfare and strengthening ICWA compliance.

U.S. Department of Health and Human Services, Administration for Children and Families. (2003). *Final report, Maine Child and Family Services Review*. Unpublished document. Retrieved through Esther Attean, Maine-Wabanaki REACH.

In this 2003 report for the federal review of Maine's child welfare system, it is noted that the state needed to make greater efforts to engage in consultation with Native American tribes in the development of the state's Child and Family Services Plan. Stakeholder meetings also identified a lack of consistency in ICWA compliance, but also noted that ICWA training was effective. Although issues with consultation of tribes and ICWA implementation were also noted in the earlier 1999 pilot review, it appears that these issues continued to persist four years later, at the time of the first official federal review of Maine's child welfare system (*see* Administration for Children and Families, 1999).

U.S. Department of Health and Human Services, Administration for Children and Families. (2009). *Final report, Maine Child and Family Services Review*. Unpublished document. Retrieved from [http://www.maine.gov/dhhs/ocfs/prov\\_data\\_reports.shtml](http://www.maine.gov/dhhs/ocfs/prov_data_reports.shtml)

In this 2009 report from the federal review of Maine's child welfare system, much effort in the area of ICWA implementation is noted. For example, the state-tribal collaborative ICWA workgroup is mentioned, a 2006 ICWA summit is noted, and the report says that the state is doing a good job of checking for ICWA eligibility. However, consistent with the earlier 1999 and 2003 reports, the 2009 report identifies consultation with tribes as an issue arising out of stakeholder meetings. The report states that although the state's perception is that the tribes are consulted, the tribes do not feel they are truly consulted. This report highlights the difficulty in moving from awareness of an issue to sufficient action and change, in particular as that relates to the differing perceptions of the state and the tribes.

U.S. Senate. (1980). *Oversight of the Indian Child Welfare Act: Hearing before the Select Committee on Indian Affairs, United States Senate, Ninety-sixth Congress, second session, on oversight of the Indian Child Welfare Act (Public Law 95-608), June 30, 1980, Washington, D.C.* Washington, DC: U.S. Government Printing Office.

The U.S. Congress conducted oversight hearings for the Indian Child Welfare Act in 1980 and 1984. In her testimony at the 1980 hearing, Central Maine Indian Association (CMIA) director Donna Loring stated that in CMIA's review of 34 case records, Maine DHS had recorded race in only 19 of the 34 records. Loring also stated that the ratio of state child welfare intervention with off-reservation Native families, compared to on-reservation families, was four to one. The testimony from this first ICWA oversight hearing indicates early issues with ICWA compliance, in particular ensuring that every child is assessed for ICWA eligibility. This is significant for the TRC because it is believed that this continued to be a basic compliance issue for many years. Last, Loring's assertion about the higher rate of intervention with off-reservation Native families raises questions about the numbers of Native children that may have slipped through the cracks of state compliance with ICWA, during a period in which very little documentation of state efforts to be in compliance with ICWA have been found.

U.S. Senate. (1984). *Oversight of the Indian Child Welfare Act: Hearing before the Select Committee on Indian Affairs, United States Senate, Ninety-eighth Congress, second session, on oversight of the Indian Child Welfare Act (Public Law 95-608), April 25, 1984, Washington, D.C.* Washington, DC: U.S. Government Printing Office.

In this second congressional oversight hearing since the passage of ICWA, comments were submitted by James Sapier (Penobscot Nation tribal council member), Jeanne Almenas (Penobscot nation Deputy Director of Human Services) and John Silvernail (Central Maine Indian Association). These were the only comments submitted Wabanaki individuals, tribes or organizations. In general, the comments indicated that the relationship with the state was going well, and that draft agreements were in place. One commenter credited Nancy Goddard (Maine Department of Health and Human Services) with the positive relationship between the state and the tribes. The primary concern of the commenters was that more funding was needed to fulfill the ICWA mandate. In addition, Silvernail stated that 73 out of 207 incarcerated juveniles in the state of Maine were Native.

This document is relevant to the TRC in that it marks a relatively early moment in time in which, from the perspective of the Penobscot Nation and Central Maine Indian Association representatives, the working relationship with the state related to child welfare was going well. The comments also indicate the presence of an extremely disproportionate representation of Native youth in the corrections system.

Vicaire, M. L., & Dana, A. J. (1986, July 23). [*Letter of complaint regarding DHS office in Ellsworth, Maine*] (1401-0310, Box 10, File: Personnel - completed grievances and complaints 1985). Child and Family Services Records, Maine State Archives, Augusta, ME.

In this letter to the Maine Department of Human Services (DHS) commissioner, the director and family services specialist from the Central Maine Indian Association (CMIA) wrote to complain that the Ellsworth office of DHHS had not responded to serious concerns expressed about the foster placement of children from a Native family. The writers of the letter also say that in general, DHHS offices do not want to work with CMIA. In addition, the CMIA staff members stated that although they were mandated to provide training on ICWA to the state, no one from the Ellsworth office had attended one of their ICWA trainings and that CMIA has experienced the most resistance from the Ellsworth office in implementing ICWA. The state's response to the letter is highly formal, and characterizes the complaints as affirmative action issue that will be followed up by a labor relations specialist from the state. This letter provides a window into the frustration experienced by CMIA in trying to work with the state even eight years after ICWA became a federal law.

Wabanaki Alliance. (1978, December). *AAI launches foster care plan* (2512-0112, File: Clippings). Indian Affairs Records, Maine State Archives, Augusta, ME.

This article describes efforts by the Association of Aroostook Indians (AAI) to create more foster homes for Indian children. The article states that AAI and the Maine Department of Human Services were working closely together to locate foster homes. The AAI spokesman said that "state workers are trying to do their job well."

Of relevance of the TRC is the sense of cooperation between the state and AAI that is conveyed in this article. And while the article describes a critical need for more foster homes for Indian children, it does not reference the extremely high incidence of removals of Native children from their families in Aroostook County.

Wolverton, T. (1999, May 3). [*Letter regarding finalizing a working agreement between the state and Passamaquoddy Child Welfare at Pleasant Point and Indian Township*] (1681-1601, Box 1, File: Agreements, Interagency, etc. 1997-1999). Child and Family Services Records, Maine State Archives, Augusta, ME.

In this brief letter to Molly Newell (Passamaquoddy Tribe at Pleasant Point) and Sonja Dana (Passamaquoddy Tribe at Indian Township), Tom Wolverton (Maine Child Welfare Program Administrator) references "ongoing meetings" that have been happening to finalize working agreements with Passamaquoddy Tribe child welfare services at Pleasant Point and Indian Township. Wolverton also said that in a recent phone call with Molly Newell, he had the understanding that the tribal child welfare staff would like to suspend meeting with the state to develop a working agreement until the staff were able to meet together to determine what issues needed to be addressed in a working agreement.

It is impossible to know the subtext of this letter, although the tone from Wolverton suggests that the state is anxious to finalize an agreement as well as be reassuring that "we have always worked very well together." However, the reference to suspending meeting for the time being

and that there have been “ongoing meetings” suggest that there may have been some points of contention that were difficult to work out.