



Summary of Research Findings

Outline of this report

1. Overview: Research areas, limitations and relevance of findings
2. Introduction: Aroostook County, 1970s
3. Interpretation of research findings
4. Detailed summary of key findings:
 - 1) Dominant narrative and counter-narrative
 - 2) Overview of state-tribal relationships
 - 3) State-tribal child welfare interactions
 - 4) State compliance, training, and policies regarding ICWA
 - 5) ICWA in reports evaluating the child welfare system in Maine
 - 6) Child welfare and adoption statistics

1. Overview

Research areas

- Archives: Reviewed 41 boxes of materials from the Indian Affairs archive and 39 boxes of materials from the State Child and Family Services archive. All prioritized archival boxes were reviewed, however, there is still a vast amount of archival materials that there was not time to include in this analysis.
- Reports: Archival research and state government documents research resulted in the identification of a number of reports as potentially relevant to the TRC's mandate. These reports were predominantly, but not exclusively, state-generated documents.
- Statistics: All materials reviewed within the Child and Family Services archive that included statistical information about the race/ethnicity of children in the child welfare and adoption systems were photographed and entered into the document record. Additional statistical material was found in state-generated reports, through federally available data posted publicly online, and through a data request to the state's child welfare information system (MACWIS).

Limitations

These findings are limited in scope and perspective to the materials I reviewed. Time limitations constrained us from conducting a literature review, reviewing newspaper archives outside of those found within state archives, or corroboration with individuals who authored the primary source documents upon which the bulk of my findings are based. I also did not review tribal records, and none of the materials reviewed were written in one of the Wabanaki languages (all materials reviewed were in English).

Relevance of findings, given limitations

These findings are grounded in primary sources, drawing on the actual words written by people at various points in time leading up to and following the passage of ICWA. While my own perspective is inseparable from these findings, to the extent possible, the findings are connected to these primary sources -- not because other sources, such as experiences of individuals or those experiences carried across generations through family or community stories, are not valid. Rather, these primary sources simply add another dimension to enrich our understanding.

2. Introduction

All of these findings can be considered in light of a single, profound statistic published by the American Indian Policy Review Commission of the US Congress in 1976 that conveys the gravity and the extremity of the state child welfare experiences of members of the Wabanaki tribal nations:

In Aroostook County in 1972, one out of every 3.3 Native children was in state foster care. More than half of all Native children in care statewide were from Aroostook County.

I have written in greater depth about the American Indian Policy Review Commission's report in the Child Welfare Annotated Bibliography, and I cover other statistical findings later in this report. However, I want to begin this summary of findings by pausing for a moment with this "one in three children" statistic and considering what it may tell us. Although this figure is only available for 1972, it seems probable that this number was not an aberration for this year, but reflective of the general trend for the 1970s in Aroostook County. This suggests that

- As staggering as the numbers are for the whole state in the 1970s, it appears that Native families in Aroostook County were by far impacted the most significantly. This is not intended to diminish the impact felt by Native families outside of Aroostook County in Maine, as the numbers were still disproportionately high for the rest of the state.
- While the case is often made for the overrepresentation of Native children to have been somewhat invisible at the statewide level, the extreme numbers for Aroostook County suggest that it would have been difficult for state child welfare caseworkers, and their supervisors and leadership, to be unaware of the impact child welfare interventions were having on Native families in that area.
- Given how extremely weighted the numbers were in Aroostook County, it suggests that Aroostook County perhaps should be considered separately from the state as a whole in terms of how deeply and profoundly Native families were impacted, but also in terms of understanding how the status quo of acceptable action among state child welfare staff in Aroostook County was created and maintained.
- In addition, this figure raises serious questions about how deep and profound the denial and/or willful ignorance and/or suppression of what was known by state child welfare leadership about what was going on in Aroostook County, and by extension, among interventions in Native families statewide.

- Finally, on a personal note, I am struck by the potential for the impact of these removals to echo powerfully within Wabanaki communities but also among the state child welfare bureaucracy and individual staff members in Aroostook County and statewide.

3. Interpretation of research findings

Here, I asked a series of questions to connect the findings to the TRC's broader purpose of more fully understanding the historical past and living present of state child welfare interactions with Wabanaki families. These questions and answers reflect my own interpretation of the data, and are intended to open the door to further questioning and understanding rather than to be considered final or concrete answers to a complex and nuanced history.

How can the findings related to the relationship between the state and the Wabanaki tribal nations in Maine help us understand what happened?

- The history of state's recognition of the Passamaquoddy tribes and the Penobscot Nation, in comparison with the state's recognition of the Houlton Band of Maliseets and the Aroostook Band of Micmacs, suggest two very different relationship dynamics that may have contributed to differences in state workers' approaches to child welfare intervention in these tribal communities.
- In particular, the state's relationship with Passamaquoddy tribes and the Penobscot Nation -- as land-holding, state-recognized tribes -- was characterized by overt state control of tribal affairs, and a tension between the state's efforts to maintain that control, and the state's desire to be released from providing financial support for tribal members.
- In contrast, prior to federal recognition, the state's relationship with the Houlton Band of Maliseets and the Aroostook Band of Micmacs could be characterized by one in which those tribal nations were invisible and/or nonexistent to the majority of the state, and to the state government in particular. It is suggested that this dynamic made it easier for culturally destructive, biased interventions to go unchecked by the state child welfare leadership, while the pervasive dominant narrative may have made it easier for culturally destructive, biased interventions to go unquestioned. It is suggested that this different dynamic may, in part, help us understand why the scale of child welfare interventions in Wabanaki families was so much more extreme in Aroostook County.
- It is suggested that the land claims settlement debate shifted the dynamic between the state and the Passamaquoddy and Penobscot tribes to one of overt/explicit structures of control to covert/implicit methods of restricting any perceived expansion of control.
- In particular, related to child welfare, the state's adamant rhetoric during the land claims debate about these tribes not being "nations within a nation" and the hostility directed at what was perceived to be "special treatment" for tribal members, seems closely linked

with a similar perception of ICWA as requiring special treatment for Native children, as well as special treatment for tribes (a perception that ICWA says that tribes' rights are more important than the safety of the child.)

- The involvement of the Houlton Band of Maliseets in the land claims settlement raised the profile of that tribe from a state perspective, while still maintaining that tribe in a separate category from the Passamaquoddy tribes and the Penobscot Nation. Later federal recognition of the Houlton Band of Maliseets further shattered the invisibility of the Maliseet tribal nation in Maine, making it more difficult for the state to ignore what Maliseet families and leaders had been saying for decades.
- In spite of the official “invisibility” of the Maliseet and Micmac tribes in Maine in the 1970s, these tribes (as the Association of Aroostook Indians) were actively attempting to document the scale of removals of Wabanaki children and to take steps to autonomously address the issue (for example, hiring a director of social services to address issue, trying to create more Native foster homes, partnering with other Wabanaki organizations to document the issue).
- ICWA was passed during a time of heightened tension between Wabanaki tribes and the state of Maine, due to the land claims dispute, in which the relationships among these governments were in upheaval. Although it is tempting to assume that this tension must have impacted the department-level interactions between State DHS and tribal child welfare departments, I did not find any evidence to explicitly suggest this. Rather, I found ample reference to the perception of white Mainers' hostility toward the Wabanaki tribes during this time. This, in turn, suggests that whether or not the land claims impacted interactions between the state and the tribes at a department level, it is plausible that the individual actions of state child welfare workers intervening with Wabanaki families were influenced by the hostility toward Wabanaki people in reaction to the land claims.

What might findings tell us about institutional racism?

- That especially within the Aroostook County state child welfare office, a dominant narrative (either explicit or implicit) likely existed that made it possible for the extremely high numbers of removals to have occurred and persisted.
- That those in positions of power and responsible for overseeing the Aroostook regional office, as well as other regions, either similarly espoused the dominant narrative, leading to an unquestioning stance, or did not buy into that narrative but either actively ignored or denied what was going on there.
- That, in spite of evidence that issues with ICWA compliance had been raised in the 1980s and 1990s, and in spite of ongoing documentation of the inadequacy of ICWA training, the state did not appear to begin to provide adequate training for case workers or supervisors in ICWA or basic cultural competency for working with Wabanaki families until the year 2000.

What might statistics tell us about what happened in the past and what is happening today?

- Statistics confirm that the rate of removals of Wabanaki children in the 1970s were exceptionally high, particularly in Aroostook County.
- They raise questions about pervasiveness of dominant narrative, level of denial or ignoring of what was known.
- They raise questions about what state’s reaction to publication of American Indian Policy Review Commission in which Maine in general, and Aroostook County in particular, were clearly identified as having exceptionally high numbers.
- More recent statistics demonstrate that overrepresentation still persists. For the years 2000 to 2013, the percentage of children adopted through the state who were American Indian/Alaska Native was on average 2.75 times higher than the percentage of the total Maine population that was American Indian/Alaska Native. For the years 2000 to 2014, the percentage of Native American children entering foster care was on average 5.97 times higher than the percentage of the total Maine population that was American Indian/Alaska Native. [5/11/15 note: *These statistics have changed somewhat since the drafting of these summary research findings due to the use of Kids Count data as a source for population estimates for Native children in Maine.*]

What do findings tell us about the perceived significance for the state of the impact of dramatically disproportionate removals of Wabanaki children?

- I found one 1977 memo in which a state administrator did acknowledge a lack of sensitivity to the “unique needs of Indian children” (Wyllie 1977, p. 1), and recognized that Wabanaki children should (in theory) be placed in Wabanaki foster homes if removal was necessary. However, substantive action took much longer to occur.
- In spite of numerous oversight committees established to critique the state child welfare apparatus as a whole, almost no attention was given to Wabanaki children, families or communities in official reports reviewed. Aside from a governor’s task force report in 1980, this issue was not addressed by in a state-generated report until 2001.
- Similarly, only one ICWA-related policy from 1980 was noticed in state child welfare policy manuals. Otherwise, most ICWA-related policies appear to have been added in 2006. This suggests that ICWA was simply not “on the radar” for state child welfare workers until several decades after the passage of ICWA.

4. Detailed summary of findings

1. Dominant narrative and counter-narrative

Dominant narrative

Materials that documented elements of a dominant narrative about Wabanaki people were abundant in the Indian Affairs archive. The table below addresses elements of a dominant narrative found in documents that were selected based on relevance to the TRC.

Dominant narrative elements	Source
Wabanaki people lack pride or initiative	Proctor & State of Maine (1942)
Wabanaki people do not care for themselves,	Stevens & State of Maine (1952)

their homes, or their land (“caring for the needy Indians”)	State of Maine Department of Health and Welfare Advisory Subcommittee on Indian Affairs (1965)
Wabanaki people are alcoholics, lazy, and that as a people are the “largest parasite on the state”	Bangor Daily News (1952)
Wabanaki tribal nations (and tribal lands) will eventually disappear	Fuller (1952)
Wabanaki tribal nations (and tribal lands) only exist by the permission and generosity of the State of Maine	Stevens & State of Maine (1952)
The characterization of Wabanaki resistance and advocacy as aggression and/or trying to pull one over on the state	Stevens & State of Maine (1952)
Wabanaki people are considered “nuisances and jokes” by the state	WGUY (1964)
The characterization of Wabanaki tribal lands as worthless and run down	Proctor & State of Maine (1942)
Wabanaki cultural differences make Wabanaki people inferior	Diocese of Portland, Diocesan Bureau of Human Services (Undated)
Being Wabanaki is subordinate to being American or being a Mainer	Longley (1976)
Wabanaki people should not receive special treatment by the state	Flanagan (1983)
The characterization of Wabanaki peoples as a problem for the state of Maine to solve	Proctor & State of Maine (1942), Bangor Daily News (1952), Stevens & State of Maine (1952)

Counter-narrative

Elements of a narrative that challenged dominant beliefs about Wabanaki people were also identified in materials found in the Indian Affairs archive.

Counter-narrative elements	Source
Wabanaki tribes should control their own affairs	State of Maine (1965)
When Wabanaki people leave their tribal lands and communities, they feel a loss of identity and belonging	State of Maine (1965), Associated Press (1971), Potter (1974)
The belief that child welfare removals of Native children may have resulted in a “massive deculturation”	United States Commission on Civil Rights (1974)
The state did not consult the tribes on issues that affect them	Bangor Daily News (1952)
That the Wabanaki tribes are “nations within a state”	Bangor Daily News (1952)

The belief that Wabanaki people were treated as second-class citizens by the state	WGUY (1964), Lewiston Daily Sun (1965), Diocese of Portland, Diocesan Bureau of Human Services (Undated) Indian Affairs Subcommittee of the Task Force on Human Rights (1968)
The belief that the state's policy toward Wabanaki people has been aimed at extinction of the Wabanaki people	[Author not known] (1968)
The belief that the state's child welfare policies may have negatively impacted or failed Wabanaki children	Wyllie (1977), State of Maine (1980)

Interpretation

Elements of the dominant narrative about Wabanaki people may have contributed to a situation in which it was:

- Easier for problems to stay invisible
- More likely that Wabanaki parents would be considered incapable of safely raising children
- More likely that Wabanaki communities would be considered places from which children needed to be removed
- Implicit that being Wabanaki was not a valued part of a child's sense of self and belonging
- Difficult, if not impossible, to understand why special treatment for Native children was federally mandated

Elements of the counter-narrative may have:

- Assured that problems would not stay invisible
- Generated bursts of advocacy and acts of resistance among some Wabanaki tribal leadership, tribal child welfare staff and Wabanaki families
- Contributed to a growing recognition among some DHHS leadership and caseworkers that being Wabanaki was an integral and inseparable part of a Wabanaki child's identity and sense of belonging
- Contributed to an awareness among some DHHS leadership and caseworkers that the need for change is morally and ethically imperative
- Provoked disbelief and/or other negative reactions among DHHS leadership and caseworkers

2. Overview of state-tribal relationships

My findings attempt to describe the relationship between the Wabanaki tribes and the state government from the 1940s to 1980, and connect that description to the ways in which the state approached child welfare interventions with Wabanaki children and families in Maine, as well as the way in which tribal and state child welfare agencies interacted after the passage of ICWA. Many people have spoken and written about this relationship. This analysis adds to what others have said before in that the findings are grounded in primary sources that were specifically

chosen based on relevance for the TRC. See “*Timeline_State-tribal relationship*” for source documents.

A. Phases of state-tribal relationships

I found that the relationship between the state and the Wabanaki tribes moved through a number of phases from the 1940s to the early 1980s:

1. Overt state control over most aspects of Passamaquoddy and Penobscot tribal affairs, during which there was ongoing advocacy on the part of tribes for the right to self-govern and unwavering assertion of sovereignty. At the same time, the Micmac and Maliseet tribal nations in Maine were largely invisible at the state level.
2. During the civil rights movements of the mid-1960s, outside criticism of the state for treatment of Native peoples increased. Some within the state bureaucracy also began to demonstrate a rising awareness that tribes ought to have more control over their own affairs.
3. The state began to take token steps toward improving the relationship with tribes -- tries to honor tribes with Indian Day, forms committee -- but still retains complete control/concedes nothing.
4. The outcry over removals of Wabanaki children is amplified. (early 1970s)
5. The state attempts to respond to some of the child welfare issues raised, at least demonstrating an awareness of what some of the issues are (Native foster homes, engagement of tribes), but with little actual results.
6. Land claims dispute triggers anger/resentment over financial cost of tribes to state, fear of loss of control (literally loss of jurisdiction), amplifies “no special treatment” mentality.

B. Tribal-state relationship themes

Based on the compilation of a timeline of documents related to state-tribal relationships, a number of themes were identified.

- The state expected tribes would eventually just disappear.
- The state was caught between a need to maintain control and deepening resentment of the perceived financial burden of the tribes.
- The state was adamant that there would not be “nations within a nation” in Maine. (This correlates to the “no special treatment” attitude toward tribes.)
- The state exerted control over nearly all aspects of Penobscot and Passamaquoddy tribal life (identity/census, voting oversight, basic necessities like firewood, water, sanitation, housing).
- The land claims controversy exploded the narrative that tribes were going to eventually disappear and provoked extreme hostility.
- There should be no special treatment after land claims (land claims marked the end of perceived “special treatment”).

C. State relationship with Passamaquoddy tribes and Penobscot Nation

Since Maine became a state, the state has attempted to assert almost complete control over Passamaquoddy and Penobscot tribal affairs (including land). In addition, Wabanaki people were hidden within a compartmentalized bureaucracy in which “Indian

issues” were housed first within a separate division within the Department of Health and Welfare, and then later within a distinct Department of Indian Affairs (DIA). In this structure, Wabanaki issues that intersected with departments outside of the DIA’s domain were nearly invisible. After the DIA closed with the passage of the federal and state land claims bills in 1980, and before MITSC began convening in 1983, the tribes lost an “inside” venue for raising concerns. Tribal representatives still went to the state legislature, but after MICSA, state legislators were either fed up with the tribes asking for anything or openly hostile.

D. State relationship with the Maliseet and Micmac peoples of Maine

I found a near absence of references to the Maliseet and Micmac peoples of Maine prior to their federal recognition as tribal nations. The references I did find were predominantly news articles about the Maliseets and Micmacs asserting their status as sovereign nations who were unrecognized by the state and federal governments. In the late 1960s, Maine Governor James Longley wrote a speech in which he expressed support for the federal recognition of the Association of Aroostook Indians. However, the continued lack of federal recognition undoubtedly impacted the visibility of these tribal nations at the state level. For example, a 1970 letter from the Maine Commissioner of Indian Affairs bluntly states, “The two largest and only Maine tribes are the Penobscots and Passamaquoddies.”

3. State-tribal child welfare interactions

A. State-tribal child welfare interactions, pre-ICWA

Prior to the passage of ICWA, only two documents were found that addressed state child welfare involvement in Wabanaki communities.

- A 1972 biennial report from the Maine Department of Health and Welfare that stated that the Department did a workshop with the Association of Aroostook Indians on developing new foster homes for Indian children who were in the state’s care.
- A 1977 memo to the DHS Commissioner in which the merits of an unidentified project proposal were evaluated. This memo references actions taken by the state to address concerns related to Indian foster children, citing that the Bangor regional office had a goal of increasing the number of Indian foster homes, that a Native American social worker had been hired in Machias “to be more sensitive to the unique needs of Indian children” (p. 1), and that tribal leaders were asked about appropriate placement for Indian children but their response was that the department should use its “own best judgment” (p.1). The memo also said that the joint and regional offices of the department supported the idea of joint training “to be responsive to the background, philosophy and unique needs of Indian children” (p.2).

Interpretation

These documents indicate that the state was aware of issues prior to the passage of ICWA. In addition, these documents indicate that the state was able to recognize that

Native children had unique needs, and that more needed to be done to meet those unique needs. In addition, these two documents indicated that the state had taken some internal steps to attempt to address these issues.

The characterization of tribal leaders' response to consultation from the state is also thought provoking, and is suggestive of an atmosphere of mistrust between the state and the tribes. In addition, whether or not the memo's author was accurate in his description of the tribal leaders' response, his characterization of that response is indicative of a perception of the tribes as being uninterested or perhaps incapable of being active participants in Wabanaki child welfare cases. This perception, in turn, is reflective of elements of a dominant narrative about Wabanaki peoples in which they were considered to be lacking in motivation and incapable of managing their own affairs.

B. State-tribal child welfare interactions after the passage of ICWA

- In 1980, a report from the Maine governor's task force on foster care found that "DHS has not done enough to help Native American children in foster care retain their cultural ties" (p. 75). This marked the first formal acknowledgment from within the state government (that I have seen) that there were problems with the way in which DHS handled child welfare cases involving Wabanaki children.
- In the mid-1980s, the Penobscot Nation and the Central Maine Indian Association and DHS signed working agreements that outlined how to handle ICWA cases. (The Passamaquoddy tribes have still not signed working agreements with the state.)
- The 1984-85 State Child Welfare Plan articulated an objective to "specify further child welfare services to be provided to Native Americans" (p. 55). The status of this objective was listed as "in process" and a related comment was "working on clarification of child welfare services to off reservation Indians" (p. 55).
- The three federally-recognized tribes were first noted in a state child welfare plan in 1987, and continued to appear in these plans in a section titled "coordination of services." This was the only mention of Wabanaki tribes in these documents.
- Meaningful action on the part of the state to address ICWA-related issues did not seem to occur until 1999 when the ICWA workgroup began meeting to design and implement a statewide ICWA training. The progress made in 1999 was all the more remarkable given that as recently as 1997, MITSC described overall state-tribal relationships as "extremely strained."
- After the 2000 statewide ICWA training occurred, goals and objectives related to ICWA training began to appear in DHHS' Annual Progress Reviews in 2002 and 2003. In 2003, the Houlton Band of Maliseet Indians and the state signed a working agreement related to child welfare. In 2006, the state legislature formed a committee to study ICWA compliance. The committee met only one time, and concluded that ICWA compliance had "improved tremendously."

Interpretation

These documents support an understanding of state-tribal child welfare agency interactions as being formalized as early as the 1980s between the state and some tribes and tribal organizations. However, formalized relationships with the Houlton Band of Maliseet Indians did not occur until after the year 2000, while formalized relationships between the state and the Passamaquoddy tribes and the Aroostook Band of Micmacs have still not occurred. These documents also support an understanding of the formation of the ICWA workgroup as a major turning point for improved relationships and ICWA compliance.

4. State compliance, training, and policies regarding ICWA

A. ICWA compliance issues

Four documents were reviewed that directly addressed issues with ICWA compliance or coordination with tribes related to ICWA:

- In 1986, Melvin Vicaire, the director of the Central Maine Indian Association (CMIA) wrote a letter to the state citing serious concerns about the Ellsworth regional office's handling of a foster care placement of a Native child. In addition, Vicaire stated that although CMIA had been contracted by the state to provide ICWA training, he had experienced significant resistance to the training from that office and that ultimately, no one from the Ellsworth office attended their trainings. The state's response to this letter was formal, treating the matter as a labor relations issue, and did not address or acknowledge in any way on the issue of noncompliance with ICWA or the specific concern about the Native child's foster placement.
- In 1993, Sandi Hodge (Assistant Director of the Bureau of Child and Family Services) responded to a letter from the federal Bureau of Indian Affairs. The BIA had been contacted by the Passamaquoddy tribe at Pleasant Point with a complaint that the state was not responding to requests for information from the tribe. Hodge denied that any information had been requested, and stated that the state would be happy to "set up procedures" with the tribe to address future requests.
- In 1994, state adoption program specialist Leonore Taylor wrote a memo pointing out that Termination of Parental Rights (TPR) forms did not have sufficient language indicating whether or not a caseworker had actively asked a child if she or he had Indian heritage, and therefore may be eligible for protection under ICWA. She stated, "[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."
- In 1994, minutes from a state child protective services supervisors meeting indicated 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." Goddard also gave out "updated, corrected information" implying that caseworkers previously had had incorrect information.

Interpretation

Although there are only four documents that were located addressing ICWA compliance issues or tribal-state child welfare collaboration issues, these four documents still demonstrate that leadership within the state child welfare system were aware of basic compliance issues from the mid-1980s into the mid-1990s.

B. ICWA training

1984 Child and Family Services Division meeting minutes indicated that training on ICWA was added to the new worker orientation. However, eight documents ranging from 1989 to 2001 suggest that ICWA training was either inadequate or not happening, including a 2001 report from the Joint Standing Committee on Child Welfare Services of the state legislature which recommended strengthened training on ICWA and cultural diversity. In spite of this well-documented need, ICWA training was not addressed in any of the 15 training-related documents (curriculum, training summaries, etc.) reviewed that ranged from 1986 to 1998. In fact, in addition to the 1984 minutes mentioned above, I found only two references to ICWA-related trainings prior to 1999 in the archives:

- A 1989 presentation at a Child Welfare Advisory Committee (CWAC) meeting by two CWAC members who were from the Penobscot Nation and Houlton Band of Maliseet Indians child welfare departments. CWAC was not actually part of DHS, but acted as a federally-mandated advisory group to DHS.
- A 1994 child protective supervisors meeting in which Nancy Goddard (DHS leadership) came to provide an explanation of ICWA. The minutes from this meeting indicated that there had been “some confusion about the entire matter” and that Goddard provided “updated, corrected information for staff to use” (p.2).

Interpretation

It seems plausible that ICWA compliance may have been impacted by the absence of adequate ICWA training for caseworkers. In addition, as late as 1994, the information that had been provided by the department was incorrect and was causing confusion.

C. ICWA in state child welfare policy documents

The 1984-85 State Child Welfare Services Plan included ICWA in an administrative goal to complete/update policies. Later versions of this annual plan did not specifically identify ICWA again, although the more general goal of updating policies remained. The 1994-95 version of this plan indicated that the child welfare policy manual was still not completed.

I could not find anything related to ICWA in a 1992 BCFS policy manual that I reviewed at the archives.

A DHHS Child and Family Services Policy Manual most recently updated in 2006, but including some policies dating back to 1980, had a handful of references to ICWA. All references but one were either added for the first time or updated (the manual does not clarify) in 2005:

- An ICWA checklist, appended to the section of the manual dealing with substitute care placement.

- The definition of kinship care included kinship relationships acknowledged by a tribe.
- The family team meetings policy referenced ICWA

ICWA was also referenced in the subsection of the 2006 manual dealing with petitioning for a protective order. (*This was apparently added/updated in 1980, however, the document was clearly created using a more contemporary word processing format.*)

From 1985-1995, ICWA was not included in a section of the state child welfare plans titled “A brief history of significant events affecting child welfare in Maine” in which federal and state laws were listed in a timeline fashion. After 1995, this section was not included in the plans.

Interpretation

Overall, ICWA appeared to receive very little attention in CFS policy documents.

5. ICWA in reports evaluating the child welfare system in Maine

The child welfare system in Maine was under near-constant scrutiny and numerous oversight committees were convened and reports were published in the 1980s and 1990s. However, the vast majority of the findings and recommendations made did not address the experiences of Wabanaki children and families or ICWA compliance. In order of year, those that did address these topics were:

- 1980: Your neighbor’s kid: Report of the Governor’s Task Force on Foster Care for Children. Stated that “DHS has not done enough to help Native American children in foster care retain their cultural ties” (p. 75).
- 1997: Report of the Committee to Study the Role of the Courts in Protecting Children. Almost tangentially mentioned ICWA noncompliance issue but made no related recommendations.
- 2001: Two legislative committees made ICWA-related recommendations.
- 2006: State legislative ICWA oversight committee found that compliance is much improved.

Interpretation

Child welfare issues experienced by Wabanaki children, families and tribes did not appear to be “on the radar” until after the year 2000, even when other aspects of the child welfare system were under near-constant scrutiny.

6. Child welfare and adoption statistics

A. Limitations of interpreting the statistical material

I reviewed a range of types of reports that documented the race of children in the child welfare and adoption systems in Maine, from 1950s adoption reports to 2014 data generated by the state’s current child welfare information system. Wherever possible, a

rough calculation of proportionality was generated by comparing the percentage of children either adopted or in state's care/custody that were Native with the percentage of the total Maine population that was reported as Native in the US Census. It should be noted that this calculation is truly a sketch and not a rigorous statistical finding, as there are a number of important limitations to drawing conclusions based on this comparison.

- First, across the country, and in Maine specifically, questions have been raised about the accuracy of the US Census count for Native individuals (variously categorized by the US Census as "Indian," "American Indian," or "American Indian/Alaska Native"). Of particular relevance, I found documents that raised concerns about the Native population reported by the 1970 US Census. I found reference to a Maine Indian Census that occurred in the mid-1970s to counter the US Census numbers, but I was unable to find the actual census report, and so ultimately did use the 1970 US Census count where necessary.
- Second, a true comparison would be to compare the percentage of the children in the child welfare system with the percentage of the *child population* that is Native, not the percentage of the *overall population* that is Native. [5/11/15 note *Since the drafting of these summary research findings, I was able to find population estimates for the Native child population through Kids Count, and have since used these numbers to generate my most recent analysis.*]
- Third, the numerically small percentages in question (less than one percent) make it difficult to generate what would be considered statistically significant findings.
- Fourth, there are problems with comparing numbers from different reports with each other since I do not have the raw data to ensure that I am comparing "apples to apples," and there are many different ways in which the number of children in the child welfare system is reported by the state (i.e. children entering care within a one year period vs. children in care on a given day).
- And finally, it is difficult to know how much faith to put in the state's reporting on Native children, since my research also indicated that as late as 1994, there was "confusion" about evidentiary standards for ICWA and concerns raised from within the department about how consistently caseworkers were asking children about tribal affiliation (*see* Hodge, 1994 and Taylor, 1994). These issues suggest that the state's numbers of Native children in care are very likely lower than the actual number of Native children in care.

B. Overview of findings

However, given these limitations and cautions, based on my own interpretations of the reported data, I found that:

- All but one of the types of statistical reports I reviewed, ranging from 1950 to 2014, supported a finding of disproportionately high representation of Native children in the child welfare and adoption systems in Maine -- including reports on adoptions and children entering state custody in Maine as recently as 2014.
- In other words, the only figures I found that reflected a generally proportionate representation of Native children were from state-generated records of adoption statistics from 1974 to 1984. This conclusion is corroborated by the findings of the American Indian Policy Review Commission for roughly this same time period.

- There has been very little change since 1960 in terms of percentage of Native children in care. In 1960, approximately four percent of children in foster care were Native. As recently as 2012, 4.7 percent of children entering DHHS custody were Native.

I also located a number of historical reports that highlighted the disproportionality of the rate of removals of Native children compared to the rate of removals of non-Native children. These comparisons of rate were published in these reports -- they are not based on my interpretations of the reported material.

- Between 1960 and 1970, the state government produced annual reports on the demographics of children in the child welfare system. Based on the state's own calculations, it was reported that between 10.6 and 12 percent of the American Indian child population in Maine was in the child welfare system.
- The American Indian Policy Review Commission (a congressional commission) reported that Indian children in Maine were placed in foster care at a rate 25.8 times higher than non-Indian children in 1972, 20.4 times higher than non-Indian children in 1973, and 19 times higher than non-Indian children in 1975. For Aroostook County in 1972, the rate of removal for Indian children was 62.4 times higher than the statewide rate for non-Indian children. Stated far more bluntly, and powerfully, **an estimated 1 child out of every 3.3 Indian children in Aroostook County was in foster care.** The rates for Maine were the second highest in the nation at the time.
- A 1984 report, based on 1982 data from Maine, placed Maine in the top ten states in the country for the foster care placement rate for Native children.

More recent statistical findings continue to indicate a disproportionately high representation of Native children in the foster care and adoption systems. [5/11/15 note: *These statistics have changed somewhat since the drafting of these summary research findings due to the use of Kids Count data as a source for population estimates for Native children in Maine.*]

- For the years 2000 to 2013, the percentage of children adopted through the state who were American Indian/Alaska Native was on average 2.75 times higher than the percentage of the total Maine population that was American Indian/Alaska Native.
- For the years 2000 to 2014, the percentage of Native American children entering foster care was on average 5.97 times higher than the percentage of the total Maine population that was American Indian/Alaska Native.