

The Resource Center Newsletter

Resiliency in Native American Communities at the Intersection of Domestic Violence and Child Welfare

When discussing the intersection of domestic violence and child welfare in Native communities, it is important to first consider that Native communities continue to be resilient and thrive.¹ The connections within these communities - culture, language, ceremony, and tradition – offer a framework of resilience that is only now starting to be studied and/or incorporated by non-Native communities.² “Individuals and communities draw strength from places, cultural ways of living, kinship and other relationships, ceremony, humor, and collective successes. Resilience has always been present among Native people and a strong recognition and focus on this is recommended for practice, policy, and research endeavors.”³

It is also necessary to consider that Native communities face daunting realities as a result of colonization, historical trauma, and jurisdictional issues. American Indian/Alaskan Native (AI/AN) women experience the highest rates of domestic violence in the United States, with 47.5% subjected to domestic violence in their lifetimes.⁴ More than half of Native women have experienced sexual violence and 48.8% have experienced stalking.⁵ Native women are both more likely to experience violence in their lifetimes than other women and less likely to receive needed services.⁶ They are not alone. “With the convergence of exceptionally high crime rates, jurisdictional limitations, vastly under-resourced programs, and poverty, service providers and policy makers should assume that *all* AI/AN children have been exposed to violence.”⁷

¹ Oré, C., *American Indian and Alaska Native Resilience Along the Life Course and Across Generations: A Literature Review*, NAT'L INST. OF HEALTH (2016), citing Gone, J.P., *Reconsidering American Indian Historical Trauma: Lessons From an Early Gros Ventre War Narrative*, TRANSCULTURAL PSYCHIATRY (2013).

² *Id.*

³ NAT'L CONG. OF AM. INDIANS, *Resilience and Trauma* (October 2015).

⁴ U.S. CTR. FOR DISEASE CONTROL, *National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report* (2017), see also https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_ipv_report_2013_v17_single_a.pdf.

⁵ <https://indianlaw.org/issue/ending-violence-against-native-women>; Rosay, André B., U.S. DEPT. OF JUST. OFC. OF JUST. PROG., NAT'L INST. OF JUST., *Violence Against American Indian And Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey 2* (May 2016).

⁶ NAT'L CONG. OF AM. INDIANS, *Violence Against American Indian and Alaskan Native Women* (February 2018).

⁷ Shenandoah, Joanne, et. al., U.S. DEP'T OF JUSTICE, *Attorney General's Adomestic violenceisory Committee on American Indian/Alaska Native Children Exposed to Violence: Ending Violence so Children Can Thrive 6* (November 2014).

Chief Judge Cindy Smith of the Suquamish Tribal Court in Washington State deals with realities that may be less prevalent outside of tribal communities. “The perpetrator is most likely not leaving the tribal community,” Judge Smith said, “so working toward reintegration is even more important and crucial.” She believes that when working with a child welfare case, it may be easier to identify the presence of intimate partner violence, but because of all the trauma and what is at stake, it may be more difficult to engage the survivor in programs than with survivors in a criminal case. While Judge Smith has seen good results with individualized treatment for perpetrators, she believes supportive programs for survivors are needed in tribal communities.

Chief Judge Kim McGinnis of the Pueblo of Pojoaque feels similarly about making sure perpetrators are directed toward services that are proven to make a difference. “Because most domestic violence perpetrators will have parenting time with their children, it is critical that perpetrators are held accountable for their parenting choice to use domestic violence. Perpetrators should be required to engage in services – like certified batterer intervention programs or parent-child psychotherapy – that will create positive consistent change. Anger management is not appropriate for domestic violence offenders,” according to Judge McGinnis. In addition, Judge McGinnis also points out that children who witness domestic violence are also victims and need to be assessed for trauma.

AI/AN children experience child abuse and neglect at a rate of 14.3 per 1000 children and are increasingly overrepresented in the child welfare system.⁸ These numbers reflect the reality that many children and youth are “polyvictimized,” – exposed to more than one type of violence within short periods of time (e.g., witness to domestic violence at home and the victim of maltreatment and other violence, including dating violence and/or stalking).⁹

Judge McGinnis believes the goal for the court is keeping the child at the center with focus on the child’s safety, stability, and healing from trauma. She believes the focus is too often on the immediate reason why the child welfare case was filed without more information about what may be going on in the family. She also thinks that in

⁸ U.S. DEP’T OF HEALTH AND HUMAN SERV., *Child Maltreatment 2017*; NCJFCJ, *Technical Assistance Bulletin: Disproportionality Rates for Children of Color in Foster Care* (September 2017).

⁹ Finkelhor, D., et al., *National Survey of Children’s Exposure to Violence: Polyvictimizations: Children’s Exposure to Multiple Types of Violence, Crime, and Abuse* (October 2011).

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order to be able to make an informed decision, judges should be looking for the following:

- Offender accountability.
- Potential current or past domestic violence in every child welfare case.
- That all reports from a child welfare agency include the results of a domestic violence screen with information about what screening instrument was used; the results of a lethality screen; the history of domestic violence perpetration, including with other partners; and whether a safety plan was completed.¹⁰

For those outside of the courtroom, tools provided by federal and other laws offer opportunities to engage community leaders and build capacity within and among tribal community groups to design responsive programs and justice systems. These include federal statutes such as the Violence Against Women Act and Tribal Law and Order Act, both of which seek to extend tribal jurisdiction and increase the ability of tribes to respond more effectively to domestic violence within their communities. There are also laws focused on responses to child welfare, such as the Family First Prevention Services Act, under which recent guidance has sought to increase flexibility to implement culturally appropriate and responsive prevention and treatment programs by tribes within their communities.

There are many Native-owned and operated national organizations that promote innovative and culturally based programs aimed at decreasing the high level of violence in Native communities. The Tribal Access to Justice Innovation (TAJI) website offers specific examples of how tribal communities work to address the issue of domestic violence and sexual assault. TAJI was created by the National American Indian Court Judges Association and funded by the Bureau of Justice Assistance. It includes a number of innovative programs in addition to those focused on domestic violence. Currently, seven programs are discussed in depth on topics like funding, partnerships, lessons learned, and much more. These innovative programs represent a range of focus from the Violence Against Women Act to Coordinated Community

¹⁰ If this information is not in the report, Judge McGinnis believes judges need to hold the child welfare agency accountable for getting it as quickly as possible.

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Response. Other examples of national organizations with resources for both Native women who have experienced violence and child welfare are listed below.

Native Organization Resource List:

[National Indigenous Women's Resource Center](#)

[Strong Hearts Native Helpline](#)

[Tribal Access to Justice Innovation](#)

[Tribal Information Exchange](#)

Other Resources:

[Resource Center on Domestic Violence: Child Protection and Custody](#)

[Safe and Together Institute](#)

[Battered Women's Justice Project](#)

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