

American Indian and Alaska Native overexposure to foster care and family surveillance in the US: a quantitative overview of contemporary system contact

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ABSTRACT

Following a long history of forced assimilation through family separation, American Indian and Alaska Native (AIAN) children continue to be separated from their families by state child welfare agencies at exceptionally high rates. This study identifies those states with high levels of contemporary AIAN family separation through state and local foster care systems. We describe how these risks vary over childhood and vary in magnitude relative to white children. We then examine three states with exceptionally high rates of AIAN foster care placement, Minnesota, Alaska, and Montana, in detail. We evaluate how child maltreatment reporting contributes to upstream inequalities in family separation through an examination of sources of maltreatment reports and types of alleged maltreatment across childhood. We conclude by arguing that child welfare scholars should understand contemporary AIAN child welfare system contact in the context of historical and ongoing settler colonialism. In order to reduce AIAN inequalities, child protective services should observe tribal sovereignty by deferring to the authority of tribes in caring for Native children and families and increasing the capacity tribes have to help their communities.

1. Introduction

The child welfare system remains a persistent source of harm in the lives of Native families throughout the United States (T. L. Cross, 2021; Haight et al., 2018). These harms stem from institutional acts of violence waged against Native Peoples by the U.S. government (Glenn, 2015; Wolfe, 2006). This began with early Americans who were eager to physically remove Native Peoples from their homelands in order to establish commerce, statehood, and homes for non-Native families. During the late 19th through the mid-20th century, federal, state, and religious organizations worked to aggressively break up Native families and assimilate them into the nation's white population through boarding schools, fostering, and adoption (Adams, 1995; Trennert, 1988; Jacobs, 2014; R. Cross 1999). Genocidal efforts to eradicate Native nations and cultures through the removal and separation of indigenous children persisted with explicit support from federal and state governments and leading social work organizations until the passage of the landmark Indian Child Welfare Act (ICWA) of 1978. ICWA provides tribal governments critical tools to exercise tribal sovereignty in US family courts and provides a critical framework for protecting Native families and respecting tribal sovereignty (Pevar, 2012; Jacobs, 2014). Despite these protections, family separation continues to jeopardize and threaten the autonomy and wellbeing of Native families, and as a result, the very existence of tribal communities (Rocha Beardall & Edwards, 2021).

In this study, we provide a quantitative overview of the scope, geography, and character of contemporary child welfare system contact for AIAN families in the US. We conclude with a discussion of how child welfare organizations participate in larger systems of settler-colonization by reproducing intergenerational trauma through family separation. Given the ongoing and violent process of Native child removal by the state, it is necessary to probe the connections between former and current AIAN disparities in child welfare outcomes and the historical trends of assimilationist actions against Native people in an effort to understand where the child welfare system exists in a "constellation of power relations that sustain colonial patterns of behavior, structures, and relationships" (Coulthard, 2014: 14).

Using data from The National Child Abuse and Neglect Data System (NCANDS) and Adoption and Foster Care Analysis and Reporting System (AFCARS) foster care files for 2015 - 2019, we provide descriptive analyses of contemporary AIAN exposure to family separation. Further we detail analyses of pathways into foster care through maltreatment reporting for Minnesota, Montana, and Alaska, three states with the highest rates of foster care for AIAN children. Results indicate that AIAN children and families are still overwhelmingly exposed to inequitable system contact. We further explore these inequities by age, geographic location, type of maltreatment, and reporting source. This study provides new empirical evidence about where and how American Indian and Alaska Native families are being pushed into the child welfare system, and situates these findings in the long historical legacy of Native family separation.

2. Historical contexts: US policy efforts to eliminate Native nations through family separation

The removal of children from their families has been a central tool used by the US Government and allied private actors to advance the elimination of Native nations and expedite the settler colonial expropriation of Indigenous land and resources (Burt, 1986; R. A. Jr. Williams, 1986). The US government began a large-scale policy of building and operating off-reservation residential boarding schools in the 19th century, marking a shift in the kinds of genocidal policies state actors pursued toward Indigenous people in the US. Hundreds of thousands of Native children were taken from their families and sent away to residential schools with the explicit aim of eliminating indigenous cultural practices and acculturating AIAN children toward white christian values with an emphasis on industrial training (Wilkinson & Biggs, 1977; Adams, 1995; R. Cross, 1999). Boarding schools prohibited native languages, cultural practices, and religious practices and imposed of Christianity and settler-colonial ways of being (Nakano Glenn, 2015). The removal of children into boarding schools additionally functioned as a military strategy, weakening Indian military power against the settler government (Adams, 1995; Crofoot & Harris, 2012). Native children were routinely exploited for their labor. They were given gendered vocational training and leased out to local white families or businesses to help them with domestic and industrial responsibilities (Trennert, 1988; R. Cross, 1999). The living conditions at these boarding schools were inhumane: abuse, disease, and death were common (Adams, 1995). Following the ongoing discoveries of the remains of indigenous children at the sites of boarding schools in the US and Canada, US Secretary of the Interior Deb Haaland has

initiated an investigation to document the scope of deaths at federally operated boarding schools (Pember, 2022). The forced separation and assimilation of AIAN children through boarding schools has caused and continues to cause severe economic, social, and psychological harm to indigenous communities (Cunneen & Tauri, 2019).

The Indian Adoption Project (IAP) was an assimilationist program facilitated by the Child Welfare League of America under the supervision of the Bureau of Indian Affairs initiated in 1958. Between 1958 and the mid 1970's child welfare officials placed thousands of AIAN children in non-Native, typically white, adoptive homes geographically distant from their homes of origin (Crofoot & Harris, 2012). Federal agencies and their partners created a public relations campaign describing 'forgotten' Native children that were in need of 'saving' by middle class and affluent white families. The campaign resulted in the mass removal of Indian children from their homes, disconnecting a generation of Indigenous children from their culture, and perpetuating negative stereotypes regarding the fitness of Native parents (Jacobs, 2014). The Association of American Indian Affairs found that during this time period between 25% to 35% of all American Indian children were placed out-of-home, the majority with non-Native families (Ninety-fifth Congress, 1977). Scholars have since argued that the IAP was a social experiment which had serious long-term negative social, health, and economic outcomes for Native communities while simultaneously eroding tribal sovereignty (Jacobs, 2014).

The residential school system and the IAP were distinct modes of AIAN family separation; they also accomplished similar settler-colonial aims. The overlapping periods of residential boarding schools and mass adoption of Native children to white families were explicitly involved in efforts to eliminate Native nations (Wolfe, 2006). First, through biocultural assimilation in the form of socializing AIAN children in white schools, families, and other institutions. Second, through spatial removal by sending children and youth lengthy distances away from reservations, making it difficult to maintain connections with their communities. In the end, both programs contributed to the normalization and perceived inevitability of Native land dispossession, forced family separation by state authorities, and the need for assimilation (R.A. Jr. Williams, 1986). Both were used as a form of military conquest against tribal nations (Crofoot & Harris, 2012; Jacobs, 2014). Each sought to discipline tribal children into individual citizens (Wilkinson & Briggs, 1977; Trennert, 1988; Jacobs, 2014).

Intergenerational traumas experienced today by AIAN people are partially rooted in the forced removal and assimilation of AIAN children into boarding schools and adoption into non-Native families, by child protective services (Czyzewski, 2011; Cross, 2021; Evans-Campbell 2008; Evans-Campbell et al. 2012). This trauma has been empirically linked to PTSD, depression, and substance use in those initially impacted and for several generations beyond (T. L. Cross, 2021). For example, residential school survivors have continued psychiatric issues including PTSD and depression (Sinha et al., 2021). In turn the 'survivors of survivors' are exposed to similar structural and interpersonal harms, creating negative effects that impact subsequent generations (Czyzewski, 2011; Isobel et al., 2022).

2.2 ICWA

The Indian Child Welfare Act (ICWA) was passed in 1978, in an effort to curtail the harms caused by the mass removal of AIAN children from their communities through the child welfare system and assert tribal jurisdiction over AIAN family life (Limb & Brown, 2008; Rocha Beardall & Edwards, 2021). ICWA has four main provisions: notification of the tribe when an Indian child is taken into foster care, active efforts to keep Indigenous families intact, qualified expert testimony prior to termination of parental rights and out-of-home placement, and tribal preference of an Indian child's foster care placement, usually with another Native family (Crofoot & Harris, 2012; J.R. Williams et al., 2015). There is empirical evidence that ICWA has had positive impacts on AIAN child outcomes, especially in regards to foster care placement, although there is considerable variance by state (Day, Woo, & Gibbons, 2019; Martin & Connelly, 2015; Leake et al., 2012). ICWA has been found to be especially effective in decreasing out-of-home placements when coupled with tribal-state agreements, state-tribe collaboration, implementation of culturally-competent training, or extra support to kinship placements (Bussey & Lucero, 2013; Trope & O'Loughlin, 2014; Haight et al., 2018).

However, because of wide variation in interpretation and lack of consistent federal financial backing, compliance with ICWA has been uneven across states (Watt & Kim, 2019; J.R. Williams et al., 2015; Leake et al., 2012). Evidence of ICWA compliance includes AIAN children having high rates of kinship placement, family reunification, transfer out of the public child welfare system, higher likelihoods of trial home visits, and lower likelihoods of pre-adoptive placement (Crofoot & Harris, 2012; Grinnell Davis et al., 2022; Capacity Building Center for Courts, 2020). In their analysis of 2015 federal child welfare data, Grinnell Davis and colleagues (2022) found mixed evidence of compliance. Indigenous children and youth have higher rates of kinship placement than their peers, but are just as likely to use experience pre-adoptive placement and are less likely to use trial home visits or reunify with family compared to white children. In their survey study, Limb & Brown (2008) found that the provision of ICWA that showed the least compliance was the notification of tribes when an Indian child was placed in foster care, however, Leake et al., (2012) found that some tribal child welfare workers did not report issues with ICWA case notification processes. Difficulties with compliance can sometimes be explained by a lack of general education around ICWA statutes. Many tribal child welfare workers are skeptical that state or county child welfare professionals fully understand and interpret ICWA correctly (Leake et al., 2012).

Other federal child welfare laws, such as the Child in Need of Assistance Act (CINA) and the Adoption and Safe Families Act (ASFA) have hampered many of the goals outlined in ICWA by cutting the length of time parents have to reunify, moving quickly to terminate parental rights, and prioritizing adoption (Hazeltine, 2002; Atwood, 2008). The impacts of CINA and ASFA have been mediated by other legislation like the Foster Connections to Success and Increasing Adoptions Act (FCSIAA), which authorizes the use of kinship placements without termination of parental rights, and the Families First and Prevention Services Act (FFPSA), which tries to limit out-of-home care. However, ICWA faces a challenge to its constitutionality in the US Supreme

Court in *Brackeen v. Haaland*, which could have broad repercussions for AIAN children and families and tribal sovereignty broadly (Nagle, 2021).

2.3 Contemporary AIAN Disproportionality and Disparity in Child Welfare

American Indian and Alaska Native families are generally disproportionately and/or disparately impacted in almost all decision-making points in child welfare. From initial reporting to exiting the foster care system, many studies find negative or substandard outcomes for AIAN people involved in child welfare (Feely & Bosk, 2021). This section provides an overview of recent empirical literature concerning AIAN inequalities in major decision-making points throughout the child welfare system.

According to many studies, AIAN families are overrepresented at the reporting, acceptance of referral, investigation, and substantiation stages (Harris & Hackett, 2008; Maguire-Jack, Font & Dillard, 2020; Cross, 2021; Harris, 2021; Sinha et al., 2021). For example, in a study conducted on racial disproportionality in outcomes in King County, Washington, researchers found that Native American children were 7 times more likely to have an accepted referral or report than white children (Harris & Hackett, 2008). Recent research has confirmed these findings. Using 2009-2015 administrative and longitudinal child welfare data, researchers found that Native American youth were more likely to have substantiated reports of maltreatment and neglect compared to white children (Macguire-Jack, Font, & Dillard, 2020).

Neglect is the largest category of child welfare investigations for AIAN families. Relative to non-Native groups, neglect is more likely to be substantiated for Indigenous families, especially in cases of caregiver substance use disorders or single parent households (Grinnell Davis et al., 2021; Sinha et al., 2021). Native parents accused of neglect are often treated more punitively by agencies than are non-Native families with similar case backgrounds, resulting in greater rates of child removal, termination of parental rights, and fewer service referrals (Haight et al., 2018). Critics of child welfare practice note that neglect is ultimately driven by poverty and therefore interventions should target 'distal' or structural factors instead of individualizing blame onto families (Chase & Ullrich, 2022). These distal factors include the historical legacies of erosion of tribal sovereignty, forced spatial dispersion onto poor quality reservations, expropriation of tribal lands, and family separation (Farrell et al., 2021; Rocha Beardall & Edwards, 2021).

Recent research demonstrates that American Indian and Alaska Native children are more likely to be removed from the home, stay in out-of-home care longer, and experience more placement settings compared to white and non-native children (Martin & Connelly, 2015; Huggins-Hoyt et al., 2019; Macguire-Jack, Font, & Dillard, 2020; T. L. Cross, 2021; Grinnell Davis et al., 2021; Harris, 2021; Sinha et al., 2021). In some states AIAN children are more likely to be placed in kinship care compared to white foster children (Huggins-Hoyt et al., 2019; Macguire-Jack, Font, & Dillard, 2020). Native children and youth are less likely than other nonwhite children to be placed in institutional or congregate settings (Grinnell Davis et al., 2021; Sinha et al., 2021). However, AIAN children and youth tend to spend a longer time in care in

both privatized and public systems compared to white foster youth (Martin & Connelly, 2015; Huggins-Hoyt et al., 2019). AIAN children and youth also typically experience more placement instability compared to white and Black foster youth (Martin & Connelly, 2015; Huggins-Hoyt et al., 2019; Harris, 2021). Studies have also reported system and agency-level variation in removal and placement outcomes for AIAN children. Native youth are more likely to be placed in foster care compared to non-Native children when processed through agencies where more than 45% of investigations involve AIAN children. Foster care placement is also more likely when a Native child is assigned to a government agency versus a community agency (Haight et al., 2018). Quantitative research has linked a wide range of factors to contemporary inequalities for Native youth and families in child welfare outcomes (Cross, 2021) including exposure to poverty, implicit or explicit bias of child welfare actors, improper housing, lack of access to services, lack of access to education, and lack of access to other forms of capital which create a high risk of contact with the child welfare system (Feely & Bosk, 2021).

3. Data

The federal government maintains a series of data sets documenting the operations of contemporary state and local child welfare systems. To measure the frequency of family separation into the foster care system across states, we use the Adoption and Foster Care Analysis and Reporting System (AFCARS) foster care files for 2015 - 2019. All states are required to submit foster care and adoption data for the AFCARS. The AFCARS provides a single row of data for each child for each year that child was in foster care for a partial or complete year. Details on placement settings are only recorded for the last placement a child was in during a reporting period. To measure the breadth of foster care incidence in the population, we count all children in foster care at the state-year level for any length of time during a reporting year. We identify children as American Indian or Alaska Native if children are identified as AIAN alone or in combination with any other racial or ethnic category. State-level foster care caseloads are reported as 2015 - 2019 average annual values. Child age is reported as child age at the end of the reporting period.

The National Child Abuse and Neglect Data System (NCANDS) is a voluntary reporting system that documents all cases of alleged child maltreatment reported to a state or local child welfare hotline that are screened-in and receive an agency response (typically an investigation from a caseworker). Since the early 2010s, all 50 states have submitted these report-level data annually to the U.S. Children's Bureau. We use NCANDS data to explore pathways into foster care for AIAN children. NCANDS provides case and child-level information on all screened-in reports of child maltreatment received by state and local CPS agencies. We use these data to compute within-year counts of unique children with screened-in maltreatment reports by age, race/ethnicity (as AIAN alone or in combination and non-hispanic white alone), source of maltreatment report, and type of maltreatment. Child age is reported as child age at the time of the report.

NCANDS identifies the source of the initial maltreatment report using a 15 category variable. We group report sources into 5 categories. Two of these categories are unchanged

from the original NCANDS data: law enforcement and social services. We group education personnel and child care providers into a single category to enable better comparisons across age-groups for school-age and non-school age children. We also group medical professionals and mental health professionals into a single category. Finally, we group all non-professional reporters into a single category. This group includes 7 categories: substitute care providers, alleged victims, parents, other relatives, friends/neighbors, alleged perpetrators, anonymous reporters, and other reporters. We use this schema to enable clear comparisons between professionals who are typically mandated reporters by law and have routine contact with families and children, and all other providers. NCANDS identifies up to four allegations of maltreatment, each of which can take 9 possible values. We use these four variables to construct binary indicators for the presence or absence of allegations of neglect (as 'neglect or deprivation of necessities' or 'medical neglect'), physical abuse, sexual abuse, or 'other' (includes 'psychological or emotional maltreatment', 'sex trafficking', and 'other').

We examine NCANDS data in detail for three states with high AIAN foster care caseloads, Alaska, Minnesota, and Montana. These states were selected as exemplars of high AIAN foster care exposure states to provide descriptive context for how family surveillance and institutional processes structure pathways into foster care.

Note that both AFCARS and NCANDS do not collect information on the membership or eligibility for membership of a child in a Native nation. Thus these data do not identify eligibility for the protections of the Indian Child Welfare Act. Instead, we rely on administrative classifications of a child's race and ethnicity. These classifications may be based on how a caseworker identifies the race/ethnicity of a child or family or how a child or family self identifies. Because these data routinely rely on worker perception to identify children's race and ethnicity, we suspect that AIAN children are undercounted in these data. Federal officials have made plans to include ICWA eligibility in future data collection.

We also include data from the Association on American Indian Affairs (AAIA) survey of AIAN children in foster care and adoption conducted during the early to mid-1970s, submitted as part of the congressional record in testimony in support of the Indian Child Welfare Act (Ninety-fifth Congress, 1977). These data were the result of a systematic survey of public, private, and religious institutions involved in the fostering and adoption of Native and non-Native children in 18 states that had large AIAN populations in the 1970s. We rely on 3 state-level data points from these data: AIAN children in foster care, AIAN children in adoptive homes, and the under 21 AIAN child population. Population data in this report were derived from 1970 US Census estimates. Caution should be exercised in directly comparing results from the 1970 Census counts of AIAN populations to contemporary populations, as methods for identifying a respondent's race and ethnicity have changed substantially over time (Lujan, 2014; Liebler, 2018)

For the estimation of contemporary event incidence rates in the AIAN and white child populations, we rely on population data compiled by the National Institutes of Health's Surveillance, Epidemiology and End Results (SEER) program. These data are based on small

area estimates from the US Census bureau, and provide time-stable bridged race population estimates for single-year age groups at the county and year level. They enable the computation of age, race, and place-specific estimates of event incidence.

4. Methods

We provide descriptive analyses of the scope of contemporary AIAN exposure to family separation through foster care using data, comparisons to historical data, and in-depth analyses of pathways into foster care through maltreatment reporting for a subset of three states with the highest contemporary per capita rates of foster care for Native children. This approach provides a comprehensive account of how AIAN exposure to foster care varies across US states using pre-pandemic data, how these contemporary exposure relates to the best available historical estimates of exposure, and a window into how child welfare cases originate in particularly high-risk states. All code used in this analysis is available in a public repository (URL REMOVED FOR ANONYMOUS REVIEW, AVAILABLE UPON REQUEST).

4.1. Missing data and imputation

A small proportion of cases in the NCANDS and AFCARS are missing data on focal variables including child race/ethnicity and report source. We assume these data are missing at random and compute multiple imputations of the NCANDS and AFCARS at the report or child level using pseudo Bayesian methods (Van Buuren & Groothuis-Oudshoorn, 2011). These models include child-level predictors such as age and sex in addition to including state-level population composition predictors to adjust for heterogeneity in the racial composition of populations across states.

4.2. Pooled period estimates

Single-year estimates of child welfare system event incidence can be unstable at the race-state level for AIAN children, which have relatively small populations in many states. This demographic phenomenon is a product of the history and ongoing settler colonization of North America, which has resulted in profound decimations and dislocations of Native nations (Thornton, 1990; Farrell et al., 2021). To provide stable estimates of AIAN child event exposure across states, we pool five years of data for both event numerators and population denominators.

4.3. Uncertainty intervals

We compute standard errors for period means following Rubin (Van Buuren & Groothuis-Oudshoorn, 2011) through combining information on within-imputation variance (within-state across years) and between-imputation variance (within-period cross-imputation). This approach accounts for uncertainty in our estimate of the mean driven by variation within-states over time and by missing data at the state-year level in focal measures. Uncertainty intervals in the figures below represent our post-imputation estimate of the 2015 - 2019 period mean, and our post-imputation estimate of the standard error of the 2015 - 2019 mean. All intervals are reported as +/- one standard error to provide the reader with an

approximate sense of the stability of these estimates over time after accounting for missing data.

5. Findings

5.1. Variation In AIAN Exposure To Foster Care Across US States

Recent studies have shown that more than one in ten AIAN children will ever experience state-involved foster care at contemporary (pre-pandemic) levels of risk (Yi et al., 2020). Of the approximately 1.4 million AIAN children under the age of 18 living in the US during an average year between 2015 - 2019, about 33,000 were in foster care at some point during a typical year (about 2.4 percent of the population, or about 1 in every 40 children). By contrast, about 1.6 percent of white children were in foster care during a typical year (about 1 in every 60 children).

However, rates of AIAN foster care placement are highly variable across US states¹. We visualize this variation in Figure 1. In panel 1 (left), we show the percentage of the AIAN child population that was in foster care for any length of time in an average year (2015 - 2019 period, post-imputation). In panel 2 (right), we show the average number of unique AIAN children in each state in foster care for any length of time in an average year (2015 - 2019 period, post-imputation).

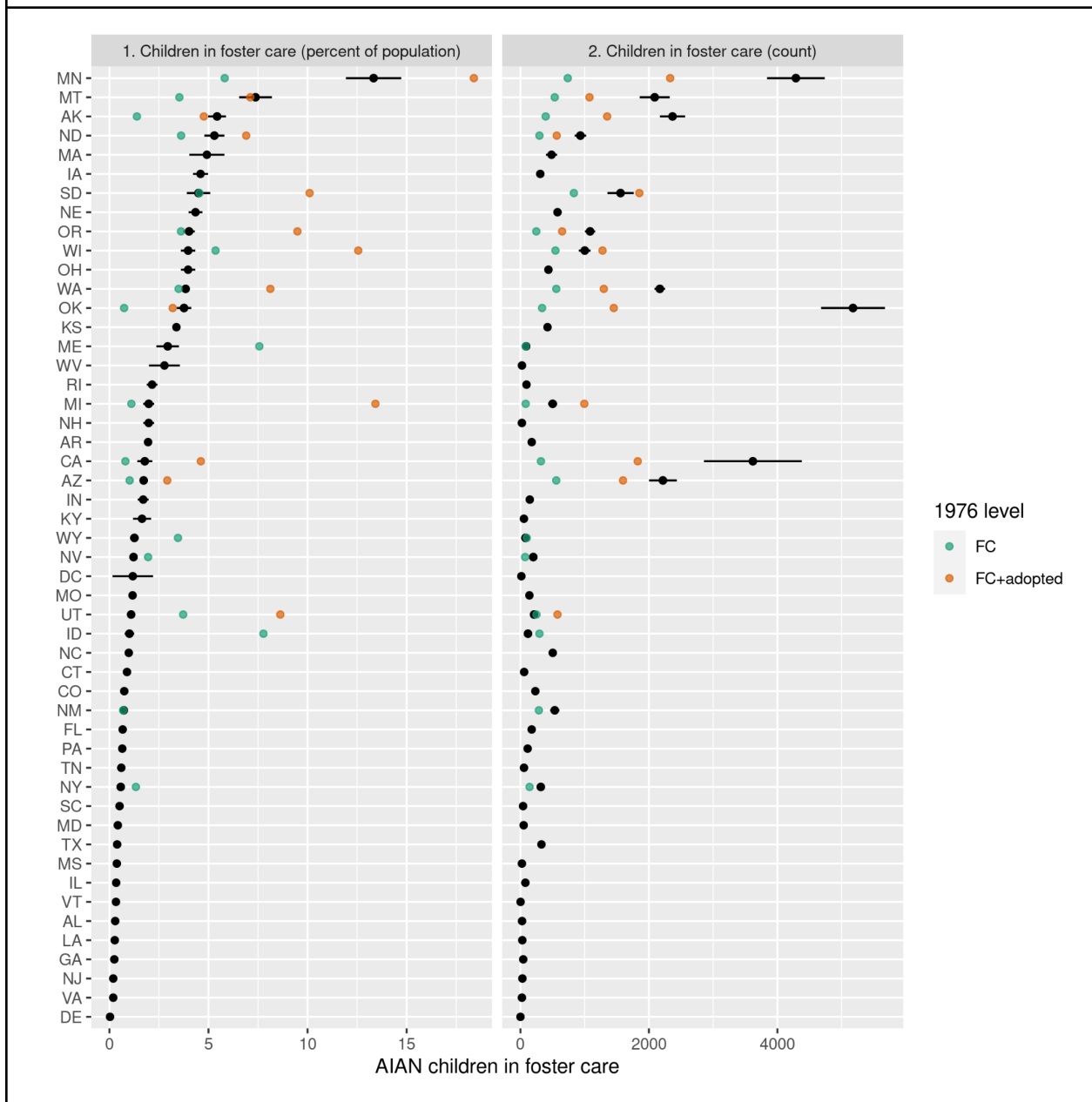
Minnesota has a higher percentage of its AIAN child population in foster care than any other US state. During the 2015 - 2019 period, we estimate that about 13 (11.9, 14.7) percent of AIAN children in Minnesota were in foster care in a typical year. This annual rate of contact in Minnesota is greater than contemporary *lifetime* risks of contact for AIAN children nationally (Yi et al., 2020). More than 5 percent of the AIAN child population living in Alaska, Montana, and Minnesota were in foster care during a typical year. We identify 13 additional states with AIAN foster care contact rates about the national mean (2.4); North Dakota, Massachusetts, Iowa, South Dakota, Nebraska, Oregon, Wisconsin, Ohio, Washington, Oklahoma, Kansas, Maine, and West Virginia.

Note that levels of high contact are not merely a function of large AIAN child population sizes within a state. For example, California and Arizona have among the largest AIAN child populations in the country, but have levels of AIAN foster care contact that, while still higher than rates for white children, are less extreme than those of some states with relatively smaller AIAN child populations. Figure 1, Panel 2 provides estimates of the number of AIAN children in foster care in an average year for each state between 2015 - 2019 without adjusting for the size of the AIAN child population. Oklahoma had more AIAN children in foster care in an average year than any other state during the study period, about 5200 in a typical year. Minnesota had about 4300

¹ Hawaii reports approximately 100 AIAN foster care cases annually through AFCARS and a very small AIAN child population through Census derived SEER estimates (approximately 1000 children). We suspect that data systems in Hawaii may count some Native Hawaiians as AIAN in child welfare reports to indicate their indigenous ethnicity in a manner that is inconsistent with how the US Census enumerates Native Hawaiians, resulting in unstable and exceptionally high rate estimates. To preserve a reasonable scale for Figure 1, we remove Hawaii's data. We do display age-specific AIAN foster care contact rate estimates for Hawaii in figure 2, but readers should note the high point estimates and large uncertainty intervals and treat these estimates with caution.

AIAN children in foster care at some point during a typical year, California had about 3600 AIAN children during a typical year. Arizona, Washington, and Montana each had about 2000 AIAN children in foster care on average between 2015 - 2019. These seven states accounted for about two-thirds of all AIAN children in foster care nationally during the study period.

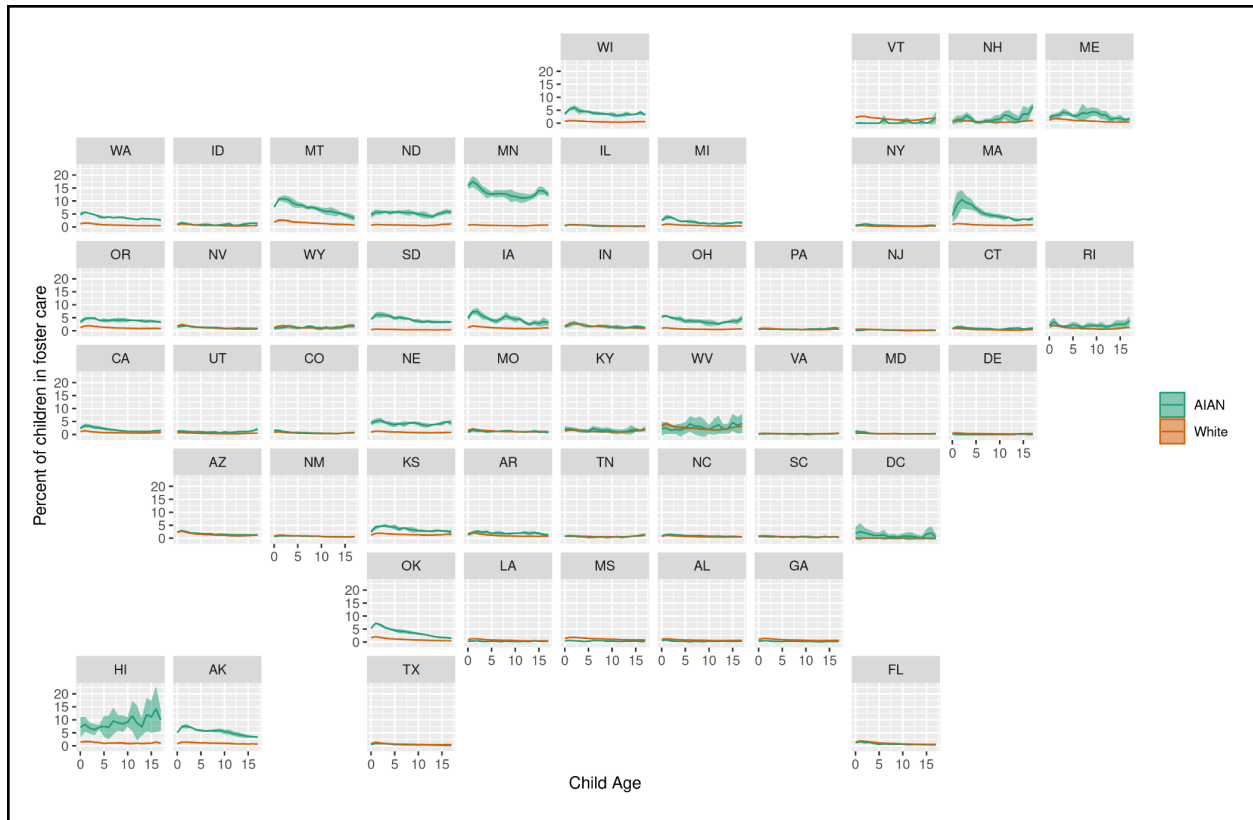
Figure 1. AIAN Exposure to foster care across US States, post-imputation 2015-2019 average and standard error (black points and bars) and AAIA estimated 1976 rates (green points indicate population in foster care, orange indicates population in foster care or adoptive homes). Panel 1 displays population adjusted rates as percent of AIAN child population, panel 2 displays unadjusted counts.



Risk of system contact varies jointly across places and over the life course. We display age-specific rates of foster care contact for each US state as post-imputation 2015 - 2019 period averages (with an uncertainty interval of +/- one standard error). The x-axis indicates the children's ages (as child age at the end of the annual reporting period), and the y-axis indicates the percentage of a state's child population exposed to foster care annually. The green line and interval represents AIAN children, and the orange line and interval represents white children. Risks of foster care contact are typically highest for AIAN children (as with all children; Wildeman & Emanuel, 2014) during the first few years of life. AIAN infants in Minnesota were in foster care at exceptionally high rates. We estimate that about 16 (14.6, 17.1) percent of AIAN infants in Minnesota were in foster care during an average year between 2015 - 2019. These extreme levels of contact persist in Minnesota throughout childhood. Contact levels peak in Minnesota for AIAN 1 year olds; about 17 (15.2, 19.6) percent were in foster care during an average year. Mean contact levels did not fall below 11 percent for AIAN children of any age during the 2015 - 2019 period. For comparison, the maximum observed foster care contact rate for white children in any US state at any age during this period was about 4 (3.5, 4.9) in West Virginia for one year olds. Levels of foster care contact for young AIAN children were also exceptionally high in Montana (11 percent of one year olds); Massachusetts (9 percent of one year olds); Alaska, Iowa, and Oklahoma (7 percent of one year olds); South Dakota, Ohio, North Dakota, and Washington (6 percent of one year olds); Wisconsin, Nebraska, and Oregon (5 percent of one year olds); and Kansas and Michigan (4 percent of one year olds). Note that rates of foster care contact for one year old AIAN children exceeded 1 percent of the child population in all but 16 US states. Across many of these states, high-levels of foster care contact persist throughout childhood.

Figure 2 also clearly illustrates ongoing and profound inequalities in foster care contact experienced by AIAN families. We estimate that AIAN infants (less than one year old) were placed into foster care at higher rates than white infants in 28 of the 50 US states. AIAN one year olds were more than 3 times as likely as white one year olds to be in foster care during this period in 13 states: Minnesota (19:1), South Dakota (10:1), Massachusetts (7:1), North Dakota (6:1), Wisconsin (5:1), Alaska (5:1), Ohio (5:1), Montana (4:1), Nebraska (4:1), Iowa (3:1), Washington (3:1), Oklahoma (3:1), and Michigan (3:1). In Minnesota, AIAN children at all ages were about 20 times more likely than their white peers to be in foster care during a 2015 - 2019 average year. This inequality peaks for adolescents. AIAN children in Minnesota between the ages of 7 and 12 were 25 times more likely than their white peers to be in foster care during this period. There are 24 states where AIAN children were more likely than their white peers to be in foster care during a typical year at all ages of childhood.

Figure 2. Percentage of child population exposed to foster care annually, post-imputation mean and standard error of mean annual system contact, 2015 - 2019



5.2. Family surveillance and pathways into foster care in three high AIAN foster care states

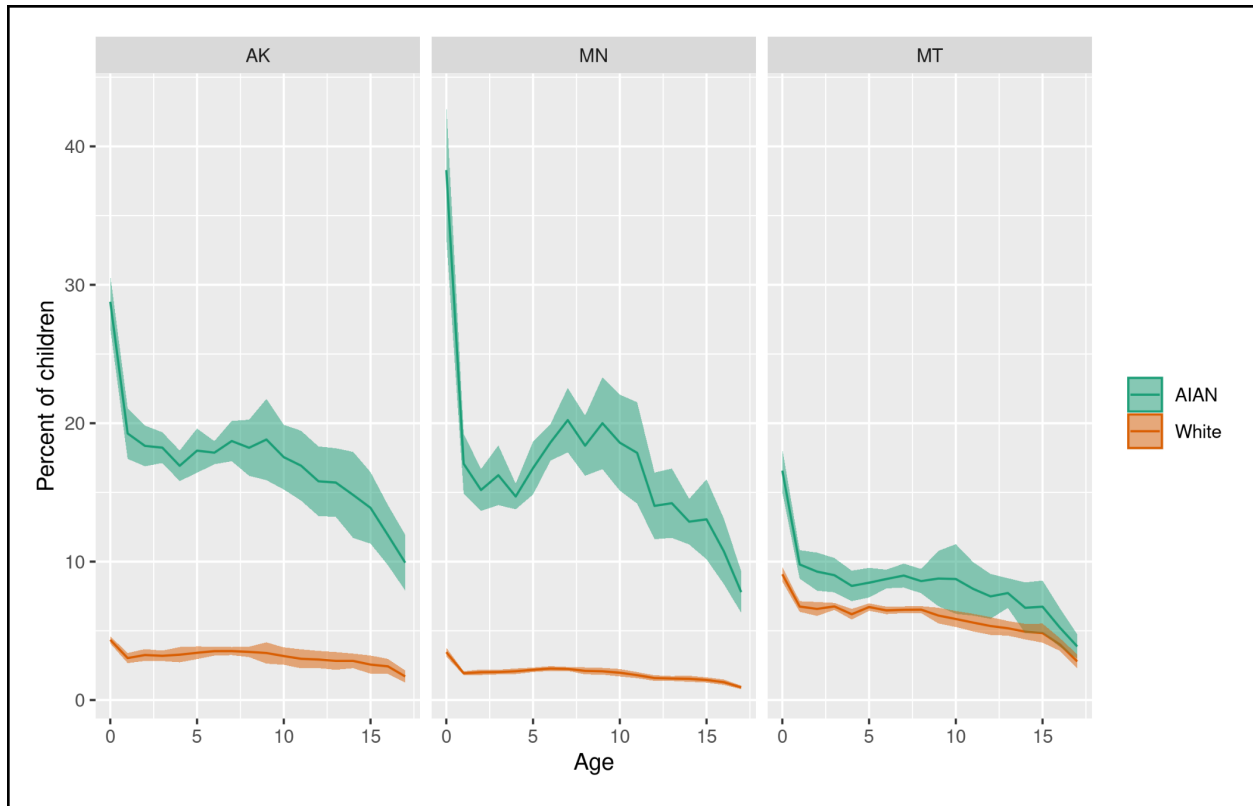
Children typically enter foster care following an investigation of alleged maltreatment by a state or county child welfare agency (Wildeman & Waldfogel, 2014; Maguire-Jack et al., 2020). Agencies receive reports from professional mandated reporters (such as doctors, teachers, police officers, and social workers) and community members, then decide whether each report warrants an agency response in the form of an in-person investigation or assessment. These reports that receive an agency response are called 'screened-in' while reports that receive no response are 'screened-out'. During an investigation or assessment, a child protection system social worker makes a preliminary determination about actual or potential harms posed to a child by their caretakers, and may make a recommendation for immediate removal of the child (subject to the approval and supervision of a family court). Below, we describe the prevalence and characteristics of typical child welfare investigations for AIAN and white children in three select states: Alaska, Minnesota, and Montana. These states have among the highest levels of AIAN foster care contact in the nation (see Figure 1), and provide illustrative examples of how AIAN children come into initial contact with state and county child welfare systems.

Figure 3 shows our estimates for the annual percentage of AIAN and white children in these three states with a screened-in child maltreatment report using post-imputation 2015-2019 period means and standard errors. We estimate that AIAN children were investigated by state child protection agencies at higher rates than their white peers at all ages in these three states.

Across these states, AIAN families with infants routinely experienced CPS investigations. In Alaska, about 29 (26.9, 30.7) percent of AIAN infants were investigated during a typical 2015 - 2019 year, compared to about 4 (4.1, 4.6) percent of white infants. In Minnesota, 38 (33.4, 43.2) percent of AIAN infants were investigated on average, compared to 3 (3.1, 3.8) percent of white infants. In Montana, we estimate that 17 (15.0, 18.1) percent of AIAN infants were investigated in a typical year, compared to 9 (8.6, 9.6) percent of white infants. In Alaska, AIAN infants were about 7 times more likely than white infants to be investigated. In Minnesota, AIAN infants were about 13 times more likely than white infants to be investigated. In Montana, AIAN infants were about 2 times more likely than white infants to be investigated.

High rates of investigation persist throughout childhood for AIAN children in each of these states. 2015 - 2019 average annual rates of investigation for AIAN children under 18 years old were no lower than 10 percent in Alaska, 7 percent in Minnesota, and 7 (5.4, 8.6) percent in Montana. For comparison, the US Children's Bureau reported a national investigation rate of 4.7 percent for all children in the US in 2019 (U.S. Department of Health & Human Service et al., 2021). AIAN children in these three states experienced CPS contact at rates higher than the national average at all ages, even in adolescent years when report volumes typically decrease (Watt & Kim, 2019). Note that in Montana, where foster care rates for AIAN children are exceptionally high (see Figures 1 and 2), AIAN investigation rates are generally lower than investigation rates in Alaska and Minnesota. Rates of investigation for white children in Montana are also higher than in Alaska and Minnesota, resulting in lower levels of inequality in investigation exposure between white and AIAN children in Montana, despite very high levels of inequality in foster care exposure between white and AIAN children in Montana. This highlights that there is substantial heterogeneity in the processes that result in inequality in foster care system contact across places. In some places, inequalities in exposure to family surveillance may primarily drive upstream foster care outcomes. In other places, differential removal decision making and assessment may account for inequalities in family separation.

Figure 3. Percentage of children with screened-in maltreatment reports annually, post-imputation mean and standard error of mean annual rates, select states 2015 - 2019



To better understand the pathways of AIAN children into CPS contact in these three states, we provide a detailed analysis of the sources of screened-in maltreatment reports in Figure 4, and content of maltreatment reports in Figure 5. These analyses show the institutional pathways through which AIAN inequalities in foster care exposure are driven in part by multi-institutional processes of family surveillance (Edwards, 2016; Fong, 2020). Figure 4 identifies the source of screened-in maltreatment reports for Alaska, Minnesota, and Montana using post-imputation 2015-2019 average rates for two age groups, children aged 0-4 (pre-primary school) and children aged 5-17 (school age). We identify the annual average percentage of children with a maltreatment investigation by age-group for each state and type of maltreatment reporter for both AIAN and white children. We sort reporters into 5 groups: medical (includes physical and mental health providers), law enforcement, education or daycare, social services, and non-professional (includes all community-based reporters such as family, neighbors, and anonymous reporters). Figure 4 shows that AIAN children experience higher investigation rates in both age groups across all types of reporters in Alaska, Minnesota, and Montana. Across these states for AIAN children, we find that police are the most common source of screened-in reports from professionals (25% of all screened-in reports). Teachers and daycare providers account for about 17% of all screened-in reports. Medical personnel and social service providers account for about 15% of screened-in reports each. Non-professionals account for about 28% of all screened-in reports of AIAN children in these states.

While community-based reporters reported AIAN children at consistently high levels across each state (e.g. Alaska 5.7% of AIAN 0-4 year olds annually, 29% of AIAN 0-4 year olds

with screened-in reports; Minnesota 5.4% of 0-4 year olds annually, 28% of screened-in reports; Montana 3.2% annually, 31% of screened-in reports), private and public professionals who are mandated reporters filed the overwhelming majority of screened-in maltreatment reports of AIAN children. For 0-4 year old AIAN children professionals filed 71% of reports in Alaska, 72% in Minnesota, and 69% in Montana. For 5-17 year old AIAN children professional reporting had similar proportions of the overall total of screened-in reports: 73% in Alaska, 74% in Minnesota, and 65% in Montana. The composition of professional reporters does vary across ages, however. Younger AIAN children (0-4) are more likely to be reported to CPS by medical professionals and police officers than are older (5-17) AIAN children in each of these three states.

About 3.9% of young AIAN children in Alaska were the subject of screened-in reports by medical professionals annually between 2015 and 2019. In Minnesota, about 4.3% of young AIAN children received a screened-in medical report on average, and in Montana, about 1.3% of young AIAN children received a screened-in maltreatment report from a medical provider. School-age AIAN children were reported by medical professionals at lower rates in each state: 2.2% annually in Alaska, 1.9% in Minnesota, and 0.8% in Montana. Police also reported young AIAN children at very high rates: 5.5% of the population annually in Alaska, 4.9% in Minnesota, and 3.1% in Montana. Educators and child care providers report AIAN school-age children at much higher rates than young children. School-age AIAN children were reported by educators and childcare professionals at a rate of about 3.7% per year in Alaska, 4.4% in Minnesota, and 1.4% in Montana. Social service providers reported AIAN children at high rates in both age groups in each state. Note that the rates of reporting for white children (right panel) are lower than the rates for AIAN children for each class of mandated reporter for each age group in Alaska and Minnesota. The inequalities in exposure of AIAN children to maltreatment reporting are less pronounced in Montana.

Figure 4. Percentage of children with screened-in reports annually by report source, age, and race, post-imputation mean and standard error of mean annual rates, select states 2015 - 2019.

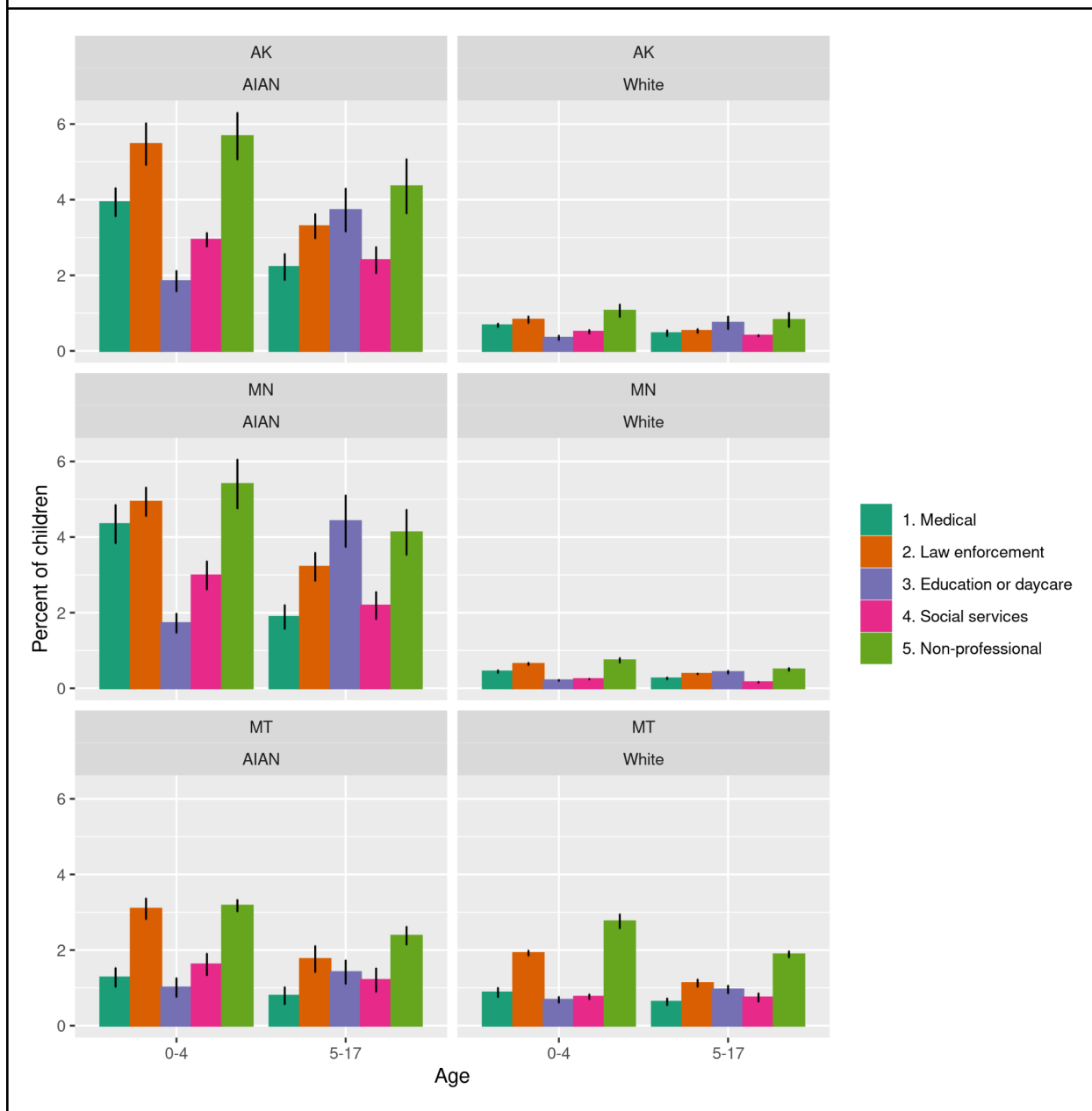
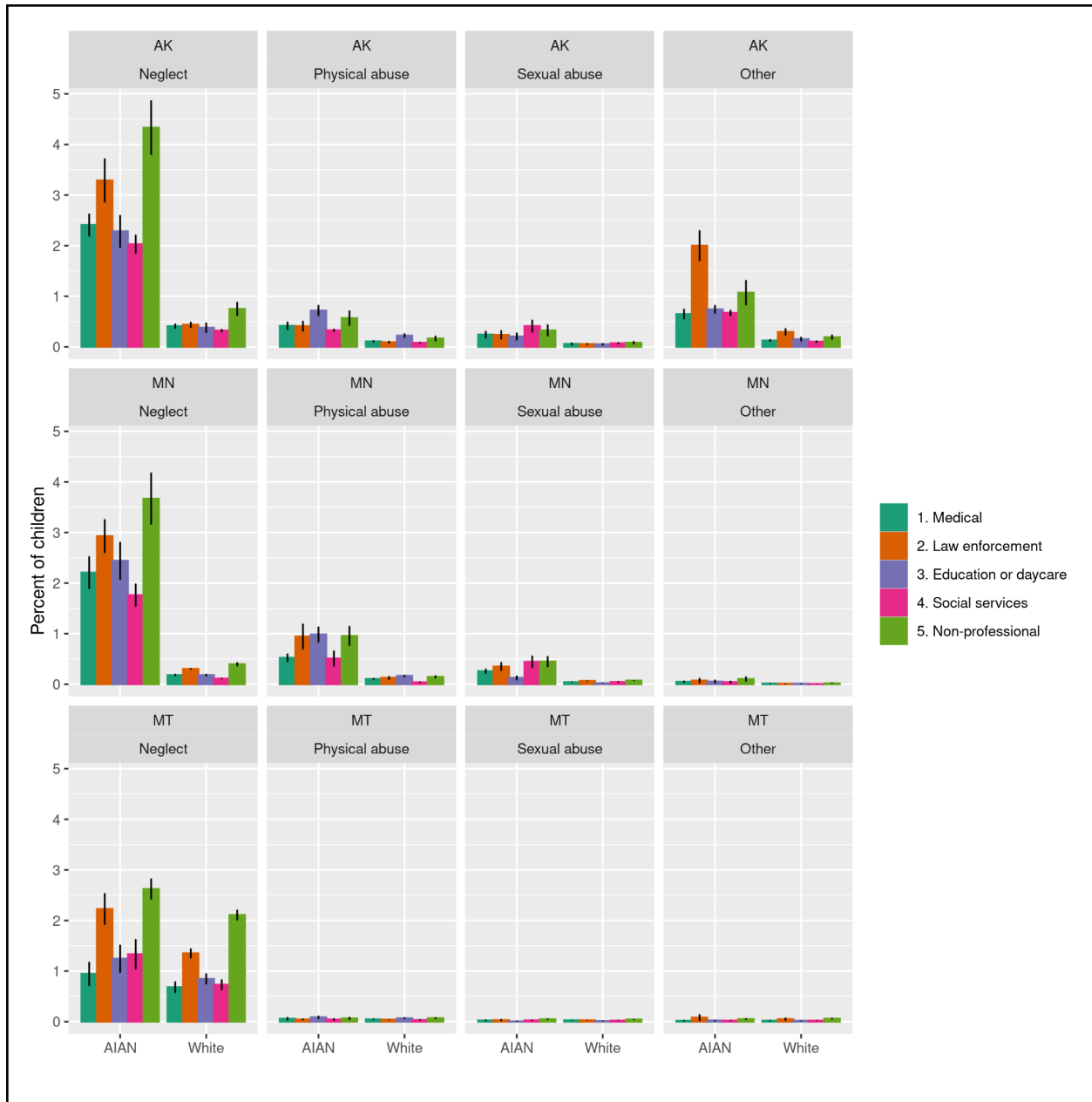


Figure 5 explores variation in the kinds of maltreatment alleged in maltreatment reports by various kinds of reporters in each state for both white and AIAN children. We group maltreatment allegations into 4 groups: neglect, physical abuse, sexual abuse, and all other types reported in NCANDS. The left group of bars shows annual investigation rates for AIAN children as a percentage of the child population in the state, the right group of bars in each facet

shows the rate for white children. The overwhelming majority of screened-in reports contain allegations of neglect. In Alaska, 62% of investigations of AIAN children involve an allegation of neglect. In Minnesota, 69% of cases involve an allegation of neglect. And in Montana, 93% of investigations of AIAN children involve a neglect allegation. Annually, about 14% of AIAN children in Alaska, about 13% of AIAN children in Minnesota, and about 8.4% of AIAN children in Montana experienced a neglect-related investigation between 2015-2019.

In each of these states, all types of reporters were more likely to file a report involving a neglect allegation than any other kind of allegation. For these three states, medical professionals reported AIAN children at a rate of about 2.0% of the population annually for neglect, 0.4% for physical abuse, 0.2% for sexual abuse, and 0.4% with some other type of maltreatment. Police reported AIAN children at a rate of about 2.9% of the population annually for neglect, 0.5% for physical abuse, 0.2% for sexual abuse, and 0.9% for some other type of maltreatment. School and daycare staff reported AIAN children at a rate of about 2.1% of the population annually for neglect, 0.6% for physical abuse, 0.1% for sexual abuse, and 0.3% for some other kind of alleged maltreatment. Social service providers reported AIAN children for neglect at a rate of about 1.8% of the population, physical abuse at a rate of about 0.3%, sexual abuse at 0.1%, and all other maltreatment types at about 0.3%. Non-professionals (community, family, and anonymous) reported AIAN children for neglect at a rate of about 3.7% of the population annually, physical abuse at a rate of about 0.6%, sexual abuse at a rate of about 0.3%, and all other kinds of maltreatment at a rate of about 0.5% of the population. In Alaska and Minnesota, AIAN children were far more likely to have been reported for all kinds of maltreatment by all kinds of reporters than were white children. In Montana, there are inequalities in reporting for neglect, though far less pronounced than those in Alaska and Minnesota.

Figure 5. Percentage of children with screened-in reports by report source, race, and alleged maltreatment type, post-imputation mean and standard error of mean annual rates, select states 2015 - 2019



6. Discussion and conclusion

The crisis of American Indian and Alaska Native family separation is ongoing. Rates of AIAN foster care exposure documented by the Association on American Indian Affairs spurred congress to pass the Indian Child Welfare Act in 1978. Our results show that contemporary levels of AIAN foster care exposure are similar to those documented in 1978, and would almost certainly be far higher without the key protections that ICWA has provided to Native families and Nations. For Native children living in many US states, foster care is an ordinary part of the life course. AIAN foster care exposure is not a mere function of the general reach of the child welfare system. In many states, AIAN children are dramatically more likely than their white peers to experience family separation. We argue that contemporary foster care systems must

be understood as institutionally continuous with efforts by US governments and private institutions to eliminate Native nations by destroying Native families.

While it is our intent to provide a rigorous quantitative baseline to understand the spatial and temporal distributions of AIAN family separation, we recognize that this analysis is not comprehensive. The Federal government made systematic efforts to relocate AIAN people from tribal homelands and reservations to cities during the 1950s and 1960s. The experience of AIAN families with child welfare systems likely varies dramatically and systematically across urban and non-urban places. Because of tribes' sovereignty over child welfare cases for members and eligible members, experiences also likely vary dramatically as a function of child's tribal membership status, tribal infrastructure for the management of ICWA cases, and states' willingness to collaborate and cooperate with tribes. State actors play a central role in facilitating or resisting the exercise of tribal sovereignty. State and private actors also play a critical role in the production of child welfare cases through their role as mandated reporters of maltreatment. Doctors, teachers, police officers, social workers, and other professionals who routinely interact with Native families form a diffuse web through which CPS agencies conduct surveillance of families (Edwards, 2019; Fong, 2020). Future research should explore in detail how these social, legal, and institutional contexts structure the overexposure of AIAN children to family separation across places and over time.

Family separation is fundamental to the settler-colonial project of assimilationist and separatist social control of Native Americans. The child welfare system is implicated in a set of colonial relations that facilitates an inequitable distribution of life chances whereby American Indian and Alaskan Native people have poorer outcomes across many domains, including child protective services (Wolfe, 2006; Nakano Glenn, 2015). Thus, it is imperative that actors working in Indian child welfare become local experts on how the ICWA functions in their counties and states, identify the tribes and lands their departments occupy, become familiar with any tribal-state agreements, and continually revisit best practices regarding working with AIAN families and tribes.

Acknowledgments

This project received financial support from Casey Family Programs. The authors thank Wade Carlson, Brian Clapier, Steve Ellis, Anita Fineday, Casey Groat, Bert Hirsch, and Sarah Kastelic for advice and feedback. The contents of this report are solely the responsibility of the authors.

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