



NICWA

National Indian Child Welfare Association

**THE ALYCE SPOTTED BEAR AND WALTER SOBOLEFF COMMISSION ON NATIVE CHILDREN
HEARING ON CHILD WELFARE, TRIBAL-STATE COLLABORATION, AND BUILDING TRIBAL
CAPACITY**

**TESTIMONY OF MIKAH CARLOS REPRESENTING THE
NATIONAL INDIAN CHILD WELFARE ASSOCIATION**

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I would like to start by thanking the Chairwoman, Co-Chairwoman and members of the Commission for holding this hearing. I am Mikah Carlos and I am a member of the Salt River Pima-Maricopa Indian Community and member of the National Indian Child Welfare Association Board of Directors. I am here today to provide testimony on behalf of the National Indian Child Welfare Association (NICWA). NICWA is headquartered in Portland, Oregon, and has been a national leader in improving services to American Indian and Alaska Native (AI/AN) children and families since our inception in 1981. Our mission is dedicated to improving the lives of AI/AN children and families and we establish our organizational priorities based upon the needs of tribal communities.

Our understanding of these issues comes from our almost 40 years of experience working with tribal leaders, tribal human service programs, and the community members themselves. We do this work in close partnership with both Indian and non-Indian organizations, such as the Child Welfare League of America and the National Congress of American Indians (NCAI). These partnerships also allow us to participate in critical work to promote healing and equity for tribes that have struggled to secure the resources and develop the relationships that can elevate their child welfare services. In addition, we are engaged in work to assist tribal leaders establish and operate effective governance structures that support tribal sovereignty and effective oversight and decision-making in child welfare. All of these efforts emphasize the importance of self-determination for tribal governments and the important roles they play in community-driven and culturally based solutions to child abuse and neglect.

Our testimony will focus on:

- The historical context of, and past government responses to, child maltreatment in tribal communities;
- The current research and data available on the risk factors for, and rates of, AI/AN child maltreatment;
- The current challenges to tribal program funding and data collection related to AI/AN child maltreatment;
- Tribal-state relationships and their impact on efforts to address AI/AN child maltreatment and examples of successful tribal-state collaborations; and
- Solutions that are working in tribal and urban AI/AN communities.

NICWA is a national American Indian/Alaska Native nonprofit organization located in Portland, Oregon. NICWA has almost 40 years of experience providing technical assistance and training to tribes, states, and federal agencies on issues that impact Indian child welfare and children's mental health. NICWA provides leadership in the development of public policy that supports tribal self-determination in child welfare and children's mental health systems as well as compliance with the Indian Child Welfare Act (ICWA) (P.L. 95-608). NICWA also engages in research that supports and informs improved services for AI/AN children and families. NICWA is the nation's most comprehensive source of information on AI/AN child maltreatment, child welfare, and children's mental health issues.

UNDERSTANDING CHILD MALTREATMENT IN INDIAN COUNTRY

The diversity of American Indian and Alaska Native tribes and villages cannot be overemphasized when thinking about child maltreatment in Indian Country. Tribes, villages, reservations, and urban Indian communities have vastly different resources, social and economic conditions, and cultural and traditional practices. These differing conditions affect child abuse and neglect and mean that no statements about child maltreatment can apply to all tribes, villages, and urban communities across the country (Crofoot, 2005, p. 123).

The Historic Context

To understand the context of child maltreatment for AI/AN children, it is essential to understand that AI/AN communities are at high risk for child maltreatment in large part because of disparate treatment of AI/AN families and communities by federal and state governments. It is equally important to understand the lingering effects of historical governmental policies and practices on AI/AN children and families including the removal of tribes to reservations, forced placement of AI/AN children in boarding schools,

the relocation of AI/AN peoples to major cities, decades of AI/AN children being removed in large numbers from their families and communities by state and federal child welfare agencies, and other attempts to assimilate AI/AN children and families by disrupting tribal governments, cultural practices, and family structures.

Prior to contact with European immigrants, tribal child-rearing practices and beliefs allowed a natural system of child protection to flourish. Traditional Native spiritual beliefs reinforced that all things had a spiritual nature that demanded respect, including children (Cross, Earle, & Simmons, 2000). Not only were children respected, but they were also taught to respect others. Extraordinary patience and tolerance marked the methods that were used to teach Indian children self-discipline (Cross et al., 2000). Behavior management or obedience was obtained through the fear and respect of something greater than the punishment of a parent (Cross et al., 2000).

At the heart of this natural system were beliefs, traditions, and customs involving extended family with clearly delineated roles and responsibilities. Child-rearing responsibilities were often divided between extended family and community members (Cross et al., 2000). In this way, the protection of children in the tribe was the responsibility of all people in the community. Child abuse and neglect were rarely a problem in traditional tribal settings because of these traditional beliefs and natural safety nets (Cross et al., 2000).

As European migration to the United States increased, traditional tribal practices in child-rearing were often lost as federal programs sought to systemically assimilate AI/AN people. Efforts to “civilize” the Native population were almost always focused on their children. It began as early as 1609, when the Virginia Company, in a written document, authorized the kidnapping of Indian children for the purpose of civilizing local Indian populations through the use of Christianity (Cross et al., 2000). The Civilization Fund Act passed by Congress in 1819 authorized grants to private agencies, primarily churches, to establish programs in tribal communities designed to “civilize the Indian” (Cross et al., 2000).

From the 1860s through the 1970s, the federal government and private agencies established large boarding schools, far from tribal communities, where Indian children were involuntarily placed (Crofoot, 2005; Cross et al., 2000). Indian agents had the authority to withhold food and clothing from parents who resisted sending their children away (Crofoot, 2005; Cross et al., 2000). The boarding schools operated under harsh conditions; children were not able to use their Native languages or traditional customs, were required to wear uniforms and cut their hair, and were subjected to military discipline and standards (Crofoot, 2005). The rate of deaths among AI/AN children that were sent to boarding schools was extremely high with many dying from infectious diseases, overworking, harsh discipline, child abuse, and extreme mental or emotional trauma.

In the 1960s and 1970s, the child welfare system became another avenue that state and federal governments used to force the assimilation of AI/AN children. It was during this era that the Child Welfare League of America and the Children’s Bureau, a federal government agency, sponsored the Indian Adoption Project, which involuntarily removed hundreds of AI/AN children from their homes and communities out West and placed them in non-Indian homes on the East Coast (Cross et al., 2000). At the same time, AI/AN children were being removed from their homes and placed in non-Native homes in large numbers, often unnecessarily. The Association on American Indian Affairs conducted a study in the 1970s that found between 25% and 35% of all Indian children had been separated from their families (Jones, Tilden, & Gaines-Stoner, 2008). This study also found that 90% of the removed Indian children were placed in non-Indian homes (Jones et al., 2008).

The outcome of these assimilation efforts is heightened risk factors for child maltreatment in AI/AN communities. These policies left generations of parents and grandparents who were subjected to prolonged institutionalization without positive models of family life and family discipline (Crofoot, 2005). These individuals, many of them current parents and grandparents of AI/AN children, may subject their children or their relatives’ children to the harsh discipline and child maltreatment they endured in boarding school. Furthermore, boarding schools and relocation efforts to large cities have resulted in the destruction of kinship networks and traditional understandings of child-rearing and protection, damaging the natural safety net that was in place traditionally (Crofoot, 2005). It was not until 1978, with the passage of the ICWA, that the federal government acknowledged the inherent sovereign right of tribal

governments and the critical role that they play in protecting their children and maintaining their families—meaning that for over two centuries the United States usurped tribes’ rights to care for their families, further eroding the traditional and natural child protection systems of tribal communities.

The effects of these state and federal programs and policies are longstanding. Challenges in AI/AN communities today, including poverty, mental and physical health problems, poor housing, and violence, are directly related to these state and federal programs and policies. Socially and economically isolated reservations and urban Indian communities are fraught with disadvantage, including a heightened risk for child maltreatment (Crofoot, 2005).

The pattern of mistreatment of AI/AN people and communities over the course of centuries described above, has had an additional effect on AI/AN families that creates a heightened risk for child maltreatment: historical trauma. The concept of historical trauma in AI/AN people and communities originates from studies that examined the lingering effects that the Holocaust had on the children and grandchildren of families affected (Brave Heart & DeBruyn, 1998). Researchers and experts believe that the shared experience by AI/AN people of historic traumatic events such as displacement, forced assimilation, suppression of language and culture, and boarding schools creates a legacy of unresolved grief that, when left untreated, is passed down through generations (Cross, 2006; Brave Heart & DeBruyn, 1998), and experienced in ways that reflect reactions to trauma, such as increased mental health disorders, substance abuse, stress, and social isolation—all risk factors for child maltreatment.

Risk Factors for Child Maltreatment

There is little information on the risk factors for child maltreatment in AI/AN families specifically (Bigfoot, 2005). This is problematic because national policy and child welfare practice focus on the prevention of child maltreatment, and successful prevention programming requires an understanding of culturally specific risk factors. (Centers for Disease Control, 2012; Child Welfare Information Gateway, 2011; Administration for Children and Families, 2003)

Without an accurate, nuanced understanding of the complex interaction of risk factors for child maltreatment in AI/AN families, mainstream prevention, identification, and intervention strategies may be ineffective and possibly even harmful. For instance, although mainstream research points to “disorganized” families as a potential risk factor for abuse and neglect, AI/AN families often thrive and are most healthy when they take the form of codependent kinship networks. These codependent networks may be seen by a mainstream case manager as “disorganized” and thus a risk factor—when it is a protective factor and its disruption could only further hurt the family in question.

Although not ideal, mainstream child maltreatment risk factors can be used to provide a general understanding of the likelihood of risk of child maltreatment in AI/AN communities. The following national statistics show that AI/AN families appear to be particularly vulnerable to child maltreatment.

Parental Risk Factors

- AI/AN children are more likely to live in households that are below the poverty line. Thirty-four percent of AI/AN children live in households with incomes below the poverty line as compared to 20.7% of children nationwide (Maternal and Child Health Bureau, 2012).
- AI/AN parents are more likely to struggle with substance abuse. Eighteen percent of AI/AN adults needed treatment for an alcohol or illicit drug use problem in the past year compared to the national average of 9.6% (SAMHSA, 2009).
- AI/AN parents are more likely to struggle with mental health issues and distress related to unresolved trauma. Among U.S. adults ages 18 and over who reported only one race, AI/ANs had the highest rate of serious psychological distress within the last year (25.9%), and the highest rate of a major depressive episode within the last year (12.1%) (Urban Indian Health Institute, 2012).
- AI/AN children are more likely to live in families where no parent has full-time, year-round employment than the national average. Forty-nine percent of AI/AN children are in homes where no parent has full-time, year-round employment compared to 25% of White homes (Annie E. Casey, 2012).

- AI/AN mothers are likely to be a young age at the birth of their children. AI/AN women on average have their first child at age 21.9, younger than all other races and ethnicities; the average age of first birth for the U.S. population is 25.0 years (Mathews & Hamilton, 2011).
- AI/AN parents are less likely to have high educational attainment. In 2007, 20% of AI/AN adults over 25 had not attained their high school diploma; 36% of AI/AN adults over 25 had completed high school but did not continue to postsecondary school (DeVoe & Darling-Churchill, 2008).
- AI/AN families are more likely to be single-parent than the average family. Fifty-two percent of AI/AN children are raised in single-parent households, while nationally only 34% of children are raised in single-parent households (Annie E. Casey, 2012).

Child Characteristic Risk Factors

- AI/AN children are more likely to have special needs than the average child. AI/AN children are served by the Individuals with Disabilities Education Act (IDEA) at a higher percentage than any other group of children; 14% of AI/AN children receive services under IDEA, compared to 9% of the general student population (DeVoe & Darling-Churchill, 2008).

Family Risk Factors

- Many AI/AN families are socially isolated. Reservation communities are located in remote and sparsely populated areas, and often the housing within those communities is spread out over a large area. Because of this, the health care community has recognized that a major barrier to quality medical care for AI/AN individuals is social isolation, including the cultural barriers, geographic isolation, and low income common in reservation communities (Office of Minority Health, 2012).
- AI/AN women are more likely than any other single racial group to experience intimate partner violence (IPV, also known as domestic violence); 39% of AI/AN women report having experienced IPV at some point in their lives (Black & Breiding, 2008).

Community and Structural Risk Factors

- AI/AN individuals are more likely to live in communities where they will experience high rates of criminal victimization and where there is under-policing of the community (Wells & Falcone, 2008; Wakeling, Jorgensen, Michaelson, & Begay, 2001).
- AI/AN families are more likely to live in communities where there is a high level of unemployment. The rate of joblessness on or near reservation communities is 49% (BIA, 2005).
- AI/AN families are more likely to live in areas of high poverty than the average family; 24% of AI/AN children live in areas of highly concentrated poverty compared to the national average of 11% (Annie E. Casey, 2012).
- AI/AN individuals are less likely than the average American to own their homes, one guarantee of housing stability. Only 56% of AI/AN households were homeowners, compared with 66% of total households (Ogunwole, 2006).

The Prevalence of Child Abuse and Neglect in AI/AN Families

National data on AI/AN children who experience child abuse and neglect are limited. The National Child Abuse and Neglect Data System (NCANDS) collects comprehensive data on the rates and characteristics of child abuse and neglect in all families that enter public child welfare systems. The data input into this system, however, is only for families who interface with *state* and *county* child welfare systems. Tribal programs, Bureau of Indian Affairs (BIA) or Indian Health Services (IHS) programs, or tribal consortia are often the primary service providers for AI/AN children and families, yet NCANDS does not include AI/AN children who come to the attention of, and are served by, tribal child welfare systems.

Research has shown that state and county workers are only involved in approximately 63% of all tribal abuse and neglect cases (Earle, 2000). These findings would lead to the conclusion that abuse and neglect of AI/AN children are underreported (Fox, 2003). Other issues, however, such as the definition of child abuse and neglect, the process for counting incidents of abuse and neglect in NCANDS, or the fact that reporting is primarily based on non-Native perceptions and substantiation of maltreatment would lead to the opposite conclusion—that numbers of AI/AN abuse and neglect cases in NCANDS are artificially high (Bigfoot et al., 2005).

It is also important to note that national research studies of the child welfare system have found a biased treatment of AI/AN families in the state system. Although these studies tend to focus on out-of-home placement, one recent study found that, due in part to systematic bias, where abuse has been reported, AI/AN children are two times more likely to be investigated, and two times more likely to have allegations of abuse substantiated (Hill, 2007). This, too, affects the data presented in national data systems like NCANDS.

Furthermore, tribes are underrepresented in many major data collection efforts and statistical analyses (NCAI, 2009). For example, the 2010 National Incidence Study of Child Abuse and Neglect 4 (NIS-4) stated that “other” race categories “had too few sample children to support independent estimates for those groups (i.e., American Indian or Alaska Native, Asian, Native Hawaiian or other Pacific Islander, and mixed race), so analyses excluded those” (Sedlak, 2010).

Although there may be methodological adjustments necessary to work with smaller data sets, the knowledge and information that a report like the NIS-4 provides should not be denied to stakeholders for convenience reasons (Sahota, 2011). Studies and reports, like the NIS-4, in which AI/AN data are collected (NIS-4 does not use a national data set but engages in independent data collection) but are not analyzed for use by the public, policymakers, and practitioners, are problematic and paint an incomplete national picture.

Nonetheless, the limited data that is available does provide some basic understanding of the prevalence of child maltreatment in AI/AN families and communities:

- AI/AN children are 1.3% of all child maltreatment victims reported to state and county child welfare agencies (Children’s Bureau, 2017).
- AI/AN children experienced a rate of child abuse and neglect of 14.3 per 1,000 AI/AN children. This rate compares to the national rates of victimization of 9.1 per 1,000 (Children’s Bureau, 2017).

NICWA requested a special data report from the Department of Health and Human Services in 2014 regarding select child abuse and neglect data that is not published or available to the public (NCANDS, 2014). This special report was not able to provide data for AI/AN children on all of the NCANDS data set but does provide specific data on 18 different indicators. Victim status means a child was found to be a victim of child maltreatment through child protection services. Nonvictim status means that during the intake or investigation stage, a child was not found to be a victim of child maltreatment and/or their family was provided an alternative response to traditional child protection services. Some key findings include:

Maltreatment Types by Victim

- Of all maltreatment victims, 89.3% of AI/AN children were involved in the child welfare system because of a disposition of neglect, compared to 78.3% of all children nationwide
- Of all maltreatment victims, 15.6% of AI/AN children were involved in the child welfare system because of a disposition of physical abuse, compared to 18.3% of all children nationwide
- Of all maltreatment victims, 5.6% of AI/AN children were involved in the child welfare system because of a disposition of sexual abuse, compared to 9.3% of all children nationwide

Child Fatalities Subject to Child Maltreatment

- 2.21 AI/AN children out of 100,000 were reported as fatalities due to child maltreatment, compared to 2.2 of 100,000 children nationwide

Children and Caregiver Risk Factors

- Alcohol Abuse:
 - 30% of AI/AN child victims had a parent with an alcohol abuse problem, compared to 28.5% of child victims nationwide
 - 14% of AI/AN child non-victims had a parent with an alcohol abuse problem, compared to 4.9% of children nationwide
- Drug Abuse:

- 24.5% of AI/AN child victims had a parent with a drug abuse problem, compared to 20% of child victims nationwide
- 11.7% of AI/AN child non-victims had a parent with a drug abuse problem, compared to 8.4% of children nationwide
- Domestic Violence:
 - 24.8% of AI/AN child victims had a parent involved in domestic violence, compared to 28.5% of child victims nationwide
 - 11.4% of AI/AN child non-victims had a parent involved in domestic violence, compared to 8.6% of children nationwide

Although NCANDS is the primary source of data on the abuse and neglect of children, there are a few other sources of data for AI/AN children, such as select Bureau of Indian Affairs regional offices, Indian Health Services, and other agencies concerned with this information that may collect data on the prevalence of child maltreatment in the tribal communities with which they work (Bigfoot et al., 2005; Earle, 2000). This data, however, is not kept consistently or nationally.

Effects of Child Maltreatment

Facing trauma in the form of child maltreatment has long-term effects on the well-being of AI/AN children, particularly when it goes undetected and untreated. Studies have shown that children who have been abused or neglected have higher rates of mental health and substance abuse disorders, are more likely to be involved in the juvenile justice system, have worse educational outcomes (truancy and grade repetition), and are more likely to have early pregnancies (Office of Planning, Research and Evaluation, 2012). It is also important to understand that individuals who experience abuse and neglect are more likely to be perpetrators of intimate partner violence and child maltreatment, creating a cycle of violence that is difficult to break (Child Welfare Information Gateway, 2013). In addition, child abuse and neglect can have a long-term effect on physical health. One study has shown that at up to three years following a maltreatment investigation, 28% of children were diagnosed with a chronic long-term health condition (Office of Planning, Research and Evaluation, 2007).

Child maltreatment does not just have long-term effects on the victims; it also comes at a great cost to society and the communities it touches. According to the Centers for Disease Control, to manage all of the services associated with the immediate response to all child maltreatment costs \$124 billion a year (Child Welfare Information Gateway, 2013). Although AI/AN children are only a small fraction of child maltreatment victims nationally, that would still equate to billions of dollars a year being spent to respond to child maltreatment of AI/AN children. For tribes who are already under-resourced in the area of child welfare and who do not have access to federal child abuse prevention funding (with the exception of two small, competitive grant programs), responding to child maltreatment can be a huge drain on available resources.

Beyond the direct or immediate costs of child maltreatment, there are also many long-term indirect costs. These include long-term economic consequences to society such as an increased likelihood of employment problems, financial instability, and work absenteeism. In addition, child maltreatment creates long-term economic consequences related to increased use of the healthcare system, increase cost due to juvenile and adult criminal activity, and increased use of mental illness, substance abuse, and domestic violence services (Child Welfare Information Gateway, 2013).

Chronic social problems like child maltreatment hold back communities. When they are unaddressed, they ultimately interfere with efforts to create and encourage economic development by taking from tribal resources that could be used for economic and infrastructure development to “manage” these chronic and persistent social problems. Furthermore, as Cornell and Kalt (1998) discuss, “nation building,” an approach to successful economic development for Indian tribes, requires a community where both businesses and humans must flourish because they are in relationship with one another. Cornell argues that success in economic development is more than just jobs—it also includes social impacts and making a community a place where investors want to do business and where the community is healthy enough to engage successfully with the economy.

Issues with Funding for Tribal Child Welfare Services

Funding for child welfare services is very limited in Indian Country. Most funding for child welfare services comes from federal sources, such as the Bureau of Indian Affairs (BIA) or the Department of Health and Human Services (DHHS) (First Kids 1st, n.d.). The majority of tribes have few opportunities to raise significant amounts of general funds in their communities through taxation or economic development given the high rates of poverty and unemployment and other economic development barriers. While tribes have increased their access to federal funding sources administered by DHHS since the 1990s, the number of BIA child welfare programs and amounts of funding have remained relatively flat since the 1990s. Even with increases in tribal access to DHHS funding, there are still significant gaps in access for tribes and the amounts available are often very small (First Kids 1st, n.d.). For example, all tribal governments are eligible for the Title IV-B Subpart One Child Welfare Services grant program that provides flexible funding for a range of child welfare services, but over half of the tribes receive grant amounts less than \$10,000 per year. The Title XX Social Services Block Grant, the federal government's third largest source of child welfare funds at \$1.3 billion, does not authorize tribes to administer the program or receive funds. Overall, tribes receive only one percent of all federal funds allocated for child welfare services each year and, unlike states, not all tribes are eligible to receive funding from each of the individual funding sources (First Kids 1st, n.d.).

Having access to flexible funding is critical to a government's ability to meet the changing needs of their families and children in child welfare systems. Flexible funding allows governments to change service delivery according to the needs of their communities and be prepared for unplanned events that can occur such as natural disasters, health-related crisis, or changes in partner agency or funder priorities. Flexible funding is also helpful in supporting tribal cultural practices that often differ from mainstream models emphasized in many federal child welfare programs. It also helps tribes partner more effectively with state agencies that often have different policy requirements and service delivery system priorities which require some flexibility to engage with.

While tribes do have access to some flexible funding (e.g., BIA ICWA Title II funds or DHHS Title IV-B funds), many times federal funding comes with restrictions on how the funding can be used that conflict with tribal cultural practices or place requirements on tribes and states that inhibit effective collaboration. One example of how flexibility in funding policy works for tribes comes from the Family First Prevention Services Act and DHHS guidance that discusses the use of tribal prevention services (Administration for Children and Families, 2018). In November 2018, DHHS published guidance for tribes that operate the Title IV-E Foster Care program directly through the federal government and are choosing to seek reimbursement for prevention services under the Family First Prevention Services Act (Division E of the Bipartisan Budget Act of 2018—H.R. 1892). The guidance used the discretion provided under the Family First Prevention Services Act statute to allow tribes operating the Title IV-E program directly with flexibility on how to define categories of prevention services. The guidance specifically discussed how tribes can make their prevention services choices based upon understandings of what trauma-informed services looked like from a tribal historical and cultural context and what cultural services would be most appropriate.

While this was a positive example of how federal agencies can provide flexibility, the same guidance also asserted that tribes in agreements with states to operate the Title IV-E program must follow all of the requirements applicable to states, denying agreement tribes the same flexibility that direct-funded tribes have. State requirements under this program only allow evidence-based prevention services that are approved by DHHS to receive Title IV-E funding. Because of challenges for tribal researchers in how evidence-based services are documented and inequities in research funding that supports documentation, there are almost no tribal-specific evidence-based prevention services in child welfare. This places pressure on tribes in Title IV-E agreements with states to use mainstream evidence-based prevention services that are ineffective or possibly even harmful. States and tribes have asked DHHS to consider letting them culturally adapt mainstream evidenced prevention services, but DHHS so far has not responded favorably to these requests. Inflexible funding policies that create barriers to using tribal cultural practices and state and tribal collaboration have the effect of decreasing tribal participation in federal programs and imposing one-size-fits-all solutions that are ineffective.

Another dimension of tribes not having access to a fuller array of federal child welfare funding sources is tribes having to forsake prevention efforts that can reduce trauma to children and lower removal rates for crisis-oriented services. Tribes have only two dedicated federal child abuse and neglect prevention programs available to them. One—the Indian Child Protection and Family Violence Prevention Act grants—has never had funds appropriated by Congress, and the other—the Child Abuse Prevention and Treatment Act, Community-Based Child Abuse Prevention grants—only provides 2–3 small tribal grants once every three years. This is especially concerning since the rate of foster care removals for AI/AN children is disproportionate nationally (2–3 times their population rate) and in 14 states. When tribes are not able to provide prevention services, states also suffer, as they often depend upon tribes to help them provide services for AI/AN children in state care.

Issues with Data Collection

Tribal governments need reliable mechanisms for collecting their own data and the ability to access data for their tribal members who are under state jurisdiction. Accurate, reliable, well-coordinated, and accessible data collection is critical to understanding the scope and trends of child maltreatment in Indian Country. Data must include AI/AN children under tribal and state jurisdiction to paint an accurate picture and highlight unique issues within each of these systems.

The Indian Child Protection and Family Violence Prevention Act identifies the federal requirements for reporting and investigating child abuse in Indian Country. If the alleged abuse, such as child sexual abuse, is considered to be a criminal violation, the agency receiving the report is to notify the FBI. In a scenario where child sexual abuse of an AI/AN child on tribal land is reported and then investigated, there could be as many as three different governments and/or law enforcement authorities responding (tribal, federal, or state) and each collecting different or similar data. While theoretically each of these entities could share this data, this may be complicated by conflicting policy mandates or each government's principles regarding confidentiality and the sharing of information.

Many tribes have established agreements with local child protection agencies and law enforcement in their area to address issues of coordination, but this is a complicated and often long process that is not well resourced and contains several collaboration challenges. One primary challenge can be misperception by health agencies, whether they are tribal, federal, or privately operated, that due to the Health Insurance Portability and Accountability Act (P.L. 104-19, HIPAA), they cannot share client information with other outside agencies. Agencies or individuals that operate under this assumption have often not received accurate information or training on the discretion allowed under the law, the law's application in child abuse reporting and investigations, and/or the interaction of federal Indian law with HIPAA. While the Indian Child Protection and Family Violence Prevention Act implies that information pertaining to a report or investigation can and should be shared, it does not provide additional incentives or resources to assist tribes as they negotiate these complex relationships and roles.

Tribal and urban AI/AN organizations struggle with data collection regarding child maltreatment and access to existing data sources. As mentioned previously, states submit their child maltreatment data to NCANDS, which was established in amendments to the Child Abuse Prevention and Treatment Act (42 USC § 5116, CAPTA) in 1988. NCANDS is a data system that collects child abuse and neglect information both at the aggregate and case level. The aggregate data is used by the Department of Health and Human Services to publish an annual report on the characteristics of child abuse and neglect in the United States titled *Child Maltreatment*. Although data on AI/AN children are included in this report, the data reflected does not include those children in tribal child welfare systems and the data does not separate self-identified AI/AN children from those who are citizens of a federally recognized tribe (an issue of racial vs. political status) or the tribe that the child is a citizen of. In addition, many data elements specific to AI/AN children that would be helpful to urban and tribal programs are not reported for this publication. Tribal governments do not currently submit to NCANDS nor do they have a similar central repository to which they can submit their data for analysis and annual report.

National placement data for AI/AN children suffers from similar limitations as child maltreatment data. The Adoption and Foster Care Analysis Reporting System (AFCARS) is the federal government's data system that collects data on children placed in out-of-home care such as foster care, adoption, and relative guardianship placements for states and tribes that operate the Title IV-E program. AFCARS AI/AN data is

self-identified and does not capture what tribe the child, their parents, or their caretakers are a citizen of. AFCARS data collects data primarily from states, but does include data from tribes that either operate the Title IV-E program directly (17 currently approved¹) or are in a tribal-state agreement to operate Title IV-E, (approximately 267 tribes in 98 agreements in 16 states) (Trope, 2014). Even with numerous tribes submitting data to AFCARS the data does not breakdown placements by tribal affiliation. In 2016, the Obama Administration published a Final Rule that would have required states and tribes to submit more detailed data regarding placements of AI/AN children, but the Trump Administration signaled in a 2019 Notice of Proposed Rulemaking that they are proposing to reduce the number of AI/AN data elements in the 2016 Final Rule by approximately 90% (Adoption and Foster Care Analysis Reporting System, 2019).

Tribes that place children but do not operate the Title IV-E program and are not subject to AFCARS reporting requirements may submit placement data to the BIA as part of their funding requirements, but while BIA data provides more data on the tribal affiliation of the child, it often provides less detail than AFCARS in many other areas and is not well coordinated with other federal data systems. Without a national data system that regularly collects accurate information on placements of AI/AN children and their caretakers, policymakers and administrators are left with many unanswered questions about placement trends and the impacts of federal child welfare policy on AI/AN children in out-of-home care.

A few tribal governments have been able to develop their own databases and accompanying infrastructure in this area, but the vast majority of tribes do not have the resources to build and maintain such a system, especially more elaborate electronic system like those that states often have. The ability to develop these data systems has been primarily tribally funded work with little investment from federal sources. However, tribes that have been able to develop child welfare data systems are often looking to develop a system that not only helps them collect data on individual cases, but also serves as an electronic case management system, a tool for tracking client and service trends and informing program evaluation. Tribes that successfully develop and operate these systems are more likely to be able to develop carefully thought out responses to children's needs in their community and engage in larger systems reform efforts. While some smaller tribes may not benefit from more elaborate electronic data systems, the ability to organize, analyze, and report data is important to all tribes and more flexible funding and tailored technical support is needed from the federal government.

In addition to the need for reliable and accurate service delivery data, there is also a need for research data specific to child maltreatment in Indian Country. Focused research on child maltreatment in Indian Country and the prevention and intervention strategies being used to address it could benefit from culturally appropriate research designs that study, among other things, key factors in preventing child maltreatment in tribal communities and promoting protective factors, efficacy of different culturally based child welfare services and programs, and collaborative models of support for AI/AN children and families involving tribal and state governments. There is little information on the cultural interventions and assessments that are being used with AI/AN children. This is largely due to the fact that tribal and urban AI/AN communities lack the resources necessary to establish evidence-based practices and create cultural adaptations of evidence-based practices (BigFoot & Braden, 2007).

There is no national focus and very limited support for funding these types of projects at the federal level. Much of the federal research on child maltreatment has been funded by demonstration and discretionary grants authorized under CAPTA. Typically, these grants are awarded to large public and private universities, hospitals, or private organizations with extensive research capacity and infrastructure. These grants support some of the key research on the effects of child maltreatment; characteristics of abuse and neglect; and effective prevention, intervention, and treatment practices. Until the recent reauthorization of CAPTA in 2010, tribes were not eligible to apply for these demonstration or research grants, and since that time no tribe has been awarded a grant. Another consequence of this lack of research is that as federal, state, and private funders increase their focus on projects that contain evidence-based practices, tribes and urban AI/AN organizations are increasingly finding themselves left out since many evidence-based practices have not established program effectiveness with AI/AN populations, and tribes may deem some evidence-based programs culturally inappropriate for the families and children they serve.

¹ See <https://www.acf.hhs.gov/cb/resource/tribes-with-approved-title-iv-e-plans> for more information.

TRIBAL-STATE RELATIONS

Because of the federal government-to-tribal government relationship, historically tribal-state interaction was limited, especially prior to the passage of the Indian Child Welfare Act (ICWA) in 1978. ICWA established new requirements for states to follow in state child custody proceedings involving AI/AN children and families that, among other things, guaranteed tribes the right to participate in state child custody proceedings involving their tribal citizens and encouraged states and tribes to establish child welfare agreements with tribes. The tribal relationship with the federal government led to the sense that there was little role for state governments in tribal affairs. Although states have no authority to pass laws that interfere with the federal-tribal relationship or tribal affairs more specifically, the development of effective tribal-state relationships has been critical to AI/AN children and families receiving the services they need. After the passage of ICWA in 1978, tribal-state interactions have increased significantly and new models of tribal-state collaboration have been established. Additionally, with the increase of federal devolution comes the need for increased intergovernmental coordination and cooperation among state, county, and tribal governments.

Tribes and states have identified a variety of mechanisms and models to improve intergovernmental relationships and to provide more accessible, culturally relevant, and more effective services to AI/AN children and families. These mechanisms include but are not limited to (1) coordinating and sharing internal social services resources and funding; (2) engaging in discussions about key child welfare policy or practice issues such as ICWA or culturally based services and how to improve implementation; (3) educating one another on program or service models that have shown promise with AI/AN children and families; (4) negotiating respective governmental processes and roles to better serve AI/AN children and families; and (5) collaborative training for tribal and state child welfare professionals (Simmons, 2014).

In areas where tribal-state relationships in child welfare are the most successful, there is a policy infrastructure in place—such as intergovernmental or interagency agreements—that outlines the roles and responsibilities of tribes and states in responding to reported child maltreatment of AI/AN children or how funding or resources may be shared. While these agreements are not mandatory, they have proven to be extremely helpful in clarifying expectations and responsibilities for each of the parties as they carry out their designated roles in child welfare services. The agreements provide tribes with opportunities to participate in child protection activities and provide their expertise and resources, even when they cannot directly provide the services themselves. They also help tribes access federal or states funds that they would otherwise not be able to access such as state general funds, Social Services Block Grants, Medicaid, or the Title IV-E Foster Care and Adoption Assistance program funding. Tribal and state governments in 21 states have developed these agreements on child welfare procedural issues and funding with the scope and number increasing (Simmons, 2014; Trope, 2014; O’Loughlin, 2017).

The policy infrastructure can also be statutory as many states have extensive state laws and regulations that address issues like ICWA implementation or mechanisms for supporting tribal cultural practices in state child welfare systems. Eight states have comprehensive state ICWA laws and an additional 25 have varying levels of statutory and regulatory policy in place (Turtle Talk, n.d.; State-Tribal Institute, 2019). State statutes and regulations raise awareness in state child welfare agencies and court systems of effective practices to improve outcomes for AI/AN children and families. By having best practice codified in state policy, it is more likely to be included in public and private child welfare agency trainings, legal education seminars, and state university curriculum as well.

Below are some examples of successful tribal-state collaborations. This is not an exhaustive list and the reader should keep in mind that each of these was developed in collaboration between tribes and states and with the particular circumstances, principles, and priorities present. In general, the success of each of these examples was largely due to tribal initiation and leadership in the process of developing these promising practices. Links to websites where resource materials can be accessed are provided.

Tribal-State Collaboration Examples

State Law and Policy

- State law defining government-to-government relationship with tribes and consultation process: Oregon Revised Statutes § 182.164 and 182.166.
- Government-to-government agreement between a state and tribes establishing the principles and roles for implementing ICWA at the state level: [Washington tribal-state exclusive and concurrent jurisdiction agreements, along with local area agreements](#).
- State law requiring state courts that are holding a child welfare hearing inquire as whether the child that is the subject of the hearing is an Indian child under the definition of ICWA. If the court knows or has reason to believe that the child is an Indian child, they will proceed according to ICWA's requirements until such time the court knows that the child is *not* an Indian child under ICWA: Oregon Revised Statutes 419B 419B.878).
- State law definition of what information should be in a tribal notice of child welfare proceedings: Iowa Code §§ 232B.5(7).
- State law requiring the district attorney or individuals facilitating voluntary placements of AI/AN children to notify the child's tribe and birth parents or Indian custodians of voluntary proceedings: Oklahoma Statute § 40.4.
- State law recognizing culturally based permanent placement options of tribes, such as tribal customary adoption: [California courts website description of the legislation and related materials](#).
- Bench handbook for state courts providing a substantive and procedural overview of ICWA: [California Bench Handbook: The Indian Child Welfare Act](#) (revised 2013).
- State guidance on what constitutes a qualified expert witness under ICWA: [Qualified Expert Witness: Wisconsin Indian Child Welfare Act Implementing Guidelines 2013](#).

State Practices and Improvements

- State-tribal reconciliation process to improve intergovernmental relationships and promote development of effective policy: [Maine Wabanaki-State Truth and Reconciliation Commission](#).
- [State local and regional community advisory bodies](#) that assist state child welfare agency staff who are working on ICWA cases; they help staff case plans, and identify services and other resources.
- Mandatory training of state social workers on ICWA done jointly with tribal social workers: Washington State Social Work Academy Solution-Based ICWA Training and Curriculum.
- State-tribal Indian child welfare forums where representatives of each group meet regularly to discuss child welfare policy and practice issues. These forums can provide a framework for tribal-state consultation required under federal law, such as the Title IV-B consultation requirement regarding

ICWA implementation. Several states have established these forums, including Oregon, Montana, Utah, Oklahoma, Washington, and North Dakota.

- State-tribal court improvement forums where representatives of each court system meet regularly to discuss legal, inter-jurisdictional cooperation, and court procedural issues in child welfare. Several states have established these forums, including California, Michigan, Wisconsin, New York, and New Mexico.
- Pass-through of federal or state social services funding to tribes, typically through contract or intergovernmental agreement. Examples include state general revenue, Title IV-E Foster Care and Adoption Assistance, Social Services Block Grants, Community Mental Health Services Block Grants, and Medicaid. Several state pass through funds from one or more of these funding sources, including Arizona, Oregon, Washington, Idaho, Alaska, and Minnesota.
- State evaluation of ICWA implementation performed in partnership with tribes. Data is continuously collected and analyzed to identify trends and areas for improvement.
- State performance-based contracting requirements for use with private providers that require ICWA compliance, service provision in a culturally competent manner, and training of staff on these skill areas: Washington Department of Social and Health Services state performance-based contracting.

SOLUTIONS TRIBES AND URBAN CENTERS ARE EMPLOYING

Elements of Successful Responses to Child Maltreatment in Indian Country

To effectively address child maltreatment in Indian Country, tribal governments and urban programs have drawn on the wisdom of their communities and culture. Programs and services that have been successful are designed with input from the community and implemented by those with intimate knowledge and deep understandings of the unique community needs and the tribal culture. Services are based in cultural beliefs, teachings, customs, and traditions and aligned with trauma-informed care that treats both the symptoms of child maltreatment and also the causes and effects of trauma on all family members.

Another common element of effective child maltreatment prevention and treatment services is a successful collaboration, whether across different governments (tribal, federal, state, and local) or within a particular governmental structure. Collaborative relationships help leverage funding, clearly define roles and responsibilities, incorporate cultural resources, eliminate service disparities, and improve overall communication between agencies serving the same children and families. Tribal governments, in their efforts to address child maltreatment, are subject to a variety of jurisdictional challenges and varying service delivery and funding schemes that can impact their ability to provide prevention and treatment services. The ability to form successful collaborative relationships with various governmental entities outside of tribal lands is critical to addressing these jurisdictional, funding, and service delivery challenges. Urban AI/AN programs also experience many of these challenges, especially those related to funding and service delivery. They will often develop partnerships with local, state, and sometimes tribal governments. Successful tribal and urban AI/AN programs work within their respective governance structures to coordinate between agencies as well.

A third common element of successful child maltreatment programming for AI/AN children is a strong understanding of the importance of familial connections as a protective factor for AI/AN children. While removal may be necessary to protect children in more serious abuse and neglect circumstances, the

removal itself is traumatic for children, especially if they are separated from their extended family, community, and culture. A balanced approach to child protection can keep children safe from harm while nurturing family and community relationships. By keeping family relationships intact, children remain connected to their culture, have a positive sense of belonging, and gain an understanding of their identity as an individual as well as a member of the collective community. Tribal and urban AI/AN programs serve an important role in facilitating these connections through both formal services and access to informal helping networks.

A fourth element is the location of appropriate community-based services for AI/AN children and families. Families struggling with child maltreatment often have multifaceted needs and treatment plans that require access to different service providers. AI/AN populations on tribal lands are very often located in rural areas where access to affordable and timely public transportation can be extremely limited, if available at all. With high unemployment rates on tribal lands, other modes of reliable private transportation can also be out of reach. Services that are located in off-reservation areas and operated by other public and private entities generally do not incorporate the values and culture of tribal families and consequently are limited in their ability to do successful outreach and services for these children and families. Community-based services ensure that tribal child protection responses can be accessible, tailored to the needs of children and families, and incorporate tribal culture.

The following section will describe several tribal and urban AI/AN programs that have been successful in addressing child maltreatment. This includes prevention of child maltreatment, community engagement, healing trauma in adult family members, providing supports to family members to help keep children safely in their homes, and treating the trauma in child victims. These examples do not constitute an exhaustive list, but instead seek to provide some brief examples of how tribal communities and Indian organizations are using limited resources to creatively and effectively address child trauma issues, especially child maltreatment.

Community-Based Child Abuse Prevention

As discussed earlier, CAPTA provides funding authority for small grants to tribal grantees to fund child abuse and neglect prevention activities (Community-Based Child Abuse Prevention). The amount of funding has allowed one or two grantees to be funded every three years. However, these grantees have developed activities and programs that have been very successful. In the most recent year information is available, 2008, two tribal grantees used these funds to develop and operate primary and secondary prevention activities. The grantees were the Mississippi Band of Choctaw Indians in Mississippi and the Cahuilla Band of Mission Indians in California (Child Welfare Information Gateway, n.d.). The projects used cultural adaptations of mainstream models of prevention with additional cultural activities included.

Each project sought to address both primary and secondary prevention strategies targeting both offending and non-offending parents, as well as other families within their communities that showed interest in the activities. Below are some additional elements of these projects that used a combination of education, parent support, and outreach activities:

- Included activities for both children and parents separately and together;
- Nurtured protective factors in non-offending parents who remain with the children (Choctaw);
- Empowered parents to reduce risk and incidence within their own families, while also becoming mentors or coaches to other parents in the community (Choctaw);
- Conducted regular sessions for the community at large on parenting, marriage, and strengthening cultural connections (Cahuilla);

- Provided intensive referral and case management for parents to help them secure needed family supports and services; as much as possible, these services will be provided in the home (Cahuilla);
- Culturally adapted mainstream, evidence-based models (Incredible Years parenting program—Cahuilla); and
- Integrated family advocate model for case management (Choctaw).

As this list suggests, the importance of culture and family was a key part of many interventions as was systems collaboration. A common thread noted in the assessment of each project was a recognition that historical trauma and past government efforts to assimilate AI/AN people have had a negative effect on parenting, and important traditional values and parent strategies had been replaced with less effective and sometimes abusive interventions and care.

Confederated Tribes of Umatilla Indian Reservation Child and Family Services

The Confederated Tribes of the Umatilla Indian Reservation (Umatilla) had a child welfare system that mirrored the Umatilla County, Oregon, child welfare system (First Kids 1st, n.d.). They secured a variety of state and federal funding streams to support service delivery, but the number of children in foster care was high and climbing higher. The primary approach to ensuring the safety of children was removing them from their families. Their single largest funding source was the Title IV-E Foster Care and Adoption Assistance program, which they received through an agreement with the State of Oregon. Title IV-E, one of the few remaining entitlement programs, is a reimbursement program in which the federal government shares the cost of providing child welfare services with states and, as of the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), with tribal governments. At the time Umatilla was accessing Title IV-E funds the program only reimbursed for the provision of services once a child had been removed from his/her family. As shaped by funding, the Umatilla child welfare program was based on a state model emphasizing child removal.

Tribal child welfare program staff were overwhelmed with trying to recruit enough foster homes to keep children who had been temporarily removed from their families in their community to maintain family connections and reduce the trauma of removal. Tribal community members were frustrated by the endless and desperate foster care recruitment drives.

Based on a community vision for the safety of children, tribal leaders, community members, and child welfare program staff redesigned their child welfare program to be more proactive and family-centered; they redesigned their services, incorporated more cultural practices, and restructured funding. They intentionally adopted a model based on community protective capacity and family support as opposed to “policing families and rescuing children.” The primary change was to create more robust services for families that needed extra support or who were at risk for child removal. The enhanced services placed greater emphasis on regular contact with families, active coordination with other service providers both tribal and non-tribal, more staff training on family engagement and support, and restructuring child welfare positions to provide more expertise and focus on prevention services.

Child welfare workers met with families weekly or more often, depending on each family’s unique needs, to provide prevention services that ensured child safety and kept families together. The number of children in foster care and other out-of-home placements dropped drastically by more than 70% and has remained stable. By reducing the number of children in out-of-home care, the tribe freed up funds previously used for foster care to provide family support and prevention services. Tribal leadership shifted the purpose of their revenue contribution to the tribal child welfare program to family support also.

The Umatilla community's relationship to the child welfare program changed. An unanticipated benefit of the restructuring was that the community saw the program as a resource to help prevent problems and began to voluntarily seek help before a crisis occurred. The community was relieved when foster home recruitment became less desperate and constant, and they were better able to meet the need with fewer children requiring out-of-home care.

Denver Indian Family Resource Center

The Denver Indian Family Resource Center (DIFRC) in Denver, Colorado, has been providing in-home supportive services to AI/AN families who are involved in the child welfare system since 2000. They serve a very diverse urban AI/AN population that lives in the Front Range in and around Denver. In their first 10 years, they have served over 750 families. To help families meet their basic needs and provide safe homes for their children, DIFRC provides supportive services that include job search assistance, life skills education, housing assistance, and health advocacy (Medicaid/CHP enrollment). For some families, stabilization begins with learning how to keep a monthly family budget, maintain a household schedule, and procure transportation to work or school. Many of these core services are provided in the home, including coaching for improved communication and parenting skills, behavior and anger management, consultation with other social services providers, supervision of home visitation, and helping families acquire basic needs. DIFRC programs, like the Strong Fathers and Strong Mothers Parenting Program, are based on American Indian values and promote the development of positive parenting skills and the cultivation of cultural resources. Teri Haymond, child welfare supervisor at DIFRC, explained that as much as 80% of the case management process at DIFRC involves helping families meet basic needs and balance responsibilities. Based on data compiled by the Colorado Disparities Resource Center, DIFRC has reduced the overall number of AI/AN children in Colorado being removed from their families and placed in foster care by 33% (NICWA, 2010).

Central Council of the Tlingit and Haida Indian Tribes of Alaska

The Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA) has been working closely with the state and their own Temporary Assistance to Native Families (TANF) department to better support families at risk of child maltreatment and keep children in their homes. In Alaska, Alaska Native (AN) children make up over 62% of the state foster care system while only representing 15% of the state's youth population (Summers, Wood, & Russell, 2012). There, as elsewhere, structural risk factors such as poverty, joblessness, inadequate housing, substance misuse, and untreated mental health problems contribute to reports of maltreatment and are often conflated with neglect. Although neglect, not abuse, is the primary form of child maltreatment reported, the most common intervention for AN families is the removal of their children, not in-home services. Efforts to address these issues by Alaska Native communities have been ongoing, but state efforts to use tribal in-home services have been slow in many areas based on a lack of understanding and trust in tribal services.

The CCTHITA Preserving Native Families Department provides services to member families and children in both rural southeast Alaska and in the urban boundaries of Juneau designed to keep children at risk of maltreatment safely in their homes. CCTHITA also operates a TANF program. Over half of the families that are served by TANF are also involved with the Preserving Native Families program or state Office of Child and Family Services.

The CCTHITA TANF program was often the first program with which CCTHITA families at risk of abuse or neglect came into contact. At the same time, referrals from the state OCS to Preserving Native Families

were low, despite significant risk factors within the CCTHITA community and the availability of robust tribal in-home services. The Preserving Native Families program uses a cultural adaptation of an evidence-based assessment tool, Structured Decision Making, to evaluate families at risk of maltreatment and develop plans to protect children and rehabilitate families. The Preserving Native Families department saw an opportunity to increase early identification of at-risk families and offered training and support to TANF staff on the Structured Decision-Making tool. The Preserving Native Families program also used the assessment tool as a platform to educate the state OCS staff on how to improve referrals of CCTHITA families and help them access in-home services that can eliminate the need for removal of children into out-of-home care. These efforts have led to earlier and more frequent referrals of families at risk and a decrease in the number of children removed from their homes.

Tribal Home Visiting Program Approaches

Home visiting programs have shown to be effective at helping children and their families prevent, reduce, and seek timely treatment for child-related ailments, including child maltreatment (Gaynair, 2018). In 2010 tribal communities became eligible for the newly authorized Tribal Maternal, Infant, and Early Childhood Home Visiting Program. This program aims to improve outcomes in a range of critical areas of child well-being such as maternal and prenatal health; infant health; child health and development; reduction in child maltreatment; improved parenting practices; school readiness; improved family socioeconomic status; improved referral and coordination with community resources and supports; and reduced incidence of injuries, crime, and domestic violence. To reach these outcomes, the program provides funding to tribal grantees to culturally adapt conventional evidence-based models of home visiting programs, or to use national in-home service models that have included AI/AN clients in their test population in their communities (Del Grosso et al., 2011). Tribal grantees have elected to focus on a number of different evidence-based models and integrate cultural traditions and practices into their newly designed tribal programs. Several of the tribal programs combined home visiting services with other services to create more complete in-home service models. Many of the programs sought to incorporate cultural teachings and use paraprofessional staff indigenous to the community being served. Through the use of these culturally adapted models, tribal participants have reported outcome measures related to the reduction of child maltreatment, family violence, juvenile delinquency, and crime (Del Grosso et al., 2011).

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