

# Tribal Response to the Governor's Task Force on the Protection of Children

January 8, 2015

# The Disparity Problem of Native Children in Placement

**Minnesota ranks the highest in the Nation in Native American children in out of home placement.**

2013- Native American children represent 1.9% of the state's population.

Yet, 17.2% of all children in out of home placement were Native American children.

# Disparities continued

- “Disproportionality” means the percentage of children of a subgroup participating is higher or lower than their representation in the general population. Native children make up a larger proportion of the child welfare population relative to their representation in the overall MN child population

# Disproportionate Reporting

- Native children are 6.5 times more likely to be reported as abused or neglected to child welfare systems in Minnesota.
- The primary reporting source for intakes screened in to county systems come from mandated reporters.
- Following an assessment they are 12 times more likely to experience out of home care
- (DHS Priority: Reducing Disparities, Children and Family Services, April 2010)

# Disproportional Recidivism

- 31.8% of Native children who exited foster care in 2012 re-entered foster care in 2013.
- Native children experiencing the child welfare system had the highest rates (14.5%) of Six and 12 month Maltreatment Recurrence Rate by Race of any of the racial groups
- (DHS Priority: Reducing Disparities, Children and Family Services, April 2010)

# Disproportionate Efforts

- In a 2007 Minnesota Child Welfare Disparities Report Native children in foster care were less likely to receive monthly case worker visits, less likely to receive doctor and dental visits, less likely to have children's mental health screenings and referrals to services.

# State Efforts to Reduce Disparities for Native Children (DHS 2010)

- Follow recommendations of American Indian Child Welfare Advisory Committee – from the Tribal perspective we receive no feedback regarding our recommendations.
- Amended Tribal State Agreement – no amendments occurred, however, legislation will be proposed this session incorporating parts of the TSA into law
- Enhancements to training curricula in partnership with tribes – the Tribes don't feel as though they've been engaged in developing training curricula and certainly don't see where training has been mandated of anyone in the child welfare system.
- Developed county process to identify and record information on American Indian Children to meet ICWA requirements – this has happened. Enhancements to SSIS prompt county workers to ask and identify Native children.

# State Efforts to Reduce Disparities for Native children cont.

- Developed “Active Efforts Guide” to ensure Indian children remain with families - while important, this guide could be used in training efforts, however, a guide does not equal enforcement. Enforcement of Active Efforts is the key principal.
- Launched American Indian Child Welfare Initiative – Leech Lake and White Earth have built Tribal capacity and exercise exclusive jurisdiction on the Reservation over child welfare matters. The Initiatives have been very successful in their areas, but has not addressed the issues that exist in the rest of the State.
- Signed Title IV-E Agreements with Tribes –Title IV-E Agreements were in place with several Tribes prior to 2010, but does not alleviate disparities. It really opened the door for MN Counties to achieve a higher reimbursement rate for foster care placements of Native children belonging to Tribes with a signed IV-E Agreement but those higher reimbursements have not been put back into services to Native families.



# State systemic Strategies to Reduce Disparities (DHS 2010)

- **Research and Performance Reporting** — Tribes believe we have at least 30 years of research that shows the demographics for our children have not improved in Minnesota's child welfare system.
- **Initiatives' evaluations** – DHS evaluates how the two Tribes are doing in their delivery of child welfare services
- **Reporting of racial and ethnic data to measure efforts and outcomes** – Tribes again feel that we have enough general reporting to show there is a significant and alarming problem.
- **Summary:** Tribes believe that the systemic strategies identified by the State in 2010 do nothing to adequately combat disparities among our Tribal families involved in the child welfare system.

# How Does the Disparities Data link to the Governor's Task Force?

- The Governor issued an Executive Order to Strengthen Tribal Relationships with State Government Agencies on August 8, 2013.

Governor Mark Dayton signed Executive Order 13-10 directing state government agencies to implement new tribal consultation policies aimed at improving relationships and collaboration with Minnesota's eleven Tribal Nations.

# The Executive Order 13-10

- The Executive Order was written in consultation with tribal leaders, and requires that:
  1. Specified state agencies will develop and implement tribal consultation policies;
  2. State agencies will consult with Tribes on issues that affect American Indians;
  3. Agencies will designate a staff member to be their points-of-contact on tribal issues; and
  4. Agencies will provide training for designated staff who work with American Indians.
- In the Tribe's view, items have been minimally but not successfully implemented and would benefit everyone if they were developed together. For example, item 2: consultation. It would be beneficial if consultation on law and policy really occurred with the Tribes before it impacts Tribal families.
- The Tribes are recommending a Governor's Native American Task Force on the Protection of Children Initiative because with the staggering numbers of Native American children in out of home placement in Minnesota the Tribes should be a focus of concern as well. In addition, the systemic strategies identified by DHS in 2010 have not and will not address the problem.

# Governor's Task Force on the Protection of Children Initiative Recommendations - December 2014

## Preamble (Para. 4)

“The Act should also recognize that children and their families are best served by interventions that engage their protective capacities. **In order to do so, the child protection system must be equipped to provide culturally competent service aimed to reduce the racial and cultural disparities, which permeate the system.**”

# What have Tribes experienced in relation to the topics identified by your Task Force? Screening:

Tribes would be the first to voice concerns that problems exist within the present Minnesota system related in Intake and Screening. One thing to note is that in Minnesota the vast majority of reports screened in for assessment are from mandated reporters. An important question is: what happens to reports from family members?

In the two Tribal communities participating in the Initiative Project, about 80-90% of reports come from family members – not mandated reporters. The assessments are typically generated off of those family reports, which is in complete contradiction to the Minnesota data that suggests county systems screen in mandated reporter reports, but not family reports.

One question to ask is why Minnesota appears to place value on mandated reporter reports, but not family reports, and does this lead to failures in child protection?

( as reference: White Earth Tribe typically receives 700-870 intake reports annually of child maltreatment.)

# Screening is a problem in the Tribes' opinions. Why?

- It varies so much from county to county. Statutes are interpreted however the counties choose to interpret them. Each county gets to determine what meets "their" screening criteria. Not "State" criteria.
- Tribes have heard statements from county directors that “it doesn't matter *if* they're bleeding, it matters how much” (children) because we don't have money to place anybody.
- The State has heard comments from county directors that “we just don't place them (ICWA children)” because of cost.
- The tribes and state recently heard from a county attorney that if they're required to do active efforts then they'll just stop placing ICWA children because they don't have to.

# County Screening Problems, continued

- Varied personalities within screening or child protection differentiate responses to screening. Tribes have seen screening criteria within counties change considerably whenever someone new is in charge – supervisor, Intake supervisor, greater management changes.
- Money influences screening. Counties utilize screening as a way to screen out reports so they don't have to respond, and don't have to spend money. White Earth recently opened a case out of \*\*County after they'd screened out or failed to assess 13 child protection intake calls on a family related to physical abuse, abandonment of the children (all under age 6), and sexual abuse of the eldest child. All of these were later substantiated after the Tribe screened it in and assessed it. These children were another statistic of the problems that exist in the system's failure to fully protect kids.

# How does this happen?

- Because in the Tribes' opinion – there's no oversight and no consequences for it.
- Despite the fact that some counties utilize intake screening as a means to screen out reports to avoid overuse of resources, the fact remains that Indian children are the most highly reported group to child protection overall.



# Recommendations from the Tribes:

- Uniform Screening is Developed, Utilized, and Monitored - develop a uniform screening assessment tool, and enforce child safety within Minnesota Counties.
- Multi-disciplinary team needs “tribe” included. It's not included in the law right now. When a county is screening an intake involving a Tribal child then they should attempt to get Tribal input into that intake, whether it is screened in or screened out.
- Counties need to provide active efforts up front as prevention to further maltreatment reports.

# Tribal Recommendations: Screening

- Agencies need to be able to look at prior reports in order to make adequate decisions to screen in reports. The two Initiative tribes always look at prior reports and history when making screening decisions and that has assisted in child safety for them. It needs to be in place for counties so that they can have the full picture when determining whether or not to screen in a child.
- Policy needs to change to allow county agencies to consider all of the history when making screening decisions.
- Furthermore, there needs to be a complaint system when reporters continue to make reports and see them screened out. Right now, if the county decides to screen out 15 serious maltreatment reports on a child then there is no recourse. The public cannot file a petition to safeguard that child. In recent years the legislature approved of language which only allows a county attorney to file a child protection petition. If these areas do not change then children will not have proper protection or safeguards.

## What have Tribes experienced in relation to the topics identified by your Task Force? Family Assessment:

- The Family assessment approach is good when applied properly. It works well with Tribal families to come in with a strength based approach and non-punitive. It can still be effective in addressing child safety and utilized to provide active efforts to families to correct conditions. It can still lead to court action when families are non-compliant with service providers.
- Initiative Tribes, for example, utilizes Family Assessment almost exclusively in practice yet have higher safety measures for children than most other entities it encounters. The majority of cases originating out of FA still end up in Tribal Court or ongoing services including active efforts. FA is closer to a culturally acceptable means of working with a family to address maltreatment allegations than a traditional family investigation. The outcome that meets child safety needs is still the same.

# Problems: Family Assessment

- Some problems occur in county use of FA as purely "voluntary" participation. FA should be used as a strength based approach, but not as purely "voluntary" participation in an assessment or ongoing services.
- In addition, some problems occur with county use of FA when there's no intention to really do anything about the report, and not implement any resources into the family. Don't use it if resources aren't there to help families. This is one of the first areas, in Tribal opinion, where active efforts to families need to be strengthened. If it's a resource issue then additional money should be appropriated to ensure child safety needs are met, instead of FA being utilized to not have any sort of substantiation and follow up.

# Family Assessment, continued

- Active Efforts need to be implemented right away during FA and following FA on ICWA cases. When the Tribes look at families with children in foster care, there are many situations where active efforts could have been provided at the earliest point possible to avoid that placement, put services into the family system, and monitor child safety consistently.
- Tribes would be opposed to completely eliminating Family Assessment as an option in Minnesota. However, additional parameters and safeguards need to be put into place to ensure it's not misused.

What have Tribes experienced in relation to the topics identified by your Task Force? Training

- Training is a companion piece that needs to be implemented following these policy changes.
- County systems need better training on how to screen in/out assessments, and how to appropriately utilize Family Assessment.
- Culturally, training needs to be part of core training for any social worker, not optional.

What have Tribes experienced in relation to the topics identified by your Task Force? Supervision

- Meaningful oversight of the county systems is paramount. Policies can be changed, new screening and assessment tools provided, but if there's no oversight by the State then things will not significantly change.
- The Tribes would recommend an oversight committee to randomly sample intake and screening; FA and FI cases from counties on a monthly basis for a period of two years following the changes made by the Task Force.

# Final Thoughts

- County child welfare systems are intended to be an arm of the Commissioner in ensuring child safety. However, whenever a Tribe has reported concerns about county practices related to this area we are often told that there's not really anything DHS can do about it because we have a county-administered system. Systemically Minnesota has operated out of this belief that because it's county administered then there's really nothing DHS or the State can do to correct problems that exist within a particular county's practices. However, Tribes disagree – that the county is given the opportunity to administer and uphold MN statutes as it relates to child protection; but if they fail to do that, then there needs to be authority given to DHS by the Governor to do something about it.



# Final Thoughts on the Development of a Governor's Task Force for Native Children and Families

Clearly, ICWA has not made a significant impact to disparate rates of foster care placement in this State, and in a Tribal view has not been prioritized. When Tribes comprise the largest population in foster care yet are not routinely consulted about policy, law, procedures created by the State that impacts Tribal families, then there is a problem. When there's lack of oversight of county implementation of State laws, rules, procedures then it leads to bigger problems: failures to comply with ICWA, failures to provide active efforts to Indian families, and then larger systemic issues such as intake, screening, assessment, implementation which affect all families in this State.

We need a separate and comprehensive review of the child welfare system as it impacts Native families. We recommend another Task Force to separately analyze this issue and work cohesively with Minnesota Tribes to combat it.