

Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission Findings

1. Native children in Maine have entered foster care at disproportionate rates since before the passage of the Indian Child Welfare Act (ICWA) until 2013. Within the last 13 years, it has been 5.1 times more likely that a Native child would enter care than a non-Native child. Once in foster care, it appears that Native children are less likely to be adopted than children overall, and more likely to enter permanency guardianship.

2. Identifying Wabanaki children at intake continues to be a problem, with data indicating that in up to 53% of the cases in 2006 and 2009, children's Native ancestry was not verified. The result is that Wabanaki children who are ICWA eligible are more than likely to be in the state system. The numbers are unknown.

3. We interpret this information within a web of interconnected causes, including the presence of institutional racism in state systems and the public; the effects of historical trauma; and a long history of contested sovereignties and jurisdictions between the state and the tribes.

4. Furthermore, we assert that these findings be viewed as evidence of cultural genocide, held within the 1948 United Nations Convention's definition of genocide, Article 2 Sections b and e. These reference an intent to destroy through "causing serious bodily or mental harm to members of the group" and "forcibly transferring children of the group to another group." Given the long history of practices that have removed Native children from their families, ranging from the boarding schools to adoption movements, it is critically important to note the connection.

5. Yet we found steady resistance to the idea that Native people have experienced or continue to experience cultural genocide. Testimony and research that reveal ICWA's slow integration into the child-welfare system, the state's earlier reluctance to embrace kinship care, discrimination against Wabanaki people, the impact of historical trauma and reactions against tribal self-determination suggest, however, that cultural genocide is ongoing.

6. Both Wabanaki and non-Native people want children to be safe and recognize that at times they need to be removed from their immediate families. But some state staff has appeared to view ICWA as an attempt to value Native culture over safety, and it is clear that more needs to be done to educate the state about the history that led to ICWA's passage.

7. With that being said, many in the state child-welfare system care passionately about ICWA and Wabanaki families and have worked very hard to implement it well. Compliance and training in ICWA have improved, especially since 1999, but work remains to make that awareness uniform at cultural and systemic levels.

8. The Adoption and Safe Families Act of 1999 (ASFA) further complicates the implementation of ICWA as it metes out penalties, affects more people and is more widely used by caseworkers. Unlike ICWA, state systems are set up to meet ASFA's deadlines.

9. More native foster homes, especially therapeutic ones, are needed: more Wabanaki children who are with kin and in Wabanaki homes would seem to lead to more positive outcomes. But funding is a serious issue, as is creating the tribes' own child-welfare databases.

10. Foster parents need more support and better communication with the tribes. Foster care in non-Native homes before ICWA appears to have left many scars on Wabanaki people and that legacy has most likely created intergenerational harm. Foster care still produces tensions around permanency, cultural connection, and adequate communication between the state, families and tribes.

11. Complications around IV-E funds exist, which create difficulties for tribes providing services to children.

12. Tribal definitions of who belongs to their tribes do not always match the state's definitions, and there are many concerns about blood quantum and how it fractures identities and affects eligibility for services.

13. The existence of tribal courts and tribal advocacy from many offices in tribal governments create significant positive outcomes for Wabanaki families, but those who do not feel served by these courts also need processes and procedures to ensure that their views are addressed.

14. Many tribal people report finding significant strength in returning to traditions, language, arts and other parts of their culture.

15. Strong relationships do exist between people who work for the tribes and those who work for the state, and they have positively influenced the delivery of services to Native children. However, they take years to cultivate. High turnover makes it hard to sustain these ties. In addition, non-Native people are more likely to report that those relationships are trusting than the other way around.

16. Many people, Wabanaki and non-Native, carry trauma from the experiences they have been through and support must be made available for them.

