

# Native American Children and Youth\*

\*Native American Children and Youth is an invited monograph. As such, the opinions expressed are not necessarily endorsed by Nevada KIDS COUNT.

## Introduction

This section is intended to provide a better understanding of tribal social services for Native American children and families who live on tribal reservations and colonies in Nevada. It is important to understand that federally recognized Indian Tribes have a unique relationship with the federal government expressed through “tribal sovereignty” which governs how Tribes interact with states and other entities. These interactions form the basis of Tribal social service delivery systems and their state and inter-agency collaborative efforts.

## Background

Passage of Public Law 93-638, The Indian Self-Determination and Education Assistance Act, January 4, 1975, recognized the principle of inherent tribal sovereignty, as Tribes were free to establish their own objectives and determine their own policies. The shift in policy can best be described as *self-determination*. No other minority group in the U.S. has this legal status. This policy recognized Tribes as political entities whose internal rights and powers must be addressed officially. As a result, tribal governments became free from state and other nonfederal government controls.

With the passage of Public Law 93-638, the Tribes may contract for services with the federal government. In addition, Tribes may enter into local agreements with states and other nonprofit organizations on behalf of their children and families. These services include, but are not limited to, social services, tribal court, law enforcement, enrollment services, tribal health clinics, higher education, adult vocational training, community health representatives, Head Start, Child Development Block Grants, and senior citizens programs.

In 1954, under Public Law 83-280, some states, including Nevada, assumed jurisdiction over criminal and civil matters on reservations, without consultation with Indian Tribes. After some 20 years of state jurisdiction, for criminal offenses and civil causes of action committed or arising on Indian reservations and colonies, the state of Nevada, in 1975, retroceded jurisdiction for these criminal offenses and civil causes back to the federal government for all colonies and reservations in the state except for the Ely Indian Colony. Law enforcement for the Ely Indian Colony has since been retroceded back to the federal government.

## Nevada Indian Tribes

Nevada Tribes have their own government-to-government relationship with the federal government and the state of Nevada. This government-to-government relationship confirms that each of the 556 federally recognized Indian Tribes in the U.S. has a uniqueness recognized by the Constitution, numerous court decisions, and federal law. Indian Tribes have a special legal status of self-government, meaning that the jurisdiction of state law is strictly limited or nonexistent.

Explanations for “tribe” and “council” as they relate to the services provided by state or federal agencies are as follows: (1) a Tribe is a federally recognized Indian Tribe listed in the Federal Register; there is no universal legal definition and (2) a “council” is the governing body of a Tribe as required by their tribal constitution.<sup>1</sup>

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## Bureau of Indian Affairs (BIA)

The role of the Bureau of Indian Affairs (BIA) with Indian Tribes is often misunderstood, especially in the area of child and family services. People incorrectly assume that the BIA has the primary responsibility for providing all services within a state for all Native American residents. To be sure, the BIA and other federal agencies, such as Indian Health Services or Housing and Urban Development (HUD), provide funds to Indian Tribes. The BIA operates and funds social services programs that administer welfare assistance and services on reservations. However, the policy of the BIA is that its services are residual (not intended to be the primary, sustaining resources), though BIA and tribal social services make an effort to locate other resources to meet the needs of Native American tribal clientele.

The 25 Code of Federal Regulations, Section 20.3, states:

*Bureau social services programs are a secondary, or residual resource, and must not be used to supplement or supplant other programs.<sup>2</sup>*

There are three BIA agencies which interact with the respective Nevada Tribes within their areas of jurisdiction. These three agencies fall under the Western Regional Office in Phoenix which has a total of 14 agencies covering Arizona, Utah, and Nevada. The Nevada-related Bureau of Indian Affairs agencies are Eastern Nevada Agency, Southern Paiute Field Agency, and Western Nevada Agency.

(The contact information for these agencies is provided in the References and Resources section, page 117.)

## Population

It is estimated that there are 15,000 Native Americans enrolled in Nevada Indian Tribes living on and off reservations areas in Nevada. In general, the Native American population is dissimilar to the geographic distribution of the state's population, with greater tribal populations residing in the northern regions of the state.

## Education

Most of Nevada's Native American children attend Nevada public schools. Only a small percentage of high-school-age children attend BIA boarding schools out of state (Chemawa in Oregon; Sherman Indian School in Riverside, California; or Jones Academy, a private boarding school in Oklahoma). There are two tribal schools--one on the Duck Water Reservation and one on the Pyramid Lake Reservation.

The Washoe Tribe of Nevada and California has an Immersion School which teaches children the Washoe language and provides for their educational needs. The Immersion School is funded by different sources, one of which is the Administration for Native Americans. This school is unique in that the primary medium is the Washoe language; the students speak, write, and read the Washoe language. During the summer, the students participate in an environmental project, which includes reintroducing native plants to Taylor Creek at Lake Tahoe. This Immersion School serves as a model to other Tribes seeking to preserve their native languages and cultures.

The year 2000 saw a number of Nevada Native American youth qualify for Nevada's Millennium Scholarship Program (see page 66). This enabled Native American youth, who might be financially disadvantaged, to attend Nevada colleges and universities.

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## Native American Tribal Enrollment in Nevada (1997)

Nevada Tribes	State	Tribal Enrollment	Total Indian Resident Service Population	Population under Age 16*
<b>Eastern Nevada Tribal Community</b>				
Duck Valley Shoshone-Paiute Tribe**	NV	1,163	1,233	361
Duckwater Shoshone Tribe	NV	318	318	88
Ely Shoshone Tribe	NV	288	350	175
Confederated Tribes of Goshute***	NV	412	20	2
Te-Moak Tribe-Battle Mountain	NV	563	178	44
Te-Moak Tribe-Elko Colony	NV	1,445	616	181
Te-Moak Tribe-South Fork	NV	258	101	15
Te-Moak Tribe-Wells Colony	NV	190	77	23
<b>Southern Nevada Tribal Community</b>				
Las Vegas Tribe of Paiute	NV	75	220	54
Moapa Band of Paiute	NV	283	283	59
<b>Western Nevada Tribal Community</b>				
Fallon Paiute-Shoshone Tribe	NV	985	1,667	420
Fort McDermitt Paiute-Shoshone	NV	875	396	112
Lovelock Paiute Tribe	NV	292	252	71
Pyramid Lake Paiute Tribe	NV	2,017	1,689	564
Reno-Sparks Indian Colony****	NV	817	1,045	390
Summit Lake Paiute Tribe	NV	85	92	14
Walker River Paiute Tribe	NV	1,969	1,018	369
Washoe Tribe of NV-CA*****	NV-CA	1,542	1,508	201
Winnemucca Shoshone Colony	NV	77	66	18
Yerington Paiute Tribe	NV	857	381	131
Yomba Shoshone Tribe	NV	208	112	31
<b>TOTAL</b>		<b>14,719</b>	<b>11,622</b>	<b>3,323</b>

Pyramid Lake Paiute Tribe, Reno-Sparks Indian Colony, and Walker River Paiute Tribe have the largest number of Native Americans under the age of 16.

Differences between the state demographer's estimates of the Nevada Native American population and the enrollment in Nevada-based Tribes are likely due to several factors. The primary one is the number of Native Americans residing in Nevada who are enrolled in Tribes in other parts of the country.

Note: These enrollment numbers are based on 1997 Labor Force Report Data. Three Tribes in NV have a "self-governance" designation: Ely, Duck Valley, and Duckwater. Individual enrollment figures for the Carson, Presslerville, Stewart, and Woodfords councils are not available. Resident service population includes tribal members living on a designated "reservation" or "colony."  
 \* Due to Federal Labor Force Reporting requirements, the population number under 18 is not available.  
 \*\* Tribal members also reside in Idaho. This number only represents the members who are NV residents.  
 \*\*\* Tribal members also reside in Utah. This number only represents the members who are NV residents.  
 \*\*\*\* Members of multiple Tribes are represented.  
 \*\*\*\*\* Tribal members reside in California also. This number represents the members who are NV and CA residents.

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## Well-Being of Children

Native American children receive services from Women, Infants, and Children Program (WIC), tribal health clinics (infancy to age 5) and Head Start (ages 3-5). School-age children are served primarily by the school systems and tribal health clinics. There are 18 tribal health clinics and one Indian Health Service clinic in Nevada.

The Children's Health Insurance Program (Nevada Check Up) has been introduced and is beginning to be utilized by Native American children enrolled in Nevada Tribes. The extent of use among tribal enrollees is unknown at this time. Other supplemental programs to assist in the well-being of children are child-care funds provided by Child Care Development Block Grants and child-care funds administered by the Children's Cabinet for northern Nevada and the Economic Opportunity Board in southern Nevada.

## Child Assistance

There are nine contracted tribal social services programs in western Nevada, eight contracted tribal social services programs in eastern Nevada, two contracted tribal social services programs in southern Nevada, and three compacted self-governance Tribes. All Nevada Tribes provide child-welfare services through their contracted social services provider, a consortium covering

one or more reservations, or self-governance program. The tribal programs provide various categories of assistance such as Indian General Assistance; Tribal Work Experience Programs; Child Welfare Assistance; Adult Custodial Care Assistance; Burial Assistance; Disaster Assistance; Emergency Assistance; and Services to Children, Elderly, and Families.

Tribal social workers are authorized by law to investigate allegations of suspected child abuse and neglect. These child-welfare providers emphasize working with both the child and family,

especially with efforts toward family reunification or permanency planning. BIA criminal investigators support the investigation of child abuse and neglect cases involving criminal offenses. Cases that are substantiated are referred for consideration to the U.S. Attorney's Office.

Children and youth enrolled in a Tribe and not residing on tribal properties receive child-welfare services through local and state child-welfare agencies. For these children, the local or state child-welfare agency must follow the Indian Child Welfare Act.

The table on the following page summarizes the number of Native American child abuse and neglect incidents confirmed in 1998, as reported to tribal social service agencies.

### Federal Laws Pertaining to Native American Children

Public Law 95-608 Indian Child Welfare Act of 1978  
Public Law 101-630 Indian Child Protection and Family Violence Prevention Act  
Public Law 93-638 Indian Self-Determination Act & Education Assistance Act  
Adoptions and Safe Families Act

Nevada Tribes have their own law and order codes. These codes generally have a juvenile code section. The tribal court systems fully utilize these codes in their court decisions and orders. The tribal courts and tribal law have jurisdiction over matters pertaining to Indians on reservation land. Civil and criminal matters pertaining to non-Indians on reservation land or Indians living off-reservation are handled through state jurisdiction.

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# Tribal Social Service Annual Reports of Child Abuse and Neglect: Fiscal Year 1998

	Total Number of Referrals		Types of Referrals			Results in Investigation		Action Taken		
	Total Number of Referrals	Subtotal Involving Alcohol & Substance Abuse	Child Abuse	Child Neglect	Sexual Abuse	Substantiated	Unsubstantiated	Referral to Court	Referral to Social Services or Other Agency	No Action Taken
<b>Nevada Tribes</b>										
Duckwater**	1	0	0	1	0	0	1	0	1	0
Ely*	2	0	0	2	0	2	0	2	2	0
Goshute	4	2	0	4	0	3	1	0	3	1
Shoshone-Paiute**										
Te-Moak	14	2	0	10	4	7	7	1	13	0
Battle Mountain*	30	8	6	18	6	6	24	4	21	5
Elko	25	5	6	17	2	7	18	8	13	4
Fallon*	43	3	14	24	5	18	25	17	14	14
Fort McDermitt*	7	6	1	4	0	5	2	5	4	
Lovelock*	21	11	5	16	0	8	13	8	9	
Pyramid Lake	39	39	22	1	16	2	37		39	
Reno-Sparks*	64	10	8	55	1	14	50	16	60	1
Summit Lake				Covered by Fort McDermitt Tribe						
Walker River*	17	10	8	6	3	1	16	3	17	
Washoe*	27	10	2	24	1	9	18	10	19	
Winnemucca				Covered by Fort McDermitt Tribe						
Yerington**	7	1	2	5	0	1	6	0	1	3
Yomba	3	3	1	1	1	1	2		3	
<b>TOTAL</b>	<b>304</b>	<b>110</b>	<b>75</b>	<b>188</b>	<b>39</b>	<b>84</b>	<b>220</b>	<b>74</b>	<b>219</b>	<b>28</b>

\* Missing monthly reports.

\*\* No reports submitted for 1998.

Source: Bureau of Indian Affairs, Phoenix Area Office, *Annual Child Abuse and Neglect Report - P.L. 99-570*.

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## **Native American Tribal Concerns Regarding Child-Welfare Assistance**

- ❖ Tribes want to participate in the federal Independent Living Program for Indian children in foster or group-home care. The U.S. Congress enacted the Independent Living Program in 1986 as the legislative framework for states to develop services for youth to receive before they are discharged from foster care.
- ❖ Tribes are concerned about compliance with certain requirements of the Indian Child Welfare Act (ICWA). One specific ICWA requirement calls for Indian adoptions to be sent to the BIA's central office in Washington, D.C. Responsibility for this requirement has not been clarified within Nevada.
- ❖ Tribes are mandated by federal regulations, effective November 20, 2000, to cease providing services to tribal youth in foster care who have attained the age of 18. As a consequence, foster children may not have incentive to finish high school should their 18th birthday occur during their last years of high school.

## **Native American Tribal Priorities Regarding the Well-being of Children and Families**

- ❖ Seeking and utilizing other services and resources for which Tribes are eligible, such as Title IV-E, Title IV-B, and Title XX funding to support child-welfare services and case-management efforts.
- ❖ Development of policy and procedures for social services contracts between tribal social services, state and local child service agencies, and other social service providers.

- ❖ Establishment of collaborative efforts between tribal social services, state and local child service agencies, and other social service providers.
- ❖ Improvement of outreach for information exchange, collaboration, and policy development.

*Contributed by Norma J. Moyle, M.S.W.  
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*“There is a Washoe language school for our youth to preserve for them the language given to us from the land and the traditions that allow our children to learn of nature and a way of life in the open.”<sup>13</sup>*

*A. Brian Wallace  
Washoe Tribal Chairman*

*“There is no resource that is more vital to the continued existence and integrity of Indian Tribes than our children.”<sup>14</sup>*

*Kevin Gover, Assistant Secretary, Indian Affairs*

*“Let us put our minds together and see what kind of life we can build for our children.”<sup>15</sup>*

*Sitting Bull*