

## **Child Sexual Abuse among Socially Marginalized Groups: Cultural and Governmental Influences Perpetuating Maltreatment in American Indian Country**

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### **Abstract**

Native Americans consider children as special gifts and the future of the tribe (CSOM, 2001) and understand the danger of incest and other forms of inappropriate sexual behavior. However, strain induced by cultural conflict and historical trauma, mistrust of authorities, social disorganization, communal living patterns, and limited guardianship of vulnerable children from offenders who lack self control pose risks for CSA in Indian Country. When CSA occurs, it is less likely to be reported, and children are less likely to contribute to criminal investigations and prosecutions. Since children's testimony is critical in CSA cases, denials and limited disclosures decrease the likelihood of formal justice control of the offender, and consequent child protection.

This paper describes a general framework for organizing diverse explanations of CSA in Indian Country, and generating hypotheses for research. These hypotheses were investigated with data from a study that compared patterns of CSA and disclosure in NRIC and non-NRIC cases, and each was lent some empirical support. Indian Country children were more likely than their non-NRIC counterparts to be involved in cases where the alleged offender was a member of their extended family. They were also less likely to disclose abuse, particularly if the child was young and/or male, relative to their non-NRIC counterparts. While disclosure rates were similar when allegations were made against a member of the immediate family, NRIC children were less likely to disclose against extended-family members and non-family.

### **Introduction**

Children living on the cultural margins of society are more likely to experience negative life outcomes, for two reasons: first, their disempowered position exposes them to greater social risks and limits their ability to protect themselves. Second, agencies and institutions intended to protect children from harm are less effective in resolving cases in which they are involved, compared to children from more privileged backgrounds. While the dynamics of disadvantage differ among various marginalized subgroups and by the type of harm in question, they are especially evident in child sexual abuse (CSA) cases in Indian Country.<sup>1</sup> Compared the abuse in other environments, CSA in Indian Country provides a striking example of harm resulting from the powerful external pressures exerted by the dominant culture upon a subjugated ethnic group.

I trace the influence of U.S. government policies on CSA in Indian Country by describing the influence of cultural conflict on institutions of social control intended to protect children. After describing general and sexual crime and victimization among Native Americans I present a general framework -- derived from cultural, organizational, deviance, family, and sexual abuse literatures -- to organize diverse explanations of the topic. Portions of the framework are then

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<sup>1</sup> The term "Indian Country" is a legal term that refers to territory that contemporary tribal governments control and has been defined by federal legislation as land within the limits of any Indian reservation under the jurisdiction of the U.S. government, all dependent Indian communities within the borders of the United States, and contemporary allotments of territory held by title by Indians. See Title 18 U.S. Code, sect. 1151, 2000 edition.

supported by findings of research concerning the characteristics and justice outcomes of CSA cases involving a Native Resident of Indian Country (NRIC)<sup>2</sup>, compared to non-NRIC cases. I conclude with policy recommendations intended to mitigate the harm resulting from CSA to Native American and other aboriginal children.

### **Crime and Victimization among Native Americans**

While comprehensive federal crime and victimization data collection systems do not distinguish between crimes occurring on or off tribal lands, they consistently indicate that Native Americans engage in crime and suffer victimization at higher rates than the general population (Earle 2000, Greenfeld and Smith 1999, Perry 2004). One in four Native Americans between the ages of 18 and 24 becomes a victim of a violent crime (Nessi 1999). The average violent crime rate among Native Americans was estimated at 101 per 1000 persons 12 or older between 1992 and 2001 — almost 2 ½ times the national rate (Perry 2004). Rapes, assaults, and robberies rates translate into 1 violent crime for every 8 Native Americans 12 or older, compared to 1 for every 20 residents 12 or older nationally (USDOJ, 1999). These crimes are often associated with alcohol abuse; a significant problem for Native Americans (Mancall 1995, Perry 2004, Steele 2006).

As a general rule, where victimization rates are high, women and children suffer the most. It is estimated that the victimization rate for Native women is 50 percent higher than that of African-American men (Greenfeld and Smith 1999). Among low-income Native American women rates of domestic abuse, both physical and sexual, are significantly higher than among all U.S. women (Malcoe et al. 2004), and Native women are twice as likely as their non-Native counterpart to be raped by a domestic partner (Greenfeld and Smith 1999).

It is difficult to collect accurate data in Indian Country (Earle 2000, Willetto and Goodluck 2003) and many crimes are likely underreported. Crime rates also vary considerably between Indian nations, so aggregate results can be misleading for a particular Native community (Harvard 2008). Still, the situation is troubling: Indian Country experiences homicides at a rate similar to or exceeding that of the most violent cities in the U.S. (USDOJ 1997). Native American youth are arrested at higher rates than other youth (Bad Wound 2000) and gang activity has increased dramatically (Martinez 2005, Mydans 1995), especially among larger tribes (Major et al. 2000:4).

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<sup>2</sup> Approximately two-fifths of all American Indian/Alaska Natives live on tribal lands (U.S Bureau of the Census 2003). Since the focus of this paper is on this population, the term “Native Resident of Indian Country” is used to distinguish them from non-Natives and Native Americans residing away from tribal lands.

### **Prevalence and Characteristics of CSA**

CSA is a significant social problem throughout the world, with 78,120 cases substantiated by state agencies during 2006 in the United States alone (USDHHS 2008). This is likely an underestimate: agency professionals and researchers generally agree that CSA is substantially under-reported (Browne and Finkelhor 1986). Throughout the U.S., as in other countries, CSA victims are more likely to be girls (Greenfeld and Smith 1999, Sedlak and Broadhurst 1996, Snyder 2000). Research generally portrays sex offenders as demonstrating a range of antisocial behaviors and experiencing personality problems (Paradise et al. 1994). They often have a history of sexual victimization (Finkelhor et al. 1997), and substance abuse (Finkelhor et al. 2007, Johnson 2007, USDHHS 2003, Valliere 1997). Offenders are usually family members and assaults by strangers are rare (Snyder 2000, USDHHS 2007), but as children mature and their social networks broaden, their assailant is more likely to be someone outside of the immediate family unit (Finkelhor and Omrod 2001, Greenfeld and Smith 1999, Snyder 2000).

Family risk factors include emotional and physical conflict, and single parenthood (Benedict and Zautra 1993, Boney-McCoy and Finkelhor, 1995, Goldman et al. 2003, Sedlak and Broadhurst 1996), while community risks include neighborhood disorganization, crime, impoverishment, unemployment, and social isolation (Drake and Pandey 1996, Goldman et al. 2003, Paulsen 2003). Studies that control for reporting bias consistently conclude that both victims and offenders are economically deprived (Finkelhor and Baron 1986). Children from families earning \$15,000 or less in 1994-5 were 22 times more likely to be victims of sexual abuse than those from families earning in excess of \$30,000 (Sedlak and Broadhurst 1996).

Left unaddressed, child sexual abuse can have devastating impact on children. In the short-term, preschoolers are at risk to experience anxiety, nightmares, inappropriate sexual behavior, and symptoms of posttraumatic stress disorder. School-aged children experience aggression, fear, hyperactivity, regressive behavior, and school problems. Adolescent victims suffer increasingly complex and severe symptoms including depression, sleep disorders, self-harm, delinquency, and substance abuse (Kolko and Brown 2000, Malley-Morrison and Hines 2004). In the long term, victims of CSA are likely to experience hyper-sexuality, fear, anxiety and depression, physical illness, and work problems (Breier 1992, Kendall-Tackett et al. 1993, Kolko and Brown 2000, Lee and Tolman 2006, Letourneau et al. 1996).

*CSA among Native Americans.* Malley-Morrison and Hines (2004) identified seven research studies of CSA among Native Americans; five involving retrospective self-reports and two analyzing agency data. They conclude that the rates of child sexual abuse among Native Americans reflect those of the larger society—between 14 and 18 percent of females and between 2 and 3 percent of males—but that CSA rates differ from tribe to tribe. Other research indicates that CSA rates may be higher among Native Americans. In 2005, Native American and Alaska Native children in the U.S. had a sexual victimization rate of 16.5 per 1,000, while the rate for Anglo children was 10.8 per 1,000 children (USDHHS 2007). Estimates are that one in four female and one in seven male NRICs will suffer sexual abuse during their childhood (USIHS 2003). A self-report health survey of 13,454 seventh- through twelfth-grade American Indian-Alaska Native youth found that 21.6% of the females reported sexual abuse by the twelfth grade (Blum et al. 1992), while a survey of adult members of a Southwestern tribe found that 49% of the women and 14% of the men reported they were victims of CSA (Robin et al. 1997). Higher abuse rates are partially attributable to heightened risk and limited social control resulting from marginalizing Native groups (Dunkerley and Dahlberg 1999, Fontes 2005, Steele 2006).

Little information is available describing the nature of CSA episodes among NRIC, but that available suggests patterns are similar to those among the general population in the U.S. For example, Robin et al. (1997) found that in the most cases offenders were family or persons known to the victim, and involved penetration. Navajo officials reported that in cases reported in 1994 all but one of the offenders were males, ranging in age from 5 to 56 (CSOM 2001: 102).

There are some indications that the consequences of CSA might be particularly profound for Indian children. Native American survivors suffer in the short term from anxiety, sleep disorders and developmental difficulties, running away, school drop out, and early sexual encounters (Boyer et al., 1992) and later from higher rates of substance abuse, depression, suicide attempts, and abusive relationships (Blum et al., 1992, Boyer et al., 1992, Duran et al., 2004, Malley-Morrison and Hines 2004). Barker-Collo (1999) reports that the somatic, sexual, and sleep-related symptoms associated with CSA were more severe among Native survivors.

### **Conceptualizing CSA in Indian Country**

While CSA among NRICs is a significant and complex problem, we currently lack a systematic explanatory model from which to interpret research and develop policy. Both Native and non-

Native authors have, in fact, identified several causes for CSA among tribal populations. Some of their assertions are founded in research, while others are based on personal experience or narrative accounts. However, I have been unable to discover any explanatory scheme in the literature that relates the diverse macro-level cultural and micro-level personal and situational influences to CSA in Indian Country, or attempts to reconcile the distinctive intellectual traditions from which these explanations are drawn. While developing a systematic theoretical model is beyond the scope of this paper, I propose a tentative framework to address the causes of and reactions to CSA in Indian Country. It is intended to advance our understanding in four ways: it links several existing explanations into a larger framework, situates CSA within more general thinking about the production and control of deviance, provides a stronger empirical basis for recommendations intended to mitigate this serious problem by connecting previously unconnected research findings, and suggests an agenda for future research and policy.

The framework has been developed from descriptions and explanations of CSA in Indian Country provided in the literature. These were related to general perspectives of crime and deviance, social control, organizations, cultures, families, and child development. The framework consists of four dimensions: Cultural Conflict, Personal Deviance, Social Control, and Victim Behaviors in the Justice System. After describing the elements that make up each of these dimensions and relating them to each other, I assess the adequacy of at least some of portions of the overall framework by reviewing the results of a study of CSA in Indian Country.

### ***Cultural Conflict.***

The obvious differences between Native Americans and those of Anglo-European ancestry in the United States constitute a clear example of conflict between independent cultural groups. According to Thorsten Sellin (1938), primary cultural conflict occurs when groups with different norms and values interact in border regions, the laws of one group are extended to encompass others, and/or distinct cultural groups migrate into new territories (Jensen 2004). Each of these stimuli to conflict has occurred between Anglo and Native groups. For example, from the time of first contact, differences between Anglo and Native religious-based moral codes and values were obvious. Since Anglos Native Americans as their social and moral inferiors (Vaughan 1995), and Native Americans controlled valuable land and other natural resources sought by settlers from Europe, intergroup conflict was practically inevitable. Natives found treaty

agreements violated by citizen and military groups engaged in land grabs, amounting at the present to 97.7% of the lands used by Native Americans in the United States at the time of first contact (Thornton 2000), vast destruction of animal herds and their grazing lands, and forced religious conversion. In the 1830s, the Indian Removal Act forced tens of thousands of Natives to move from the Eastern United States. Bloody “Indian Wars” and numerous acts of subterfuge resulted in thousands more to relocate on reservations often far from their traditional lands, and be separated from family and clan members, imprisoned, and subject to both systematic and indiscriminate killing (Harvard 2008). These policies, in addition to the introduction of diseases such as smallpox and the plague by Europeans (Duran and Walters 2004, Vernon 2001), resulted in decimating Native populations in North America, from an estimated 2.1 to 18 million in 1492 to 250,000 by 1900 (Duran and Walters 2004).

By the conclusion of the 19<sup>th</sup> Century, overt armed conflict between Americans and Natives ended and relations between the two groups shifted to what can be best described as secondary cultural conflict; a less obvious form of dominant group suppression (Sellin 1938). With the end of physical conflict Natives were no longer subject to systematic genocide, but the government and private economic interests used laws and policies to further subjugate Native Americans. They ceased to threaten the safety and interests of Anglo settlers since they could no longer effectively limit the settlers’ access to valued land, water, animal, and mineral resources. In 1887, the federal government enacted the Dawes (Allotment) Act, which made Native lands further available to settlers and resulted in the loss of ninety million acres, or approximately two-thirds, of their land base between 1887 and 1934. Approximately 90,000 Native Americans were made landless as a result of the Act (Case and Voluck 2002, Debo 1973). In 1934, the allotment policy was replaced by the Indian Reorganization (Wheeler-Howard) Act. This legislation allowed for recognition of tribal governments, primarily to facilitate the interface between tribes and the federal government in its role as trustee of tribal lands and affairs (Harvard 2008). Tribes were coerced to adopt Anglo-styled constitutions allowing only limited self-rule, with most authority reserved for the Secretary of the Interior. New constitutions directly conflicted with the traditional styles of governance used by most tribes, producing widespread misunderstanding and mistrust of tribal government (Harvard 2008).

Reorganization did not resolve the crushing poverty and other social problems prevalent on tribal lands and, in fact, there was a growing belief that federal policies had increased these

problems. Pressure mounted during the 1940s to eliminate the Indian culture through the forced assimilation of Native Americans and elimination of Indian Country (Fixico 1986). In the 1950s, the federal government began a policy of “termination” by purchasing tribal land and resources, and ending tribes as distinct political entities (Philip 1999). Economic interests once again came into play: “the Klamaths who owned valuable timber property in Oregon and the Agua Caliente, who owned the land around Palm Springs, were some of the first tribes to be affected by the policy” (Council of Indian Nations 2009). One hundred nine tribes and bands were “de-recognized” at this time, losing their jurisdiction and becoming ineligible for federal trusteeship and funding (Harvard 2008, Thornton 2000). Termination came to be viewed by Native Americans as a code for tribal extermination, and galvanized them during the civil rights period of the 1960s and 70s to seek political self-determination and sovereignty.

Liberal concerns about discrimination and conservative reactions against overbearing government resulted in ending policies of termination and expanding self-determination on tribal lands. Codified by Congress in the Indian Self-Determination and Educational Assistance Act of 1975, tribal self-determination has been the official policy of the United States ever since. While the Act is seen as a positive measure by most Native Americans, it is undermined by vacillation, revision and constant attack (Harvard 2008), and has not undone the damage resulting from centuries of abuse and mismanagement preceding its passage.

Emerging from cultural conflict has been an alarming degree of cultural disorganization among Native American populations (Harvard 2008). “The initial, compelling impression is one of brokenness, a shattering, a scattering of fragments and huge areas swept clean – a late stage in the relentless advance of a conquering population” (Meinig 2000: 168). Commonly known as historical trauma, or “soul wound,” it is a pervasive sense of collective loss and hopelessness and is the direct result of cultural subjugation. Historical trauma is both cumulative, in that it describes destructive events over an extended period of time, and collective, in that it affects many people in a community (Brave Heart, 2000, Evans-Campbell 2008). It has negative consequences for individuals, families, and whole communities, and each of these levels interacts with each other to transmit its influences across generations (Evans-Campbell 2008). Historically traumatic events are related to mental health conditions such as stress disorders, alienation, depression, alcohol abuse, and HIV risk (Duran and Walters 2004). Historical

trauma, coupled with contemporary social problems, has contributed significantly to a sense of strain and marginalization, and widespread mistrust of the Anglo culture and its institutions.

***CSA as Personal Deviance.***

The relationship between widespread cultural subjugation and individual acts of deviance such as child sexual abuse is tenuous and complex. Obviously, the vast majority NRICs do not engage in CSA or any other form of serious crime, but cultural conflict has created a social context that is conducive to deviance. This is evident in that Native Americans often identify historical trauma as a primary cause of CSA (Duran et al. 1998, Evans-Campbell 2008, Whitbeck et al. 2004), beginning in the early years of the boarding school system (Smith 2007). Historical trauma has also been associated with other forms of deviance including mental illness (Dennis 2009, Evans-Campbell 2008) and substance abuse (Brave Heart 2000, May 1996, Simoni et al. 2004) that increase the risk of CSA. The connection between subjugation and CSA can be investigated using contemporary theories of crime. While several are relevant, I focus on Social Disorganization, Social Strain, and Situational Crime perspectives.

**Social disorganization.** This theory attributes criminal behavior to the absence or breakdown of communal relationships and social institutions (Jensen 2004). Bursik and Grasmick (1993) differentiate among three levels of community organization: personal, parochial, and public social control. Personal control is eroded when interpersonal ties break down among community residents. Parochial control refers to relationships between people and social institutions, so diminishing them increases social disorganization in the community. Public control suffers when people lose influence with the government. Policies of cultural subjugation such as genocide, forced removal, and disruption of family and kinship structures have dramatically undermined each of these levels of social organization in Indian Country.

As family and government institutions are compromised, deviant behavior becomes increasingly common (Faris 1955), which, in turn, further undermines social organization and institutions (Faris 1955, Markowitz et al. 2001, Skogan 1986). Theorists suggest that concentrations of deviant actors and actions can be found in locations that have lost their ties to cultural values and regulatory controls, and that residents of disorganized communities are more likely to have their personal control diminished (Jensen and Rojek 1980).

Social disorganization of Native communities is largely a consequence of the break-up and relocation of tribal groups. Over time, tribes adapted well to the area in which they lived. Parents perpetuated the culture by socializing their children into skills such as food gathering and production specific to their area, and Native religions often reflected the local topographical and weather conditions. When tribal groups were forcibly relocated, skills relevant to the traditional environment become useless, and there were no longer environmental markers relevant to spiritual teaching and practices. “Uprooting a tribe from a territory very likely entailed major transformations not only in the skills needed to provide for the sustenance of the tribe but also in their collective and individual identity and self-worth” (Coles 2006: 177).

**Social strain.** Historical trauma and its attendant sense of hopelessness, alienation, anomie, and lack of purpose is fertile territory in which CSA and other social problems can emerge. Emile Durkheim (1897) demonstrated a direct relationship between social disintegration and national suicide rates. In 1938, Robert Merton proposed his Theory of Anomie, in which the degree of social integration in a society is determined by the level of shared acceptance of socially-approved goals and conformance with conventional means for achieving those goals. He assumed that most citizens conform to the approved goals and means within a society, and even if they are not successful in ultimately reaching their goals, they will continue to strive for them in a conventional way. However, some individuals find that, due to factors beyond their control, they are blocked in their attempts to pursue these desirable outcomes, and experience a sense of societal breakdown, or anomie. They feel detached from the approved goals and/or means of pursuing them, and engage in “deviant adaptations.”

More contemporary thinking in this tradition has extended Merton’s notion of blocked access to material and status attainment as the source of individual deviation. Robert Agnew’s General Strain Theory (1992) considers blocked attainment as only one form of strain which produces motivates a person to deviate. Agnew (2001) and others indicate how strain can result in different forms of deviance: some might externalize their frustration by attacking the source of their strain, while others might internalize it, engaging in non-instrumental responses such as suicide, substance abuse, or mental illness depending on their circumstances.

From the strain perspective, historical trauma serves as a widespread anomic influence, or general source of strain, that weakens compliance with the conduct norms of both the dominant and traditional Native cultures. Given NRIC’s lack of access to and influence upon federal

authorities and others producing their frustrations, it is understandable that many Natives engage in non-instrumental reactions such as alcohol abuse and deviant forms of sexual gratification.

**Situational offending.** Cohen and Felson (1979) posited that criminality cannot be attributed solely to offender traits, but must also take into account the availability of and access to targets of crime, consisting of either valued property or another person, in the case of a violent crime. They also consider the “routine activities” of others who might serve as guardians against crime. These activities are “routine” in the sense that they are not in violation of conduct norms in themselves, but might influence the likelihood that a crime will occur. For example, on one reservation, economic development resulted in more job opportunities for tribal members. As more adults entered the workforce, fewer guardians remained at home during the day and the rates of residential burglaries increased substantially. Another influence is routine child rearing practice: Native parents hold culturally distinctive ideas about what constitutes appropriate parenting. Generally they encourage their children to have a stronger sense of responsibility than do non-NRIC parents (Green 1983), are less strict in child supervision (Fischler 1985), and expect older children to care for younger siblings at a relatively early age (Gfellner 1990).

The situational perspective is compatible with other control explanations of crime that integrate social influences, crime opportunities, and individual offenders’ inability to control their own deviant motivations. The most popular explanation of child sexual abuse is Finkelhor’s “Precondition Model” of Child Sexual Abuse (1984) which takes a similar approach to explaining CSA: abuse occurs when a motivated offender overcomes internal self-inhibitions and external obstacles to abuse, and the child’s resistance. Felson (1998) asserts that an offender’s decision to commit a crime (in this case, a sexual act with a child) is influenced by their desire to engage in the behavior, their access to the target (i.e., a child who cannot defend her/himself) and their estimation of the likelihood that they can successfully complete the act and avoid punishment for it. In Indian Country, the communal living and child-rearing arrangements increase awareness of and access to children, especially those in the extended family structure. Consumption of alcohol and other drugs diminish self control and serves to trigger the deviant act. Children are more likely to be unattended by adults who can serve as guardians, and their absence increases the offenders’ chances of completing their intended crime. In addition, due to widespread mistrust of the federal justice system, children and family members are unlikely to report abuse, assisting offenders in avoiding punishment. Even though incest is among the most

serious violations of traditional values, Native Americans are at risk to commit such acts and are less able to protect their children (Shkilnyk 1985).

***Social Control on Tribal Lands.***

Mechanisms of social control promote conformity to conduct norms. They can operate proactively to prevent deviance through socialization concerning the consequences of rule breaking, or reactively by rewarding conformity and punishing violators. Reactions include both informal sanctioning exercised by individuals, and formal sanctioning enacted by institutions such as the criminal justice system. Although their methods differ greatly, social control Indian Country is exerted by both federal governmental agencies and by Native groups and institutions.

**Federal social control.** The federalist style of governance adopted in the United States creates tension in the exercise of authority between local and national political units. Historically, the control of criminal behavior off of tribal lands has been the role of local and state governments. However, the “federalization” of crime has become more common (Miller 2008). In Indian Country the situation is different: control of serious crime, including incest and rape, has been the province of the government since the passage of the Major Crimes Act of 1885 (Harvard 2008). Federal control of serious crime has important consequences for CSA in Indian Country. It guarantees the imposition of Anglo definitions of justice, rather than those consistent with traditional Native values. Since federal as well as non-tribal state justice systems are framed by the U.S. Constitution and its case law interpretation, emphasis is placed on a philosophy of processual and retributive justice, rather than the restorative and reparative justice approach favored by traditional tribal authorities.

One dimension of processual justice requires that federal crime agencies protect the defendant’s rights of due process, including the right that they are innocent until proven guilty or admit their guilt in a court of law. The level of legal certainty required for criminal conviction is quite high which places a premium on convincing physical evidence and testimony to produce a conviction. Relatively few CSA investigations yield definitive physical evidence (Faller 2008), so successful prosecutions rely primarily on testimonial evidence. Since it is rare that there are adult eyewitnesses to the crime, the child victim relied upon for a successful case outcome.

For optimal results, justice professionals engage well-trained forensic interviewers -- either at a Children’s Advocacy Center within specialized investigative units -- to collect

information that avoids asking about the alleged crime in a way that might lead the child to provide false information. Interviewers must also collect information with sufficient detail, consistency and contextual grounding to convince justice professionals and jurors. Children from Indian Country are asked to recall and explain emotionally-charged sexual abuse events in a way that seems credible to Anglo justice professionals, not necessarily how they might define or recall the event themselves. While this can be difficult for any child, it is particularly hard for children having little experience with Anglo definitions of truth, time, and abstraction.

Another dimension of processual justice implies that justice should be impersonal. In an effort to produce system fairness, offenders are to be treated the same regardless of their individual attributes. Technically, the federal justice system shows little personal interest in the accused or the victim but rather treats them as role-players in an alleged offense that has harmed the general welfare. It is child victim's responsibility to serve as a credible and informative witness for the prosecution: little is done to address the harm they have experienced (Steele 2008). Institutional impersonality also complements the philosophy of retributive justice (Green 2006), in that punishment can be meted out to offenders based on the nature of the crime, while restorative interventions must be tailored to the personal needs of the offender and victim.

The diminished legitimacy of the federal justice system in Indian Country is better understood by considering why people obey the law. Instrumental arguments that influence government policy makers suggest people obey the law to avoid the punishment imposed by authorities (Nagin 1998). However, a democratic society cannot successfully govern if its only control over citizens is the manipulation of rewards and punishments, since it would be constantly engaged in maintaining expensive systems of reward, coercion and punishment (Easton 1975, Gamson 1968, Saphire 1978).

Other legal scholars have focused on alternative means of compliance with the law; either acting in accord with the beliefs of valued others, or consistent with one's own morals (Tyler, 2006). The former view suggests that NRICs will comply with federal policies if others in their social network endorse and reward them, or punish them for lack of compliance. Given a collective sense of historical trauma and mistrust of federal control, noncompliance is not likely to be met by widespread and harsh punishment within Native social networks. The latter view suggests that people conform out of a personal obligation to act consistently with one's own moral code, rather than from a sense of obligation to external political authority (Tyler 2006),

which occurs in two ways. First, an individual might find that a particular law coincides with their own beliefs and values, so consistency with one's moral code would incidentally result in law-abiding behavior. In this sense, most NRICs will refrain from committing serious crimes because they believe them to be immoral, but might consider engaging in some lesser offenses that are inconsistent with their moral code, in at least some circumstances. Second, in a more general way, an individual might believe in the legitimacy of legal systems and their value in maintaining order and justice in society. From this perspective, citizens obey all laws regardless of their moral position concerning each one, because they believe in the general morality of the legal system as a whole. In this sense, NRICs will comply with the law if they believe the federal government acts legitimately; a dubious assumption given the history of Native-Anglo cultural conflict. With the weak influence of normative control in Indian Country, and the government's emphasis on instrumental control, it is not surprising that justice agencies emphasize deterrence and retribution, and that they receive limited support from residents.

One reason why instrumental control has limited effect is that few CSA cases from Indian Country are investigated or successfully prosecuted. In testimony before the U.S. Senate Committee on Indian Affairs, Terry Cross, Director of the National Indian Child Welfare Association, estimated that in the Northwestern part of the U.S., of 100 serious cases of child abuse occurring in Indian Country, only two cases were prosecuted in federal court (2006). Other than anecdotal statements and personal reports, it is difficult to determine federal justice system activities in NRIC cases. However, one can reach at least some tentative estimates by piecing together statements and unpublished reports. For example, Cross (2006) estimated that 30,000 cases of abuse and neglect occur each year in Indian Country, with roughly twenty percent, or 6000, being abuse cases. He further estimated that only ten percent of cases were investigated by federal officers, or approximately 600 federal child abuse investigations per year. Cross' estimate is remarkably close to FBI reports documenting 1451 case investigations for 2003-2005, an average of 483 cases per year (Swecker 2005). The FBI also report that these cases resulted in 179 CSA convictions in 2004, and 177 in 2005 (Burrus 2006).<sup>3</sup> Using Cross' estimate of 6,000 abuse cases per year, offenders stand a three percent chance of conviction.

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<sup>3</sup> Since the enactment of PL (Public Law) 280 in 1953, states have jurisdiction over criminal matters on Indian lands in California, Minnesota, Nebraska, Oregon, Wisconsin, and (later) Alaska, with some exceptions made for particular reservations. These numbers do not include cases in Indian Country that were investigated by state authorities.

Since certainty of punishment is the most important element of deterrence (Tyler 2006), low conviction rates suggest that offenders are not deterred from CSA on instrumental grounds.

Referring once again to the federalist structure of control, Miller asserts that “U.S. federalism shapes the representation of group interests and policy environments at each level of government in ways that severely underrepresent the interests of citizens most vulnerable to victimization – most frequently the poor and racial minorities” (2008, p.5). Thus, any protection provided to Native children is primarily the result of indigenous forms of social control consistent with the NRIC’s personal morals (Steele, 2006).

**Tribal social control.** With limited sovereignty and legal authority, social control in Indian Country is exerted by Native Americans through religious, family and clan structures. Given the strong sense of communalism exhibited among traditional Native groups, informal social influence is a principal means of social control.

*Native families and control.* In Indian Country, the family is a primary social institution and source of social identity. A well-developed sense of familism, i.e., willingness to subordinate one’s personal concerns for those of the family (Coles 2006) is apparent: in many Native cultures, poverty is defined as being without relatives (LaDuke 1997, Walters et al. 2002). Families in Indian Country use the term “seven generations” to stress the importance of intergenerational continuity and responsibility, as well as the multigenerational structure common to many Native families (Bucko 2007). As Kluckhohn and Leighton indicate, social control is exerted powerfully by the family.

“The major threat which restrains the potential offender is the withdrawal of the support and the good will of his neighbors, most of whom are ‘family’ to the Navaho. Gossip and criticism were and are major means of social control throughout Navaho society.” (1974, p.122).

In Indian Country, children tend to be raised in extended families (Baca-Zinn and Eitzen 1995, Cross 1986, John 1998). This can be attributed historically to the strength of clan and kinship relations, and to contemporary conditions. Traditionally, Native families are known for their reliance upon extended family for support and for their fluid household boundaries. Using other family members as co-parents is common, and anyone who assumes parental duties is referred to as “mother” or father” (Stanton 1995). Currently, there is a high rate of single-parent Native families. Unlike Anglo families

where divorce is the primary cause, Native single parent families are often the result of non-marital births: sixty percent of all Native births are to unmarried women (Martin 2003). Commonly, young mothers and their children will reside in an attenuated extended household, along with at least one grandparent (Coles 2006). Others engage in “transitional mothering” by leaving children in the care of relatives while seeking employment off of tribal lands (Lobo 2002). Socialization of, and authority over, Native children is widely dispersed among family and clan members (Cross 1986). In some instances, the parenting practiced by some adults can be neglectful or harmful to children. This has been attributed to boarding school removal policies that contributed to a loss of parenting skills (Coles 2006), youthful parents (Martin et al. 2003), as well as trauma reactions, substance abuse, and other problems (Evans-Campbell 2008, Shkilnyk 1985).

Clan membership is also critically important to tribal members, and the clan can exert powerful influence over the behavior of its members. Kluckhohn and Leighton observe that

“In the past, the clan was, with little doubt, an important agency of social control. All clansmen were responsible for the crimes and debts of other members of their clan, hence it was in their own interest to prevent murder, rape, and theft on the part of any and all clan relatives.” (1974, p.112)

Another mechanism of family social control relates, ironically, to historical trauma. In this highly communal culture, children are reluctant to share their own personal problems as this might contribute to the historical grief and suffering already experienced by the adults with whom they live (Walters et al. 2006).

Family influences have weakened, and are in greater competition with Anglo formal controls. Federal and state child welfare systems are much more likely to remove Native children from family control (USDHHS 2006) and Native children are three times more likely than Anglo children to be placed in out-of-home care (Hill 2007). Each year, 6,500 of the approximately 405,000 Native children living on or near Indian Country are placed in substitute care (Cross et al. 2000).

*Traditional justice.* Tribal groups value cooperation, collectivism, and harmony (Coles 2006, Cotter et al. 1990, Flannery 1995). Social control in Indian Country emphasizes restorative and reparative over the formal retributive and processual justice characterizing the federal justice system. When NRICs engage in violations of tribal conduct norms, they might be

expected to participate in a traditional ceremony guided by a spiritual leader, or by tribal elders (Bucko 2007). Social control emphasizes education, cleansing the offender of their wrongdoing, and making reparation to the victim, their family and clan “bearing marked resemblance to the old Teutonic wergild, or ‘blood money.’” (Kluckhohn and Leighton 1974, p.298). While determining the best solution to the problem at hand requires a truthful accounting, elders do not impose formal evidentiary standards in their proceedings. Solutions are personalized for the offender, and the interests of victims and their families are central to the traditional process.

Cultural subjugation has taken a severe toll on traditional tribal social control. The federal government has imposed justice concepts consistent with their own values. The notion of a centralized tribal government with authority over several clans or “bands” is a foreign concept to most tribal groups. The imposition of these structures has created further disorganization and conflict within tribes.

### ***Child Victims in the Criminal Justice System.***

When CSA is reported to legal authorities, suspected child victims may facilitate the investigation by disclosing details to law enforcement and child protective service (CPS) professionals. If their case proceeds into court, they may be called upon to testify against the defendant. As noted earlier, given the lack of other evidence, the child’s statements are crucial to both the criminal investigation and prosecution.

While children might make preliminary statements to first responders, the justice system relies on more complete and formal statements made to forensic interviewers. The extensive literature concerning formal disclosure identifies many factors that can influence the child’s willingness to disclose, and the completeness of their disclosure. These include characteristics of the child and offender, the abuse episode, family influences, case reporting to authorities, the manner in which the forensic interview is conducted, and ethnic and racial influences.

**Victim characteristics.** Girls disclose abuse in formal forensic interviews more than boys (DeVoe and Faller 1999, Goodman-Browne, et al. 2003), although abuse-specific variables may influence gender differences (Goodman-Browne et al. 2003, Olafson and Lederman 2006, Sauzier 1989). Younger and less cognitively developed children are less likely to disclose (Campis, et al. 1993; Goodman-Browne, et al. 2003, Hazzard, et al. 1995, Sorenson and Snow 1991) and more likely to recant allegations (Malloy et al. 2007) than their older counterparts.

Children who experience more psychological trauma, dissociation, and post-traumatic stress disorder from CSA and other influences are also less likely to disclose (Alaggia 2004, Olafson and Lederman 2006). For those who have experienced multiple forms of trauma over several years, it becomes difficult to sort out the details of a single traumatic event and relate it to an interviewer, and children exhibiting higher levels of personal modesty are less likely to disclose (Olafson and Lederman, 2006).

**Offender characteristics.** The accused offender's relationship to the alleged child victim has been found to influence the child's likelihood to disclose. Disclosure rates vary inversely with the child's degree of emotional attachment to, and directly with social distance from, the accused. Children are less likely to disclose or to recant allegations made against close relations (DiPietro et al. 1997, Malloy et al. 2007, Smith et al. 2000, Wyatt and Newcomb 1990), such as natural parents or other members of their immediate family (Faller 1989, Goodman-Browne, et al. 2003, Olafson and Lederman, 2006, Smith et al. 2000), while they are most likely to disclose in extrafamilial cases (Sas, 1993; Sauzier, 1989).

**The abuse episode.** Child abuse episodes can entail a single act of sexual abuse, or several over a considerable period of time. Children are less likely to disclose in cases of CSA that are particularly severe or of long duration (DeVoe and Faller 1999, Sauzier 1989), although some indicate that the research concerning the impact of the abuse episode on disclosure is not sufficient to make valid claims (Olafson and Lederman, 2006). Children are also less likely to disclose when the offender threatens the child or their relatives with harm (Burgess and Holmstrom, 1978, Sauzier 1989, Summit 1983).

**Family influences.** The family of the child victim plays a critical role in the child's willingness to disclose CSA, due to the strong emotional ties that exist between most children and their family, even if it is a family member who mistreats the child. Most research suggests that if the family believes and supports the child, disclosures are more forthcoming (Lawson and Chaffin, 1992). Conversely, when parents and other family members withhold support or discourage reporting, children are likely to deny or recant the abuse allegation (Lawson and Chaffin, 1992, Malloy et al. 2007). Reasons for lack of family support are numerous. If family members feel that they cannot trust the formal justice system to act in their best interests, they will pressure the child to not report or cooperate with authorities. If family members are convinced that the child is lying, or that the disclosure would embarrass the family and betray the

parents, children are not likely to formally disclose (Alaggia, 2004, Farrell 1988, Goodman et al. 2003, Finklehor and Baron 1986, Goodman et al. 2003, Sauzier, 1989). Also, the impact of disclosure on family survival can be great among impoverished families, so children might not disclose to authorities (Dunkerley and Dahlberg 1999).

Family influence can affect children in an indirect way: children who are emotionally bonded feel a sense of responsibility to the family and assess the consequences of disclosure without making them aware of their victimization. Children are also sensitive to the consequences if the case is confirmed in the criminal and civil justice systems, and might avoid disclosing out of loyalty to the offender. They may also feel responsible, in some degree, for the family disruption resulting from reporting and disclosure (Goodman, et al., 2003; Lawson and Chaffin, 1992). Cooperation and disclosure can be seen as an iterative process; children make an initial report then determine their degree of further cooperation, up to the point of full and detailed disclosure, based on the reactions of family members and the justice system professionals they encounter (DeVoe and Faller 1999, Elliott and Briere 1994, Elliot and Carnes 2001, Malloy et al. 2007, Staller and Nelson-Gardell 2005).

**Reporting behaviors.** For many reasons, children often do not directly pursue official intervention concerning their victimization, but are more likely to report to family members or friends when they are ready to do so. In turn they encourage, or at least acquiesce, to the urging of others who report the allegation to authorities (Steele, 2004). However, when CSA is suspected based on changes in the child's behavior or physical indications, children are less likely to disclose, even in the face of compelling physical evidence.

**Interview characteristics.** Professionals believe that if children feel safe and comfortable in the interview setting and with the interviewer, they are more likely to disclose and provide more complete descriptions of their abuse (Bottoms et al. 2007, Davis and Bottoms 2002, Saywitz et al. 2002). Conversely, if children feel that the interview environment is strange or intimidating, they are less likely to disclose their abuse. One element of the interview process that may be associated with familiarity and comfort is the gender and ethnic similarity of the interviewer, but research studies tend to disagree. For example, while Dunkerley and Dahlenberg (1999) assert that child-interviewer ethnic similarity can increase disclosure rate, Springman et al. (2006) found the opposite. It could be that ethnic and gender matching influence disclosure differently among members of the dominant and minority ethnic groups.

Dunkerley and Dahlenberg (1999) conclude that children with strong and comfortable racial identity are more likely to disclose to interviewers of another race. Other important class and belief similarities may overcome child-interviewer ethnic differences (Fontes 2008), and in an effort to realize ethnic matching, other important power imbalances may be overlooked (Gunaratnam 2003). Regardless of demographic characteristics, the skills and approach of the interviewer can influence disclosures (Cronch et al. 2006). Evidence suggests that interviews of a more narrative rather than directive format allow the child to describe the event in their own words, increasing their comfort level with the interview process and eliciting greater detail concerning the abusive episode (Lamb and Brown 2005, Lamb et al. 2008, Sternberg et al. 1997).

**Cultural influences.** The role of culture in formal disclosure has been examined in several studies, and researchers believe that culture can affect disclosure in a number of ways. Children from minority groups face culture-specific barriers to disclosure that could contribute to delays or denials (Dunkerley and Dalenberg 1999, Elliott and Briere 1994, Olafson and Lederman 2006). For example, groups holding relatively strong prohibitions concerning sexual behaviors, and those emphasizing family preservation and independence from government regulation are likely to inhibit disclosure (Alaggia 2001, Fontes 1993). In some cultures it is bad taste to discuss personal matters with outsiders (Fontes, 2005). Marginalized cultures in which discrimination, instability and poverty are commonplace are likely to have lower rates of disclosure as well (Fontes, 1993). Alaggia concludes that “Children who have been marginalized because of discrimination related to race, ethnicity, and poverty, may feel too disempowered to tell about abuse” (2004, p.1216).

Children are bicultural in varying degrees (Fontes 2005). In general, younger children are particularly acculturated into the values and beliefs of their host culture, and less aware of those of other cultures that conflict with their own. As children mature, they become more reconciled to the characteristics and behaviors of people from a different cultural heritage. As mentioned previously, the findings of research concerning child-interviewer ethnic matching is inconsistent, but some assert that as child victims mature, white preference for white interviewer disappears. However, this process may be retarded by minority group status. Dunkerley and Dalenberg (1999) conclude that Black differences in disclosure by race of interviewer stays the same regardless of the child’s age, suggesting internalization of racial mistrust.

Race interacts with the relationship to the offender in that a child is often asked to betray not only another family member and another member of their racial or ethnic group. “The Black family may be reporting at a later phase of the escalation of child abuse than are White families, perhaps due to the role of secrecy and insulation in the Black community.” (Dunkerley and Dahlberg 1999).

**Native Child Victims in the Justice System.** I am aware of no comparative studies of disclosure rates among NRIC and non-NRIC children, but expect that NRIC children would be less likely to disclose, for several reasons. Given a background of historical and contemporary trauma, it is unlikely children would be willing to cooperate, or that families would encourage cooperation, with authorities. If children and family members perceive that the federal justice system is not effective or acting legitimately in the interests of the tribe, they would be unlikely to participate in the justice process. Also from a perspective of historical trauma, the NRIC child might be less willing to impose their problems on other family members, and expose them to the embarrassment and concern associated with public investigation and prosecution of the case. NRIC children have been exposed to multiple forms of historical and contemporary trauma causing them difficulties in disclosing in a coherent manner. Since NRIC families blur the distinction between parents and other caregivers, more relatives and nonrelatives in the child’s personal network would be seen as close and with emotional connection. Given mistrust of the legal system in Indian Country, it is likely that cases would only be reported if they were relatively severe and chronic in nature. The investigative setting and interviewer, and prosecutorial process, can appear strange from a traditional Native perspective, since they invoke language and values foreign to Native culture.

### **Studying Patterns of CSA and Disclosure**

Two general research hypotheses, related to rates of CSA and the disclosure patterns of Native children suspected of being sexually victimized, can be derived from the current model:

1. In Indian Country, CSA is more likely to occur at higher rates, and within the extended family networks.
2. When these cases become known to justice authorities, suspected child victims are less likely to disclose their victimization during a forensic interview. They

are particularly less likely to disclose if they are young, male, and/or if the alleged offender is a member of their extended family.

The hypothesis that Natives living in Indian Country are at greater risk of CSA is supported directly by prevalence estimates compiled by national agencies, and indirectly by data documenting the prevalence of risk factors such as poverty and substance abuse problems. Little information exists, however, distinguishing CSA and disclosure among NRIC and non-NRIC children. This problem is partially remedied; however, by a study we conducted that compares 393 NRIC cases to 3006 cases involving non-NRIC children in the Southwestern U.S.<sup>4</sup>

The study is limited in that it is a secondary analysis of records concerning cases from only nine tribes and nations located solely in the Southwestern U.S., with a comparison group of cases from a nearby metropolitan area. The data did not allow us to investigate the effect of some variables on disclosure. For example, the full influence of the forensic interviewer's ethnicity could not be determined since none were Native American. Case characteristics associated with disclosure in other studies, such as the duration of the sexual abuse, were also not available for the current analysis. Still, the findings offer an opportunity to investigate some aspects of the model. The data set is quite large, compared to other investigations of CSA among Native American children, so some quantitative analyses were possible. Also, since the interviewers all used the same interviewing approach, differences in how the interviews were conducted was not a concern in assessing differences in NRIC and non-NRIC cases.

#### *Victim-Offender Relationships.*

Allegations for the overall sample were most often made against non-family members including unrelated acquaintances, parents, boy/girlfriend and strangers (42.0%), followed by immediate family members such as parents and stepparents and siblings (35.1%), and extended family members (22.9%). However, in NRIC cases, children are more than twice as likely to make allegations against extended family members (45.2%) than non-NRIC children (20.1%).

#### *Disclosure Rates and Patterns.*

**Bivariate Analyses.** Children residing in Indian Country were less likely to disclose to forensic interviewers (59.2%) than children in non-NRIC cases (65.7%). This relationship is strong, and highly statistically significant. The difference is most pronounced for children under

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<sup>4</sup> See Steele 2006 and Steele et al. 2004 for a complete description of the study population, methods and results.

age 6 (34.7% for NRIC, 50.3% for non-NRIC). Interestingly, as children mature, the difference in disclosure rates becomes smaller, to the point that NRIC adolescent children between ages 12 and 17 actually disclose at a slightly higher rate (80.4%) than their non-tribal counterparts (79.5%). The disclosure rate for males is significantly lower for both NRIC and non-NRIC cases. However, the disclosure rates for NRIC boys is considerably lower (37.3%) than for their non-NRIC counterparts (50.4%). This difference is particularly pronounced for those in the youngest age group (20.8%, compared to 40.0%).

The conceptual model predicts that NRIC children, due to family living and child rearing practices, would be less likely than their non-NRIC counterparts to disclose against members of their extended family. This prediction, in general, is supported. NRIC and non-NRIC children have similar disclosure rates (56.6 and 58.0%) against immediate-family members (parents, step-parents, and siblings). However, NRIC children are statistically significantly less likely (65.7%) than non-NRIC children (71.7%) to disclose abuse at the hands of their extended family and non-family members. Apparently, Native children make relatively less distinction between immediate-family and both extended- and non-family members. Anglos are much more likely to delineate the nuclear, extended and non-family, and imposing this scheme on Native cultures fails to recognize communal networks including clan members with no biological connection to the child. As such, non-biological clan members are not distinguished from complete strangers.

**Multivariate analysis.** The literature concerning a child's disclosure behavior in a formal forensic setting suggests that a number of factors are simultaneously related to their likelihood of disclosing abuse. These factors, including characteristics of the child, the alleged offender, the interviewer, and the community, are likely to be strongly co-related with each other as well. Therefore, two logistic multiple regression (LMR) analyses were conducted to simultaneously determine the relative association of these independent variables with child disclosure. The first analysis was conducted on the entire sample of cases (see Table 1).

**Table 1**  
**Multiple Logistic Regression: Independent Variables on Child Disclosure, Full Sample**

	Beta	SE	Wald	Sig.	O.R.
NRIC case	-.428	.201	4.55	.033	.652
Child female	.526	.117	19.87	.000	1.716
Child's age	-.150	.011	187.31	.000	1.166
Adult offender	-.420	.146	8.28	.004	.657
Native American offender	-.087	.018	24.60	.000	.916
Male offender	.997	.168	35.10	.000	2.711
Offender extended fam member	.711	.107	43.88	.000	2.036
Offender not a family member	.784	.090	76.08	.000	2.191
Female interviewer	.265	.108	6.00	.014	1.303
Hispanic interviewer	-.144	.106	1.83	.176	.866
Constant	-1.662	.316	34.57	.000	.156

Pseudo R<sup>2</sup> (Nagelkerke) = .213

Results showed that NRIC cases resulted in disclosure significantly less often than non-NRIC cases, at a ratio of approximately 2:3. For all children, if the victim was a female, and older, they were significantly more likely to disclose. If the alleged offender was an adult, and a Native American, the child was less likely to disclose abuse. Children were significantly more likely to disclose if the alleged offender was a male, member of their extended family (relative to immediate family), or non-family member (relative to immediate family). They were more likely to disclose if the interviewer was an Anglo non-Hispanic (rather than Hispanic) female although these findings are beyond the .10 probability threshold and thus suggestive rather than statistically significant. Overall, the LMR model explains 21% of the variance in disclosures.

In the second analysis, separate LMRs were conducted for NRIC and non-NRIC cases (see Table 2). We found that in NRIC cases if the child is a female, or if the alleged offender is a member of the child's extended family or a non-family member, they were more likely to disclose. Conversely, if the alleged offender is Native American, the child was less likely to disclose abuse. Other relationships were not statistically significant. In non-NRIC cases, older and female children were more likely to disclose. They were also more likely to disclose if the alleged offender was a male, an extended family or a non-family member, and if the interviewer was a female. Non-NRIC children were less likely to disclose CSA if the alleged offender is an adult or a Native American. Comparing the two groups, statistical relationships in the NRIC

sample are somewhat weaker, due to smaller sample size. However, the model's explanatory power is stronger for the NRIC sample ( $R^2 = .315$ ) than non-NRIC sample ( $R^2 = .208$ ).

**Table 2**  
**Multiple Logistic Regression: Independent Variables on**  
**Child Disclosure, NRIC and non-NRIC Cases**

	NRIC		Non-NRIC	
	Beta	O.R.	Beta	O.R.
Child female	.608 <sup>a</sup>	1.838	.532 <sup>c</sup>	1.703
Child's age	.208	.208	.142 <sup>c</sup>	1.152
Adult offender	-.769	.463	-.386 <sup>b</sup>	.680
Native American offender	-.181 <sup>b</sup>	.835	-.078 <sup>c</sup>	.925
Male offender	.672	1.958	1.012 <sup>c</sup>	2.752
Offender extended fam member	.636 <sup>b</sup>	1.889	.723 <sup>c</sup>	2.060
Off non family	.504 <sup>a</sup>	1.655	.807 <sup>c</sup>	2.242
Interviewer fem	.353	1.423	.257 <sup>b</sup>	1.293
Interviewer hisp	.152	1.165	-.173	.842
Constant	-2.610 <sup>b</sup>	.074	-1.742 <sup>c</sup>	.175

<sup>a</sup> = sig @ .05, <sup>b</sup> = sig @ .01, <sup>c</sup> = sig @ .001

Pseudo  $R^2$  (Nagelkerke) = .315 (tribal cases), .208 (non-tribal cases)

### Discussion and Recommendations

Native Americans consider children as special gifts and the future of the tribe (CSOM, 2001) and understand the danger of incest and other forms of inappropriate sexual behavior. However, strain induced by cultural conflict and historical trauma, mistrust of authorities, social disorganization, communal living patterns, and limited guardianship of vulnerable children from offenders who lack self control pose risks for CSA in Indian Country. When CSA occurs, it is less likely to be reported, and children are less likely to contribute to criminal investigations and prosecutions. Since children's testimony is critical in CSA cases, denials and limited disclosures decrease the likelihood of formal justice control of the offender, and consequent child protection.

Derived from this model were some research hypotheses, which were investigated with data from a study that compared patterns of CSA and disclosure in NRIC and non-NRIC cases. Each of the hypotheses was lent some empirical support. Indian Country children were more likely than their non-NRIC counterparts to be involved in cases where the alleged offender was a member of their extended family. They were also less likely to disclose abuse, particularly if the child was young and/or male, relative to their non-NRIC counterparts. While disclosure rates

were similar when allegations were made against a member of the immediate family, NRIC children were less likely to disclose against extended-family members and non-family.

***Policy Recommendations.***

Children living on tribal lands are at greater risk for harm associated with CSA: they are relatively more vulnerable to abuse, and institutions of control are less effective in intervening with it. As a result, recommendations can be made to reduce the risk of victimization, and to improve the control exerted over CSA by authorities in Indian Country.

*1. Reduce the risk factors associated with CSA.* Using a situational crime control perspective, CSA can be prevented by limiting the offender's exposure to crime precipitants, making children less accessible, and improving the guardianship of children. Public education, offender identification and treatment, and other control strategies reduce the chance that a potential offender will have their self-control diminished by drugs or alcohol. Limiting clandestine access to children can reduce their risk of abuse, and providing more capable guardianship could also reduce their risk. These changes will be effective only if there are some alterations in child rearing practices, and enhancements in non-familial supervision provided by teachers, recreation professionals, and others. More generally, reducing the strain resulting from poverty and social disorganization can improve the general welfare of citizens living in Indian Country and reduce the population of potential offenders. These improvements would entail a vast influx of human and economic resources, indicating a shift in cultural policies and priorities.

*2. Improve social control of CSA.* Justice outcomes can be improved in three ways. First, federal agency administrators should assign a higher priority to crimes occurring in Indian Country, provide training about the unique aspects of CSA cases, stabilize the labor force, and create career incentives for professionals assigned to Indian Country. Second, forensic interviewers should be trained and adapt their interviewing strategies to accommodate Native cultural differences. Third, Native groups and institutions should be encouraged to engage in a strategy of preventing CSA through strengthening culturally-relevant normative controls. Efforts to produce compliance by acting consistently with Native values and beliefs, rather than through threats of punishment, are likely to be more effective than those currently in practice. Strengthening Native institutions implies the expansion of sovereignty in Indian Country.

*3. Alleviate historical trauma.* The causes and consequences of CSA in Indian Country are rooted in the vast historical trauma experienced by members of Native cultures. Additional

research is needed to understand the consequences of historical trauma and its relationship to contemporary problems, and efforts should be extended to mitigate its pervasiveness and impact.

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