

**RESPONSE TO CALL FOR INPUT ON THE SALE
AND SEXUAL EXPLOITATION OF CHILDREN**

**Submitted to Special Rapporteur on the sale and sexual exploitation of children,
Maud de Boer, Office of the United Nations
High Commissioner for Human Rights (UNHCR)**

Submitted October 7, 2019

Submitted by:

Center for the Human Rights of Children
Loyola University Chicago, School of Law
25 E. Pearson St.
Chicago, IL 60611 USA
312.915.7541
www.luc.edu/chrc
Contact: Katherine Kaufka Walts, JD
kkaufkawalts@luc.edu

American Indian Center
3401 W. Ainsle Street
Chicago, IL 60625 USA
Contact: Heather Miller
hmillier@aicchicago.org
773.275.5871
www.aicchicago.org



I. Introduction

The Center for the Human Rights of Children at Loyola University Chicago, School of Law, was established in 2017 to pursue interdisciplinary research, outreach, education, and advocacy to address critical and complex issues affecting children and youth, locally and globally. The CHRC applies a human-rights approach to problems affecting children, reaffirming the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, including children. Moreover, it does so with respect for the rights and responsibilities of those entrusted with raising children.

In response to the systemic child trafficking crisis, the Center for the Human Rights of Children engages in a number of activities to elevate the distinct needs of children who are trafficked, to prevent child trafficking, and to respond to survivors of child trafficking, ensuring their dignity and rights are protected. The work at the CHRC includes research, outreach and education, training and consultation, capacity building, advocacy, and systems change. The CHRC collaborates with a continuously expanding network of individuals and organizations on a number of different projects both in the US and abroad.

The CHRC has developed expertise and knowledge related to child labor and/or sex trafficking in the US and abroad in a number of subject areas, including the intersection of child welfare and child trafficking, interviewing children, identifying child trafficking, safe harbor laws, legal needs for child trafficking victims, child trafficking policies and practice, child trafficking and medical field/health systems, legal representation and advocacy for child trafficking victim, privacy and confidentiality in working with child trafficking survivors, research, children and trafficking task forces, and promising practices. Most recently, we expanded our work to draw more attention to the issues facing Native American children who have been sexually exploited and/or sex trafficked.

This report is being submitted in collaboration with the American Indian Center of Chicago, Illinois, United States. The American Indian Center, Inc. (AIC) was founded in 1953, in response to the growing needs of an expanding, local American Indian population. The growing population was the result of the selective termination of tribal status, in concert with the Indian Relocation program of the 1950s, which brought thousands of American Indians from all over the country to metropolitan Chicago. Chicago was the only one of the five original relocation cities without a large in-state reservation. Thus, AIC was organized to help Native families cope with the transition from reservation to urban life. Chicago is unique in that there is a large urban Native American population even though there are no reservations.

This report focuses on the following four, interrelated topics that we believe deserve greater attention in the United States: 1) The Need to Improve Data Collection of Native Persons Vulnerable to Child Sex Trafficking and Sexual Exploitation, 2) The Need for More Research on

Native Sex Trafficking and Sexual Exploitation, 3) Historical and Systemic Racism Preventing Identification of Survivors, 4) The Importance of Supporting Culturally Informed Services.

Definition of American Indian/Alaskan Native:

It is important to begin this discussion with a definition of American Indian. Generally, terms such as American Indian, Native American and Alaska Native can all be used as a way to distinguish this group. According to the US census, American Indian, Native American, Alaskan Native refers to a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Historically other words have been used to describe this population including Indigenous American, aboriginal American, Amerindian, or Amerind, member of any of the aboriginal peoples of the Western Hemisphere. Alaskan Native people can be divided into five major groupings: Aleuts, Inupiat, Yuit, Athabascans and Tlingit and Haida. These groups are based on broad cultural and linguistic similarities of peoples living contiguously in different regions of Alaska. They do not represent political or tribal units.

Sources

We have used the following sources for the development of the report: NGO published reports, published academic reports and research, government reports, current legislation and governmental reports on its implementation, case studies, news articles, and consultation with the American Indian Center of Chicago.

Terminology

In authoring this this report, we use the terms “sale of children” and “sex trafficking” interchangeably as our foundational statutes and legal definitions addressing “sale of children” are defined under the Trafficking Victims Protection Act of 2000 (TVPA) and subsequent reauthorizations (TVPRA 2003, 2008, 2012, 2018) as “sex trafficking” of children. We also recognize that all child victims of sexual exploitation face many of the same challenges and emphasize the importance of improving efforts to sexual exploitation of *all* children. However, we have chosen to focus on the specific needs and issues facing Native American and Alaskan Indian victims of the sale and sexual exploitation of children in the United States. We know that Native American and Alaskan Indian children experience violence, poverty, and other adverse childhood experiences at significantly higher rates than any other population in the United States. Thus, we feel it is critical to address the current challenges, promising practices, and recommendations for improving protections and interventions for this specific population.

This report uses the term “victim” a legal term used to describe a wronged party, and “survivor” interchangeably. We recognize and respect the resiliency and perseverance of child survivors of sexual exploitation.

I. The Need to Improve Data Collection of Native Persons Vulnerable to Child Sex Trafficking and Sexual Exploitation

Since 2011, there have been several reports and papers written about poor data collection related to the sexual exploitation and sex trafficking of Native American children, which continues today.¹ The poor data available on this specific issue (sexual exploitation/trafficking) is a symptom of a systemic problem of poor data available on Native American and Alaskan Native people with regards to their overall population, particularly in urban areas. Since the beginning of the collaboration between CHRC and AIC, we have identified that many public systems and non-governmental organizations alike lack basic knowledge about the existence of Native Americans in Illinois. Chicago is unique in that there is a large urban Native American population even though there are no reservations. The Native American population began to grow in Chicago in the 1950's when the Federal government forcibly relocated large numbers of Native Americans from their reservations to cities like Chicago.

For example, even though Native people have been a part of the fabric of the city of Chicago for at least 60 years, there remains very little to no data available about this group beyond information collected in the census, and more recently, data available on the racial inequity resulting from rates of incarceration of Native persons in Illinois.² There is generally no data available regarding the size of the urban Native American population beyond the federally defined definition, which is problematic and controversial.³ In our collaborative work, CHRC and AIC have discovered that many organizations serving sex trafficking and sexual exploitation victims do not screen for Native persons. Moreover, they often do not know that Native persons live in Chicago and urban areas. Native Americans report that they are often classified as "Hispanic" by police, educational institutions, and social service providers. This renders Native persons "invisible" in urban communities like Chicago. This also contributes to lack of critical data about the number of urban Native American children who have experienced sexual exploitation. This permeates to every other issue, including data available on incidents of sex trafficking and sexual exploitation, and services available to this population. For example, in the city of Chicago and the state of Illinois, there is **no data** available about the incidents of sex trafficking or sexual exploitation of Native children.

¹ Department of Justice Fremming Paper Summary: Consultation Questions on Conducting Research and Providing Training and Technical Assistance on Human Trafficking of American Indians and Alaskan Natives <https://www.justice.gov/ovw/page/file/998081/download>; The Government Accountability Office Report on The HUMAN TRAFFICKING Action Needed to Identify the Number of Native American Victims Receiving Federally-funded Services; Indian Law Resource Center, <https://indianlaw.org/issue/ending-violence-against-native-women> <https://www.gao.gov/assets/690/683805.pdf>

² "Adversity and Resiliency for Chicago's First: The State of Racial Justice for American Indian Chicagoans," University of Illinois at Chicago, June, 2019, Retrieved from http://stateofracialjusticechicago.com/wp-content/uploads/IRRPP_TheStateOfRacialJusticeForAmericanIndianChicagoansReport.pdf

³ The discussion of how the US federal government formally defines "American Indian" and "Alaskan Native" are beyond the scope of this submission. The Center for the Human Rights of Children and the American Indian Center are happy to provide the Special Rapporteur more information upon request.

The lack of data on the sexual exploitation of Native Americans children at a national level is just as prevalent. In 2017, the United States Government Accountability Office (GAO) reviewed twelve federal grant programs addressing human trafficking, and federal data on the number of American Indian and Alaska Native (AI/AN) victims served through these programs.⁴ The GAO found that federal agencies were not collecting data on American Indian/Alaskan Indian victims as part of an investigation or from victim service providers for a number of reasons. These reasons include “lack of relevance to the investigation or to eligibility for services,” sensitivity of asking victims about their race or tribal affiliation, and concerns that collecting personal information about victims that could make them identifiable to traffickers or others in the community.⁵

Yet, organizations and service providers working with Native populations know that sex trafficking and sexual exploitation of Native women and children exist, and often exist at disproportionate levels relative to other populations. Cindy McCain, wife of the late Arizona Senator McCain testified during the Senate Committee on Indian Affairs (SCIA) on the problem of human trafficking in Indian Country and among Native Americans.⁶ Mrs. McCain stated that “victims are mostly Native American women and girls transported to the region specifically for sex trafficking. Many of these victims are under the age of 18—children being sold for sex, an organized crime of child abuse and rape.”⁷

Another challenge to collecting data of sex trafficking and sexual exploitation of Native children is the huge barriers to reporting these crimes. Barriers to reporting are most likely due to racism, sexism, cultural bias, history of colonialism and complex jurisdictional laws that have resulted in a lack of prevalence data and the challenges in obtaining such data. A number of studies from both the federal government and the human trafficking field have identified high rates of sexual exploitation of Native women and girls that are often unreported due to the 1) nature of the crime, 2) complexity of the definition of trafficking, and 3) jurisdictional maze of federal law, tribal law, and local law that prevents both victim identification and criminal justice intervention.⁸ This results in significant underreporting of sex trafficking and sexual exploitation crimes against Native American and American Indian children.

⁴ The United States Government Accountability Office Report to Requestors: HUMAN trafficking Information on Cases in Indian Country or that involve Native American Examined Federal Data on Investigations and Prosecutions

⁵ “Action Needed to Identify the Number of Native American Victims of Human Trafficking Receiving Federally Funded Services,” U Government Accountability Report, 2017 Retrieved from <https://www.gao.gov/assets/690/683805.pdf>

⁶ <https://rewire.news/article/2017/09/28/sold-sex-senate-committee-investigates-human-trafficking-native-women-children/>

⁷ <https://rewire.news/article/2017/09/28/sold-sex-senate-committee-investigates-human-trafficking-native-women-children/>

⁸ FRAMING PAPER SUMMARY: Consultation Questions on Conducting Research and Providing Training and Technical Assistance on Human Trafficking of American Indians and Alaska Natives United States Department of Justice, September 2017; “Women who come forward to report sexual violence are caught in a jurisdictional maze that

I. The Need for More Research on Native Sex Trafficking and Sexual Exploitation of Children

Coinciding with a lack of data on the sexual exploitation of Native children is the dearth of research on sex trafficking and sexual exploitation of Native children. However, we know that Native American/Indian Alaskan *women* suffer sexual violence at higher rates than any other population in the United States. According to a 2016 study funded by the National Institute of Justice, more than four in five American Indian and Alaska Native adults have experienced some form of violence in their lifetime, and more than half of all American Indian and Alaska Native women have experienced violence from an intimate partner.⁸ One study asserts that Native American women are trafficked far more frequently than any other racial group in the United States. (Logan, M., 2016).

There is a high correlation between children who are sexually exploited and sex trafficked and instances of prior abuse and neglect. Reports of neglect are disproportionately higher for American Indian/Alaska Native children than white children, and violence and alcohol abuse are more likely to be reported for American Indian/Alaska Native children than white children. (Earle, K. A., and Cross A., 2001).

American Indian and Alaska Native people suffer persistently high rates of victimization, including from sexual assault. According to a 2016 study funded by the National Institute of Justice, more than four in five American Indian and Alaska Native adults have experienced some form of violence in their lifetime, and more than half of all American Indian and Alaska Native women have experienced violence from an intimate partner.⁹ Current research shows that Native American women are 2.5 times more likely to experience sexual violence than other women.⁹ However, that statistic does not distinguish between sexual exploitation and other forms of sexual violence or between women and children. These distinctions are important legally and for the purposes of providing appropriate interventions, as well as prevention efforts for the purpose of sex trafficking and sexual exploitation. Initial research shows that there is a high rate of human trafficking within the Native American population, and perhaps higher than any other population. Clearly, we need more research to explore the impact of these crimes on this population.

Reports of neglect are disproportionately higher for American Indian/Alaska Native children than white children, and violence and alcohol abuse are more likely to be reported for American Indian/Alaska Native children than white children. We know that there is a high correlation between children who are sexually exploited and sex trafficked and instances of child abuse and neglect. Despite increasing national awareness of the problem of sex trafficking

federal, state and tribal police often cannot quickly sort out. Three justice systems — tribal, state and federal — are potentially involved in responding to sexual violence against Indigenous women.” Retrieved from <https://www.justice.gov/ovw/page/file/998081/download>

⁹ http://www.uihi.org/wp-content/uploads/2018/08/UIHI_sexual-violence_r601_pagesFINAL.pdf

and sexual exploitation of Native people, the victim's services response for this particular population in the United States is lacking.

In one report surveying four cities in the US and Canada as part of a 2015 study, an average of 40 percent of the women involved in sex trafficking identified as American Indian/Alaskan Native or First Nations. To illuminate how disproportionate these rates are, it is important to note that in not one of those cities did Native women represent more than 10 percent of the general population.¹⁰ Despite increasing national awareness of the problem of sex trafficking and sexual exploitation of Native people, the victim's services response for this particular population in the United States is lacking due to a dearth of data focused on sex trafficking and sexual exploitation. Moreover, existing research does not distinguish between the commercial sexual exploitation of American Indians and Alaska Natives on Indian land (as defined in 18 U.S.C. § 1151) and such exploitation occurring off-reservation or in urban areas, a distinction that is important in allocating resources to assist victims and tribes and to improve criminal justice responses.¹¹ Additionally, existing research does disaggregate data and the experiences of Native children versus adults, which can be important for developing appropriate prevention and intervention policies and services for this population.

There are also significant barriers to reporting sexual exploitation, which contributes to the lack of data and research of this crime. Barriers to reporting are most likely due to racism, sexism, cultural bias, history of colonialism and complex jurisdictional laws that have resulted in a lack of prevalence data and the challenges in obtaining such data, including the underreported nature of the crime and the range of definitions of human trafficking. (See below) A number of studies from both the federal government and the human trafficking field have identified high rates of sexual exploitation of Native women and girls, gaps in data and research on trafficking of AI/AN victims, and barriers that prevent law enforcement agencies and victim service providers from identifying and responding appropriately to Native victims.¹²

II. Historical and Systemic Racism Preventing Identification of Native Survivors of Sexual Exploitation and Sex Trafficking

Native persons in the United States have experienced a long and unfortunate history of genocide, displacement, forced family separation, and violence, including sexual violence. The results of these historical and systemic human rights abuses have created unique vulnerabilities in the Native American/Alaskan Indian Community to sex trafficking and sexual exploitation. Historically, indigenous women were raped by settlers and soldiers, including during the Trail of

¹⁰ Sweet, V. (2015). Trafficking in Native Communities. Published on 5/24/2015 by Indian Country Today Media Network. Retrieved from: <http://indiancountrytodaymedianetwork.com/2015/05/24/trafficking-native-communities-160475>

¹¹ FRAMING PAPER SUMMARY: Consultation Questions on Conducting Research and Providing Training and Technical Assistance on Human Trafficking of American Indians and Alaska Natives United States Department of Justice September 2017

¹² *Id.*

Tears and the Long Walk. Such attacks were not random or individual; rape is a tool of conquest and colonization. The attitudes towards Indigenous peoples that underpin such human rights abuses continue to be present in the United States today.¹³

About one-quarter of all cases of family violence (violence involving spouses) against American Indians involve a non-Indian perpetrator, a rate of inter-racial violence five times the rate of inter-racial violence involving other racial groups.¹⁴ White offenders compared to American Indian and Alaska Native offenders commit a larger percent of victimization against American Indian and Alaskan Native women.¹⁵ More research is required to understand the relationship between inter familial violence, including sex trafficking and sexual exploitation, and perpetrators from outside the Native American/Alaskan Indian community.

Due to ongoing settler colonialism and genocide, Native American and Alaskan Indian persons today experience poverty at higher rates than any other population in the United States. Poverty contributes to a number of less than desirable environmental conditions that create increased stress and trauma. Poverty also increases the likely who that a child will be exploited for labor and or sex. Approximately 26% of American Indian and Alaskan Native persons live in poverty, compared with 13% of the general population and 10% of White Americans. Single parent American Indian and Alaskan Native families have the highest poverty rates in the country.¹⁶

III. The Importance of Supporting Culturally Informed Services

With well over 550 federally recognized tribes, there are only 26 Native specific shelters in existence today with only a few more in development.¹⁷

The barriers of social isolation preclude some American Indian and Alaska Native women from obtaining adequate medical care including the availability of rape kits being performed by trained medical staff to aid in prosecution.¹⁸ The number of youth shelters for Native American or Alaskan Native children outside of programming for those labeled “juvenile delinquents”

¹³ <https://www.amnestyusa.org/reports/maze-of-injustice/>

¹⁴ Greenfeld, Lawrence & Smith, Steven. American Indians and Crime. Bureau of Justice Statistics, US Department of Justice, Office of Justice Programs, February 1999. NCJ 173386. <http://www.bjs.gov/content/pub/pdf/aic.pdf>

¹⁵ U.S. Department of Justice. Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is known. 2016, Retrieved from <https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men>

¹⁶ National Child and Neglect Data System (2002). Child maltreatment 2002. Washington, DC: Department of Health and Human Services , Administration on Children and Families.

¹⁷ Mending the Sacred Hoop Technical Assistance Project. (2003) Addressing Violence in Indian Country: Introductory Manual. <http://www.msh-ta.org/Resources/Addressing%20Violence%20in%20Indian%20Country.pdf>

¹⁸ U.S. Department of Justice. Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What is known. June 2016, Retrieved from <https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men>

who have run away from sexual exploitation or violence is unknown, and they may very well not exist.

Incorporating cultural traditions and healing practices into programs can be a way to encourage healing and transformation for American Indian victims of trafficking. For example, allowing victims to burn sage, sweetgrass and tobacco are important to the healing process. Many shelters for sexually exploited youth do not allow any use of tobacco or herbs. Incorporating teachings of the medicine wheel, traditional stories and cultural values can provide victims with a sense of understanding and guidance that is often missing from traditional recovery programs. At the American Indian Center, staff also have access to elders to assist in providing culturally informed, and trauma-informed care and services, should the victim be interested in these services.

Culturally informed programs should also be developed and staffed by Native Americans. Because of the distrust of government programs and services, oftentimes, Native Americans can benefit from being served by someone who looks like them and can share their experience. Victims feel more comfortable and willing to come forward if someone who has knowledge and understanding of their history and background greets them. Providing funding and training to build this workforce is critical to providing culturally informed services

V. Recommendations

1. **The US Government Should Prioritize screening of Native American/Alaskan Indian children as part of its anti-sex trafficking and sexual exploitation efforts to improve data collection.** Both public, child-serving systems (i.e., child welfare/protection, juvenile justice, education) and civil society organizations and service providers for victims of human trafficking, should be screening for Native children. This includes screening children who meet the federal definition of Native American/Alaskan Indian *and* those who self-identify as Native American/Alaskan Indian, but do not meet the federal definition. This data is critical for developing culturally appropriate policies, prevention efforts, and intervention efforts to protect Native children affected by sex trafficking and sexual exploitation.
2. **Promote research efforts to address sex trafficking and sexual exploitation of Native American and Alaskan Indian children.** Research and data on the unique experiences and needs of this population will be a critical step forward to inform policy, programs, and services designed to both prevent and respond to sex trafficking and sexual exploitation of Native American/Alaskan Indian children. Ideally, this research would involve members of the Native American/Alaskan Indian community in the research design and implementation.
3. **Recognize that sex trafficking and sexual exploitation of Native American/Alaskan Indian children is part of a historical genocide and systemic forms of oppression against Native persons.** Any program or effort to address sexual exploitation and sex trafficking of Native children *must* also understand other systemic forms of violence and

discrimination that intersect with these crimes – poverty, violence, forcible displacement, discrimination, among others. Federally funded programs should include funds for Native American/Alaskan Indian service providers, people who understand their history and can use that cultural expertise to more effectively inform their programs and services.


- 4. Support programs that provide culturally informed services to Native American/Alaskan Indian children.** Fund American Indian Health Service programs to develop programs to serve victims of child sexual exploitation and sex trafficking. Ensure that *all* federally funded programs serving child trafficking and sexual exploitation victims include mandates to also include culturally informed services to Native American/Alaskan Indian children. This includes providing funding and resources to train staff to best serve Native American/Alaskan Indian victims of crime, funding programs to create culturally informed shelters for recovery that allow for the practice of Native American traditions, and funding to train more Native American /Alaskan Indian people to provide services to this population.

We thank you for the opportunity to contribute to your efforts, and we are available to answer any further questions.

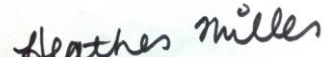
Sincerely,



Chlece Neal, JD, MSW, Child
Trafficking Coordinator,
Center for the Human of
Children, School of Law
Loyola University Chicago
cneal2@luc.edu
www.LUC.edu/chrc



Katherine Kaufka Walts, JD,
Director
Center for the Human of
Children, School of Law
Loyola University Chicago
kkaufkawalts@luc.edu
www.LUC.edu/chrc



Heather Miller, Executive
Director
American Indian Center
Chicago, Illinois, USA
hmill@aicchicago.org
<https://www.aicchicago.org/>

Appendix: In support of our submission, we would also like to include the following report: Human and Sex Trafficking, Trends and Insights across Indian Country (2016), by the National Congress of American Indians Policy Research Center. Retrievable at:

<http://www.ncai.org/policy-research-center/research-data/prc-publications/TraffickingBrief.pdf>