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Child Support Enforcement: Tribal Programs

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July 5, 2016

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Congressional Research Service
7-5700
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R41204

CRS REPORT
Prepared for Members and
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Summary

The Child Support Enforcement (CSE) program was enacted in 1975 as a federal-state program. Its mission is to enhance the well-being of children by helping custodial parents and children obtain financial support from the noncustodial parents. Although states were always required to provide CSE services to members of Indian tribes and tribal organizations who were part of their CSE caseloads, tribes were not specifically included in the CSE statute until the 1996 welfare reform law (P.L. 104-193). The 1996 law allowed any state that has Indian country within its borders to enter into a cooperative agreement with an Indian tribe if the tribe demonstrated that it had an established tribal court system with the authority to establish paternity, and establish, modify, and enforce child support orders. In addition, P.L. 104-193 gave the Secretary of the Department of Health and Human Services (HHS) the authority to make direct payments to Indian tribes that have approved CSE programs.

There are currently 61 tribal CSE programs, 57 comprehensive tribal CSE programs and 4 start-up tribal CSE programs (as of April 2016). In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, the tribal CSE program provides direct federal funding equal to 100% of approved and allowable CSE expenditures during the start-up period, provides 90% federal funding for approved CSE programs operated by tribes or tribal organizations during the first three years of full program operation, and provides 80% federal funding thereafter. In FY2014, the 57 tribes or tribal organizations with comprehensive tribal CSE programs had an aggregate of 50,892 cases and collected over $36 million in total child support collections.

Tribal CSE program services include parent location, paternity establishment, establishment of child support orders, review and modification of child support orders, enforcement/collection of child support payments, and distribution of child support. Indian tribes and tribal organizations that choose to operate a tribal CSE program must run programs that conform to the objectives of the state CSE program and that are in compliance with the tribal CSE program regulations. However, federal regulations provide some flexibility that allows tribes and tribal organizations to develop and administer tribal CSE programs that are consistent with the tribe's law and tradition.

In 2010, about 52% of the nearly 1 million American Indian and Alaska Native children were living with only one of their parents. In 2014, about 66% of American Indian and Alaska Native children were born to unmarried women. This report presents some demographic data on the number of Native Americans living in the United States and also provides statistical data on tribal CSE programs. Although the data are useful in developing an understanding of tribal CSE programs, they should not be used to draw conclusions regarding the effectiveness of tribal CSE programs.

This report describes the components of tribal CSE programs and discusses issues related to jurisdictional matters, paternity establishment, child support enforcement methods, nonpayment problems, and consistency of tribal programs with each other and with state CSE programs. The report also includes three appendices. **Appendix A** includes six tables that arrange each tribe according to its ranking in FY2014 on several CSE program indicators. **Appendix B** displays FY2016 information that shows the 57 comprehensive tribal CSE programs. It also shows the four start-up tribal CSE programs. **Appendix C** shows the American Indian and Alaska Native household population for 2005/2010 for tribes with CSE programs.

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Introduction

Child support is the cash payment that a noncustodial parent is obligated to pay for the financial support of his or her children. All 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands operate Child Support Enforcement (CSE) programs. Historically, states were required to provide CSE services to members of Indian tribes and tribal organizations who were part of their CSE caseloads. Although tribes were not specifically included in the CSE statute until the 1996 welfare reform law, several tribes had negotiated agreements (e.g., informal, cooperative, intergovernmental, and joint powers) with some states in a mutual effort to serve Native American[1] children. The 1996 welfare reform law (P.L. 104-193) allowed direct federal funding of approved tribal CSE programs.[2]

As of April 20, 2016, there were 61 tribal CSE programs.[3] (See **Table B-1** and **Table B-2**.) The Indian tribes or tribal organizations with tribal CSE programs are listed in the text box on the next page and are shown on the map in **Figure 1**. In FY2014, the 57 tribes or tribal organizations with comprehensive CSE programs distributed over $36 million in total child support collections in FY2014 to 50,892 cases in the CSE tribal program.

Only federally recognized tribes and tribal organizations are eligible to operate tribal CSE programs. As of March 2016, there are 566 federally recognized Indian tribes.[4] Although tribal CSE programs do not have to have a court system per se, they are required to have either a judicial or administrative system to hear, establish, and enforce child support orders.[5] Moreover, tribal CSE programs are required to ensure that the due process rights of participants are protected. According to the federal Office of Child Support Enforcement (OCSE) in the U.S. Department of Health and Human Services (HHS), it may be necessary to make adjustments to an existing court system or to develop an administrative process under a start-up tribal CSE program.[6] However, according to OCSE, when a tribe applies for funding to operate a

[1] In this report, the terms "Native American," "Indian," and "AIAN" will be used interchangeably. They all mean American Indians and Alaska Natives ("Alaska Natives" includes the American Indians, Eskimos (Inuit and Yupik), and Aleuts of Alaska).

[2] Federal regulations that were published in their final form in 2004, rather than the federal law, specified the level of federal funding. Pursuant to title 45 Code of Federal Regulation (C.F.R.) Section 309.130(c), 100% federal funding is available for tribal CSE programs during the start-up period, 90% federal funding during the first three years that the program is fully operational, and 80% federal funding thereafter.

[3] U.S. Department of Health and Human Services, Office of Child Support Enforcement, List of Tribal CSE Programs, https://ocse.acf.hhs.gov/int/directories/index.cfm?fuseaction=main.tribalivd.

[4] "Federally recognized" means these tribes and groups have a special, legal relationship with the U.S. government. This relationship is referred to as a government-to-government relationship. A number of Indian tribes and groups in the U.S. do not have a federally recognized status, although some are state-recognized. This means they have no relations with the Bureau of Indian Affairs (BIA) or the programs it operates. See the National Conference of State Legislatures website, http://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx. Also see *Federal Register, vol. 81, no. 19*, Friday, January 29, 2016, Notices, p. 5019.

[5] About 275 federally recognized tribes have tribal courts and 23 have Courts of Indian Offenses, according to the National Tribal Justice Resource Center of the National American Indian Court Judges Association. Tribal courts vary widely with respect to the types of cases heard, and the law applied in each is distinctly unique to each tribe. Some tribal courts resemble Western-style courts where written laws and rules of court procedure are applied. However, an increasing number of tribes are returning to their traditional means of resolving disputes through the use of peacemaking, elders' councils, and sentencing circles; http://www.tribalresourcecenter.org/tribalcourts/history.asp.

[6] In FY2016, there were 4 start-up tribal CSE programs. A start-up tribal program does not have to have all of the 14 CSE program components mandated by federal regulations.

comprehensive tribal CSE program,[7] it must demonstrate that the judicial or administrative process is sufficient to establish and enforce child support orders. Thus, the universe of tribes that are potentially eligible to operate a tribal CSE program may not be as high as 566 because the tribe must have a court system (which about 298 tribes have) or an administrative system. The number of potentially eligible tribes is further reduced because tribes must have at least 100 children under their jurisdiction, and many tribes do not meet this requirement.

Table 1. CSE Tribal Programs

Alabama-Coushatta Tribe of TX	Mille Lacs Band of Ojibwe Indian Reservation
Aleutian/Pribiloff Islands Association	Modoc Tribe of OK
Apache Tribe of OK*	Muscogee (Creek) Nation
Blackfeet Nation	Navajo Nation
Central Council Tlingit and Haida Indian	Nez Perce Tribe
Cherokee Nation	Nooksack Indian Tribe
Chickasaw Nation	Northern Arapaho Tribe
Chippewa Cree Tribe	Oneida Tribe of Indians of WI
Coeur D' Alene Tribe	Osage Tribe of OK
Comanche Nation of OK	Penobscot Nation
Confederate Tribe of Salish and Kootenai	Ponca Tribe of OK
Confederated Tribes of the Colville Reservation	Port Gamble S'Klallam Tribe
Confederated Tribes of the Umatilla Indian Reservation	Prairie Band Potawatomi Nation
Delaware Tribe of Indians*	Pueblo of Zuni
Eastern Band of Cherokee Indians	Puyallup Tribe of Indians
Eastern Shoshone Tribe	Quinault Indian Nation
Forest County Potawatomi Community	Red Cliff Band of Lake Superior Chippewas
Fort Belknap Indian Community	Red Lake Band of Chippewa Indians
Ho-Chunk Nation	Sac & Fox Tribe (Meskwaki Nation)
Kaw Nation	Saint Regis Mohawk Tribe
Keweenaw Bay Indian Community	Shinnecock Indian Nation*
Kickapoo Tribe in KS	Shoshone-Bannock Tribes*
Kickapoo Tribe of OK	Sisseton-Wahpeton Oyate Sioux Tribe
Klamath Tribes	Standing Rock Sioux Tribe
Lac Courte Oreilles	Stockbridge-Munsee Community
Lac Du Flambeau Band of Lake Superior Chippewa Indians	The Suquamish Tribe

[7] In FY2016, there were 57 comprehensive tribal CSE programs. A tribal program is considered comprehensive if it has all of the 14 program components stipulated in the federal tribal CSE regulations.

Leech Lake Band of Ojibwe	Three Affiliated Tribes
Lummi Nation	Tulalip Tribes
Menominee Indian Tribe of WI	White Earth Nation
Mescalero Apache Tribe	Winnebago Tribe of NE
	Yurok Tribe

Source: Data from the U.S. Department of Health and Human Services, Office of Child Support Enforcement and data from the following webpage—http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf, April 20, 2016.

Note: * denotes start-up programs

Because sufficient demographic and social statistics on Indian tribal members are not collected by federal or other entities, it is difficult to estimate how many children under tribal jurisdiction are *not* covered by tribal CSE programs. Most estimates are derived from Census counts, which are based on race, not tribal membership. (See the discussion under "Data" below.) One estimate based on American Community Survey (ACS) racial data found that, in 2014, about 53% of the 631,831 American Indian and Alaska Native children (i.e., roughly 335,000 children) were living with only one of their parents.[8] In 2014, about 66% of American Indian and Alaska Native children were born to unmarried women (again, according to race).[9]

This report provides a brief legislative history of CSE provisions related to tribes, presents basic information on tribal CSE programs, describes the information that tribal CSE programs must contain in order to be approved for federal funding, displays data on current tribal CSE programs,[10] and discusses issues related to ensuring that Native American children receive the child support to which they are entitled. The report also includes three appendices. **Appendix A** includes six tables that arrange each tribe according to its ranking in FY2014 on several CSE program features or indicators. **Appendix B** displays FY2016 information that shows the 57 comprehensive tribal CSE programs. It also names the four start-up tribal CSE programs. **Appendix C** shows estimates of total population for each tribe that operates a tribal CSE program.

Background

The CSE program was enacted in 1975 as a federal-state program (Title IV-D of the Social Security Act) to help strengthen families by securing financial support for children from their noncustodial parent on a consistent and continuing basis and by helping some families to remain self-sufficient and off public assistance. The mission of the CSE program has shifted and

[8] In 2014, the comparable percentages of children living in one-parent households for other groups were as follows: 17% of Asian American and Pacific Islander children, 25% of white children, 42% of Hispanic children, and 66% of black children. (Source: Annie E. Casey Foundation, Kids Count Data Center, Data for 2014, http://datacenter.kidscount.org/data/tables/107-children-in-single-parent-families-by-race?loc=1&loct=1#detailed/1/any/false/869,36,868,867,133/10,11,9,12,1,185,13/432,431.)

[9] Brady E. Hamilton, Joyce A. Martin, Michelle J.K. Osterman, Sally C. Curtin, and T.J. Mathews, "Births: Final Data for 2014," U.S. Department of Health and Human Services, National Center for Health Statistics, *National Vital Statistics Reports*, vol. 64, no. 12, December 23, 2015, Table 15.

[10] In FY2014, the 57 tribes with comprehensive CSE programs served about 51,000 cases. A CSE case may include more than one child. OCSE defines a CSE "case" as a noncustodial parent (mother, father, or putative/alleged father) who is now or eventually may be obligated under law for the support of a child or children receiving services under the CSE program. If the noncustodial parent owes support for two children by different women, that would be considered two cases; if both children have the same mother, that would be considered one case.

expanded over the years. It has evolved from being a program primarily focused on welfare cost recovery to a program that focuses more on enhancing the well-being of children by obtaining child support from noncustodial parents and by emphasizing the personal responsibility of both parents to their children. Child support payments enable parents who do not live with their children to fulfill their financial responsibility to their children by contributing to the payment of childrearing costs.

The CSE program currently provides seven major services on behalf of children: (1) parent location, (2) paternity establishment, (3) establishment of child support orders, (4) review and modification of child support orders, (5) enforcement/collection of child support payments, (6) distribution of child support payments, and (7) establishment and enforcement of medical support. The CSE program serves both families that receive Temporary Assistance for Needy Families (TANF) benefits and those who do not. All 50 states and four jurisdictions (the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands) operate CSE programs. In addition, 61 tribes or tribal organizations have CSE programs. The CSE program is administered by the federal Office of Child Support Enforcement (OCSE), which is in the Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS).

In the early days of child support enforcement, states were required to cooperate in interstate CSE cases, but problems arose stemming from the autonomy of local courts. Family law traditionally had been under the jurisdiction of state and local governments, and citizens fell under the jurisdiction of the courts where they lived. Thus, when parents lived in different states, conflicts arose with regard to which state's rules applied to the case in question. During the 1930s and 1940s, domestic/family law under the jurisdiction of state and local courts was used to establish and enforce child support obligations when the noncustodial parent, custodial parent, and child lived in the same state. But when noncustodial parents lived out of state, enforcing child support was cumbersome and ineffective. Often, the only option in those cases was to extradite the noncustodial parent and, when successful, jail the person for nonpayment of child support. This procedure, which was rarely used, generally punished the delinquent noncustodial parent, but it left the abandoned family without financial support. Even up until the late 1990s, many commentators and CSE staff said that interstate cases were the most difficult child support orders to enforce. Others, however, noted that when a child support case involved a Native American child, the case moved to another level of complexity.

Before enactment of the 1996 welfare reform law (P.L. 104-193), the CSE statute placed the authority to administer the delivery of CSE services solely with the states.[11] However, within much of Indian country, the authority of state and local governments was very limited or nonexistent. Thus, states were limited in their ability to provide CSE services on tribal lands and, vice versa, Indian families had difficulty obtaining CSE services from the state CSE programs.[12] Pursuant to the Constitution, numerous court decisions, and federal law, Indian tribes have the authority to make and enforce laws, to adjudicate civil and criminal disputes (including domestic relations cases), to tax, and to license, regarding members and other Indians within their

[11] At state option, CSE services can be administered by local units of government. In most of the states (29 states and the District of Columbia), the CSE program is state administered with offices in many local areas. However, 14 states have programs that are locally (i.e., county) administered; and eight states have programs that are state administered in some counties and locally administered in others (two of these states indicated that they also use private contractors). (Source: OCSE, Intergovernmental Referral Guide, Section A1 for each of the states, January 2008, http://ocse.acf.hhs.gov/ext/irg/sps/selectastate.cfm.)

[12] *Federal Register*, vol. 69, no. 61, March 30, 2004, Tribal Child Support Enforcement Programs, preamble of final rule, p. 16638.

jurisdictions. State power is limited unless Congress has authorized it. Therefore, prior to the 1996 welfare reform legislation, states that attempted to provide CSE services on tribal lands were restricted in their authority to establish paternity and to establish and enforce child support orders. During the pre-1996 period, cooperative agreements between Indian tribes and states were the primary method by which Indian children (especially those living on reservations) received CSE services.[13]

CSE Provisions Related to Indian Tribes and Tribal Organizations

This section describes federal laws relating to child support that specifically mention Indian tribes and tribal organizations.

In 1994, P.L. 103-383 (the Federal Full Faith and Credit for Child Support Orders Act) was enacted. Section 3(a) of the 1994 act required a state to recognize and enforce another state's child support order. "State" is defined as "a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in Section 1151 of Title 18 of the U.S. Code)."[14] Therefore, states and tribes are required to recognize and enforce valid tribal child support orders, without regard to whether such orders were issued by a state or tribal court or agency.

In 1996, P.L. 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) included two CSE provisions pertaining to Indian tribes. First, it allowed states to enter into cooperative agreements with Indian tribes and tribal organizations,[15] and second, it authorized the HHS Secretary to provide direct federal funding to Indian tribes. The 1996 law allowed any state that has Indian country (as defined in 18 U.S.C. 1151) within its borders to enter into a cooperative agreement with an Indian tribe or tribal organization if the tribe demonstrated that it had an established tribal court system with the authority to establish paternity, and establish, modify, and enforce child support orders.[16] In addition, P.L. 104-193 gave the HHS Secretary the

[13] Office of Child Support Enforcement, Action Transmittal OCSE-AT-98-21, "Implementing Section 454(33) of the Social Security Act, Cooperative Agreements Between Indian Tribes and State Agencies Operating a State Child Support Enforcement Program Under Title IV-D of the Act," July 28, 1998, p. 1.

[14] 28 U.S.C. 1738B(b). "Indian country" is defined in 18 U.S.C. 1151 as "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

[15] Prior to the 1996 law, CSE state plan requirements only included provisions for states to cooperate with other states in interstate CSE cases. Moreover, because states generally did not have jurisdiction on Indian reservations, a tribe would enter into an agreement with the state to recognize the state (or county) jurisdiction on tribal lands for the sole purpose of child support enforcement. In such agreements, the tribe generally allowed the CSE agency to extend CSE procedures to the reservation. If under such agreement the CSE agency requested the tribe to carry out a child support enforcement activity, the tribe had to perform the child support enforcement function in accordance with federal CSE regulations. The 1996 law modified the federal CSE law that required states to cooperate with other states to also include cooperation with all tribal CSE programs. Further, under the 1996 law, a cooperative agreement with a tribal entity does not require that tribal law conform with federal CSE regulations in order for the state to receive federal CSE matching funds for the CSE services provided to the family (i.e., the tribe would receive the payment specified in the cooperative agreement and the state or locality would be entitled to federal matching funds for CSE expenditures made pursuant to the agreement). See Office of Child Support Enforcement, "Implementing section 454(33) of the Social Security Act, Cooperative Agreements Between Indian Tribes and State Agencies Operating a State Chile Support Enforcement Program Under Title IV-D of the Act," OCSE-AT-98-21, July 28, 1998.

[16] 42 U.S.C. 654(33). This provision defines tribes and tribal organizations in accordance with §4 of the Indian Self-Determination and Education Assistance Act (P.L. 93-638, as amended), which defines "Indian tribe" as a federally (continued...)

authority to make direct payments to Indian tribes that have approved CSE programs. In contrast to the federal matching rate of 66% for CSE programs run by the states or territories, the CSE program provides direct federal funding equal to 100% of approved and allowable CSE expenditures during the start-up period, provides 90% federal funding for approved CSE programs operated by tribes or tribal organizations during the first three years of full program operation, and provides 80% federal funding thereafter.[17]

Finally, in 1997, P.L. 105-33 (the Balanced Budget Act of 1997), which in part made numerous technical amendments to the 1996 welfare reform law (P.L. 104-193), made minor changes to eliminate ambiguity in the provision that allowed state CSE agencies to enter into cooperative agreements with an Indian tribe or tribal organization. The 1997 act also clarified that direct federal funding could be given to an Indian tribe or tribal organization that demonstrates the capacity to operate a tribal CSE program that meets the objectives of the CSE program, "including the establishment of paternity, establishment, modification, and enforcement of support orders, and location of absent parents."[18]

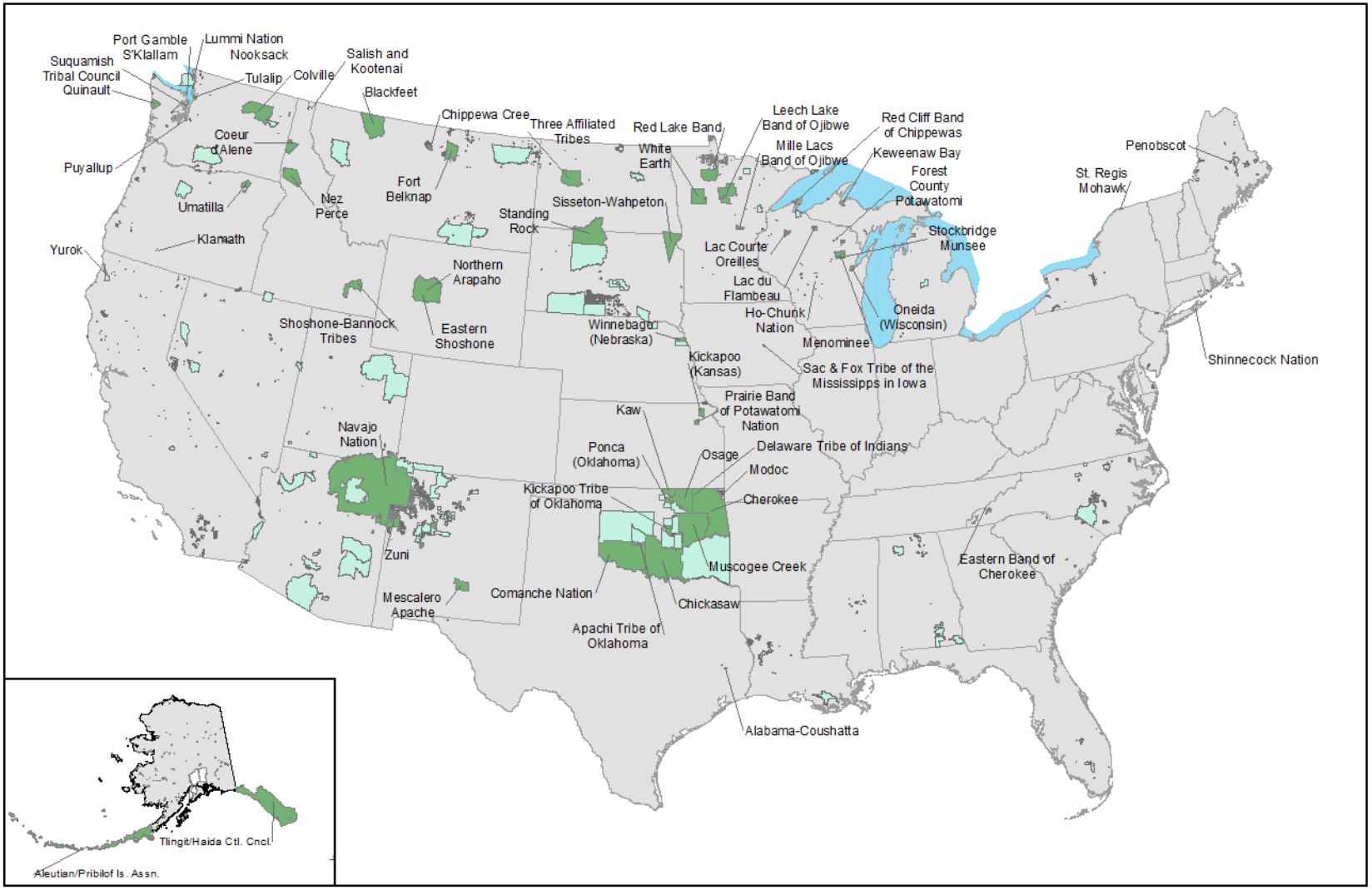
(...continued)

recognized tribe or an Alaska Native regional or village corporation, and defines "tribal organization" as a tribal government, an organization established by a tribal government, or a community organization established by tribal members (25 U.S.C. 450b(e), (l)).

[17] 45 C.F.R. §309.130(c), p. 326 (October 1, 2015 edition).

[18] 42 U.S.C. 655(f). According to OCSE-AT-98-21 (July 28, 1998), it is not necessary that the tribe comply with every federal CSE regulation in order to qualify for a cooperative agreement with a state CSE agency.

Figure 1. Map of Tribal CSE Programs



Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: The map shows the locations of the 61 tribal CSE programs (57 comprehensive and 4 start-up). Tribal CSE programs are labeled and shaded. Areas of tribes without tribal CSE programs are outlined, but not labeled or shaded. Hawaii is not shown because it has no federally recognized Indian tribes. The Comanche Nation area shown is the Kiowa-Comanche-Apache Oklahoma Tribal Statistical Area (OTSA) determined by the Census Bureau. Alaska areas shown are Alaska Native Regional Corporation (ANRC) statistical areas determined by the Census Bureau.

Tribal CSE Programs

Part of the mission of the federal Office of Child Support Enforcement (OCSE) is to provide direction, guidance, technical assistance, and oversight to state and tribal CSE program offices. The Assistant Secretary for Children and Families is the official director of OCSE, but the deputy director/commissioner manages daily operation of the OCSE. OCSE's Division of Special Staffs works with tribal CSE programs. In addition, there are federal CSE staff in each of the Administration for Children and Families' 10 regional offices who are assigned to work on tribal matters. Regional office staff work directly with states and tribes on program implementation and operations. Central and regional offices collaborate to assess state and tribal needs, and to provide technical assistance, policy clarification, training, and support for CSE programs.[19]

Indian tribes and tribal organizations that choose to operate a tribal CSE program must run programs that conform to the objectives of the state CSE program and are in compliance with the tribal CSE program regulations. However, federal regulations provide some flexibility that allows tribes and tribal organizations to develop and administer tribal CSE programs that are consistent with the tribe's law and tradition. Moreover, some CSE program documents indicate that tribes and tribal organizations should review the regulatory requirements to determine if a CSE program is appropriate for their tribe or tribal organization.[20]

Requirements for Operating a Tribal CSE Program

A tribal CSE plan must include the following components in order to be approved by HHS and thereby receive federal funds for its operation:[21] (1) a description of the population subject to the jurisdiction of the tribal court or administrative agency for child support purposes, (2) evidence that the tribe has in place procedures for accepting all applications for CSE services and providing CSE services required by law and regulation, (3) assurance that due process rights are protected, (4) administrative and management procedures, (5) safeguarding procedures, (6) maintenance of records, (7) copies of applicable tribal laws and regulations, (8) procedures for the location of noncustodial parents, (9) procedures for the establishment of paternity, (10) guidelines for the establishment and modification of child support obligations, (11) procedures for income withholding, (12) procedures for the distribution of child support collections, (13) procedures for intergovernmental case processing, and (14) tribally determined performance targets.[22]

In addition, federal law and regulations permit tribes or tribal organizations that cannot satisfy all of the 14 requirements but that can demonstrate their capacity to operate a CSE program to request start-up funding.[23] Such tribes or tribal organizations must submit a program development

[19] Office of Child Support Enforcement, "Building a Tribal IV-D Program: A Guide to the Start-Up Application Process," Information Memorandum IM-05-06, June 22, 2005, p. 1.

[20] Ibid, p. 4.

[21] A tribe or tribal organization may submit a tribal CSE program application at any time. The HHS Secretary or his or her designee must determine whether the application meets the specified requirements within 90 days of receipt. If the HHS Secretary or designee needs additional information, the tribe will be notified to provide the needed material. The HHS Secretary or the designee must approve or disapprove the application within 45 days of receipt of the additional information. A tribe or tribal organization may re-apply at any time after it has resolved the matter that led to the disapproval of its CSE program. (Source: Title 45 C.F.R. Sections 309.35 and 309.50, p. 317 and p. 319 (October 1, 2015 edition).)

[22] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16643. Also see 45 C.F.R. §309.65, p. 320 (October 1, 2015 edition).

[23] 45 C.F.R. §309.16, p. 316 (October 1, 2015 edition). (Note: In this context, the term "capacity" generally means (continued...)

plan to HHS that indicates their ability to meet certain milestones, and meet the 14 required components mentioned above within a certain time frame.

Jurisdictional Requirement Related to a Minimum Number of Children

There are 566 federally recognized tribal governments in the United States. According to Census Bureau data, based on race, there were 2.9 million persons who classified themselves as solely American Indian or Alaska Native (AIAN) in 2010, representing about 1% of the U.S. population.[24] The 2010 Census data indicate that 30% of AIAN persons are under the age of 18.[25] Because the enrollment of federally recognized tribes varies widely (some tribes have fewer than 10 persons while others have over 200,000 persons)[26] it is likely that many tribes will have fewer than 100 children under age 18.

To obtain approval of its tribal CSE plan, a tribe or tribal organization must certify that there are at least 100 children under the age of majority (as defined by tribal law or code) in the population subject to the jurisdiction of the tribal court or administrative agency.[27] This may include Indian children who are not members of the applying tribe but who reside on the reservation. In addition, children who are members of the tribe do not have to live on the tribe's reservation in order for the tribal court or administrative agency to have jurisdiction over such children. Moreover, children of employees of the tribe and its tribal enterprises or privately owned tribal businesses on the reservation who reside either on or off reservation may also be included, provided they are subject to the jurisdiction of the tribal court or administrative agency.[28]

Administrative and Management Procedures and Recordkeeping

The tribal CSE plan must include a description of the tribal administering agency and the distribution of responsibilities within the agency. The plan must include evidence that all federal funds and amounts collected by the tribal CSE agency are protected against loss. Tribes and tribal organizations may comply with this requirement by submitting documentation that every person who receives, disburses, handles, or has access to or control over funds collected is covered by a bond or insurance sufficient to cover all losses. The plan must include procedures under which notices of child support collected, itemized by month of collection, are provided to families receiving services under the tribal CSE program at least once a year and to either the custodial or noncustodial parent upon request.[29]

If the tribal CSE agency intends to charge an application fee, the plan must contain provisions that the fee will be uniformly applied and cannot exceed $25; that in intergovernmental cases referred for services, the application fee may only be charged by the jurisdiction in which the

(...continued)

basic governmental and administrative capabilities, such as an effective accounting system and experience in successfully managing service programs.)

[24] U.S. Census Bureau, "The American Indian and Alaska Native Population: 2010," by Tina Norris, Paula L. Vines, and Elizabeth M. Hoeffel, *2010 Census Briefs*, *C2010BR-10*, January 2012, p. 4 and p. 17.

[25] U.S. Census Bureau, *The 2012 Statistical Abstract*: The National Data Book, p. 16.

[26] U.S. Department of the Interior, Bureau of Indian Affairs, 2005 American Indian Population and Labor Force Report, Washington, DC, http://www.bia.gov/idc/groups/public/documents/text/idc-001719.pdf.

[27] CSE law allows a tribe or tribal organization to receive a waiver from the 100-children rule if it can demonstrate to the HHS Secretary that it can operate a CSE program with fewer than 100 children.

[28] Office of Child Support Enforcement, Action Transmittal (OCSE-AT-05-07), May 12, 2005, p. 2 and p. 7.

[29] 45 C.F.R. §309.75, p. 320 (October 1, 2015 edition).

individual applies for services; that fees may not be charged to individuals receiving services under Titles IV-A (TANF), IV-E (foster care assistance), or XIX (Medicaid) of the Social Security Act; and that the tribal CSE agency may recover actual costs of providing services in excess of the application fee. Child support application fees collected and costs recovered are considered program income and must be used to reduce the amounts of expenditures for federal matching. In other words, the tribal CSE agency must exclude from its quarterly expenditure claims an amount equal to all fees collected and costs recovered during the quarter.[30]

The tribal CSE plan is required to provide that the tribal CSE agency will maintain records necessary for proper and efficient operation of the program, including records regarding (1) applications for child support services; (2) efforts to locate noncustodial parents; (3) actions taken to establish paternity and obtain and enforce child support; (4) amounts of child support owed, child support arrearages, and amounts and sources of child support collections, and the distribution of such collections; (5) tribal CSE program expenditures; (6) any fees charged and collected, if applicable; and (7) statistical, fiscal, and other records necessary for reporting and accountability.[31]

Program Services Requirements

The tribal CSE agency is required by federal law to extend the full range of services available under its tribal CSE plan to states and other tribal CSE programs, and also to respond to all requests from, and to cooperate with, states and other tribal CSE programs.

Locating Absent Parents

The tribal CSE plan must include provisions governing the location of custodial and noncustodial parents and their assets. The tribal CSE agency must attempt to locate custodial and noncustodial parents or sources of income and/or assets when location is required to take necessary action in a case, and must use all sources of information and records reasonably available to locate custodial[32] and noncustodial parents and their sources of income and/or assets.

Tribes have many options and resources for obtaining location information, such as friends and relatives of the party being located; tribal employment records; tribal records; utilities; the United States Postal Service; organizations such as labor unions or professional associations; federal, state, local, or tribal tax departments; real estate records; law enforcement; credit bureaus; public assistance and social services agencies; the Department of Natural Resources; and licensing boards (e.g., motor vehicle, professional, recreation).[33]

Tribes and tribal organizations may also contact any other tribal, state, or federal agencies that may have information, such as the Fish and Game Commission or the Conservation Agency. Other locate options tribes and tribal organizations may select include directly accessing a state system or requesting information from a state system. Pursuant to P.L. 113-183, the Preventing Sex Trafficking and Strengthening Families Act of 2014 (enacted September 29, 2014), tribes and

[30] Ibid.

[31] 45 C.F.R. §309.85, p. 321 (October 1, 2015 edition).

[32] The reference to custodial parents is included to ensure that locate sources are used to find custodial parents for whom support has been collected and whom the tribe may be unable to find. (Source: *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16644.)

[33] Office of Child Support Enforcement, "OCSE Training Courses for Tribal IV-D Programs—Locate Module," http://www.acf.hhs.gov/programs/cse/resources/tribal/training/.

tribal organization are now considered "authorized persons" and thereby have direct access to the Federal Parent Locator Service (FPLS).[34] The FPLS is an assembly of systems operated by the Office of Child Support Enforcement (OCSE) to assist states in locating noncustodial parents, putative fathers, and custodial parents for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation. The FPLS also assists federal and state agencies in identifying overpayments and fraud, and assists with assessing benefits. Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS was expanded by P.L. 104-193 (the 1996 welfare reform law). According to an OCSE Tribal Dear Colleague Letter, tribes and tribal organizations will be able to access the following FPLS data:

- The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.
- The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders. (Note: Tribal programs are not required to send tribal case information to the FCR, but they may benefit from having access to the information contained in the FCR.)
- Tribes and tribal organizations now also have access to data from the following federal agencies: Social Security Administration, Department of Defense, U.S. Department of Veterans Affairs, and Federal Bureau of Investigation.[35]

Paternity Establishment

The tribal CSE agency must attempt to establish paternity by the process set out under tribal law, code, and/or custom. It must also provide the alleged father an opportunity to voluntarily acknowledge paternity. In a contested paternity case, the child, the mother, and the alleged father or fathers (more than one man may be alleged as the father) must submit to a genetic test (unless otherwise barred by tribal law) upon the request of any party if the request is supported by a sworn statement that (1) alleges paternity, and sets forth facts establishing a reasonable possibility of the requisite sexual contact between parties; or (2) denies paternity, and sets forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties. Federal regulations clarify that establishment of paternity under tribal CSE programs does not infer tribal enrollment or membership.[36]

To meet tribal CSE plan requirements, tribal law must explicitly provide for genetic testing. Like state CSE programs, a tribe may have a conclusive presumption of paternity when a child is born to married parents or if a noncustodial parent has been validly served in a paternity proceeding and failed to contest paternity in such proceeding. Also, some tribal CSE programs may recognize a man who holds himself out to be the father as the father, and in effect deem the man to be the father and thereby may preclude that man from challenging paternity. Federal regulations allow the tribal CSE program to prohibit genetic testing in cases such as those mentioned above in

[34] Before the enactment of P.L. 113-183, tribes and tribal organizations were not authorized to request Federal Parent Locator Service information, but a resident parent, legal guardian, agent, or attorney of a child could request locate information through the state CSE agency if location assistance was needed for child support purposes. (This option is still available to such persons or entities.)

[35] U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, Tribal Dear Colleague Letter, "Tribal Access to the FPLS," TDCL-16-01, February 22, 2016.

[36] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16644.

which the tribe had already determined or stipulated paternity. In such cases, because paternity had already been determined, genetic testing would thereby be barred by tribal law.[37] Federal regulations also stipulate that the tribal CSE agency is not required to establish paternity in any case involving incest or rape, or in a case in which legal proceedings for adoption are pending.[38]

When genetic testing is used to establish paternity, the tribal CSE agency must identify and use accredited laboratories, which perform at reasonable cost legally and medically acceptable genetic tests that seek to identify the father or exclude the alleged father.[39]

Child Support Order Establishment and Modification

The tribal CSE plan must establish one set of child support guidelines by law or by judicial action for setting and modifying child support obligation amounts; include a copy of the child support guidelines; and indicate whether noncash payments of support will be permitted to satisfy the child support obligation. However, pursuant to federal regulations, noncash payments may not be used to satisfy assigned support obligations (i.e., child support obligations for children receiving TANF cash benefits).[40]

Federal regulations define "noncash support" as "support provided to a family in the nature of goods and/or services, rather than in cash, but which, nonetheless, has a certain and specific dollar value."[41] The noncash support must directly contribute to the needs of a child, such as "making repairs to automobiles or a home, the clearing or upkeep of property, providing a means for travel, or providing needed resources for a child's participation in tribal customs and practices."[42] A tribal support order allowing noncash payments must state the specific dollar amount of the support obligation.

The tribal CSE plan must provide for the application of the guidelines unless there is a written finding or a specific finding on the record of the tribunal that the application of the guidelines would be unjust or inappropriate in a particular case. The guidelines must take into account the needs of the child and the earnings and income of the noncustodial parent and be based on specific descriptive and numeric criteria.[43]

The child support guidelines must be reviewed, and if appropriate revised/modified, at least every four years and must provide a rebuttable presumption that the child support award is the correct amount based on the guidelines.[44]

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[37] Ibid, p. 16658.

[38] 45 C.F.R. §309.100, p. 322 (October 1, 2015 edition).

[39] Probability of exclusion testing can exclude 95%-99% of falsely accused men. In other words, the test generally is able to determine that a man is "not" the father of a given child. Thus, there is a very high probability the test will exonerate a falsely accused man. The exclusion probability has nothing to do with the likelihood that a non-excluded man may be the father. Probability of paternity testing examines the similarities between the alleged father's blood and the child's and a calculation is made regarding the statistical likelihood of paternity based on the chance of such similarities occurring in a random male in the general population. Probability of paternity testing generally can determine with almost 100% probability that a man is the father of a given child.

[40] 45 C.F.R. §309.105, p. 323 (October 1, 2015 edition).

[41] 45 C.F.R. §309.05, p. 314 (October 1, 2015 edition).

[42] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 59, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

[43] 45 C.F.R. §309.105, p. 323 (October 1, 2015 edition).

[44] Ibid.

The tribe or tribal organization must also provide assurances that it will recognize child support orders issued by other tribes and tribal organizations, and by states, in accordance with the requirements under 28 U.S.C. 1738B, the Full Faith and Credit for Child Support Orders Act.[45]

Tribal child support orders are established through use of tribal courts, Code of Federal Regulations (CFR) Courts,[46] state courts, administrative processes, mediators prior to going to court, and agreement orders. Most tribes use petitions to establish child support orders. Means of serving process include tribal process servers, tribal police, tribal security officers, private process servers, sheriffs, voluntary service via sending a letter to the individual, court bailiffs, and subpoena or summons.[47]

Jurisdictional issues affect how cases are established. Some tribes exert jurisdiction over tribal members, no matter where they are in the country, based on enrollment factors. Other tribes assert that they have concurrent jurisdiction in paternity cases when the child was born off the reservation but to an enrolled tribal member.[48] Jurisdictional claims between tribes and states are sometimes very contentious and it can be hard for either entity to give up jurisdiction.[49]

Medical Child Support

There is no current requirement that tribal support orders include medical support.[50] However, there is no prohibition for a tribal support order to do so. Tribes are encouraged to make sure that children have access to medical care through the Indian Health Service (IHS) or otherwise.[51] The IHS is an agency of the United States Public Health Service, within HHS. It does not provide health insurance coverage. But, it is responsible for providing federal health services to the American Indians and Alaska Natives who belong to the 566 federally recognized tribes.[52]

Enforcement/Income Withholding

Tribal CSE agencies are responsible for enforcing child support orders. However, tribes are only mandated to use the income withholding enforcement method. Any other enforcement actions

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[45] Ibid.

[46] Courts of Indian Offenses are courts operated by the U.S. Department of the Interior, Bureau of Indian Affairs, on certain reservations. Those courts operate under federal regulations contained in Volume 25 of the Code of Federal Regulations and thus are often referred to as "CFR" courts.

[47] Office of Child Support Enforcement, "Tribal Child Support Enforcement Systems Workgroup, Session III Joint Application Development Final Report," October 2005, p. 15.

[48] Ibid.

[49] Pursuant to federal regulations, tribes are required to provide in their Tribal CSE Plan a description of the population subject to the jurisdiction of the tribe for child support purposes (45 C.F.R. §309.65(a)(1) and 45 C.F.R. §309.70).

[50] Federal law mandates that states have procedures under which all child support orders are required to include a provision for medical support for the dependent child to be provided by either or both parents. Medical support is the legal provision of payment of medical, dental, prescription, and other health care expenses for dependent children. It can include provisions for health care coverage, such as coverage under a health insurance plan (including payment of premium costs, co-payments, and deductibles) as well as cash payments for a dependent child's medical expenses. Pursuant to changes mandated by the Deficit Reduction Act of 2005 (P.L. 109-171), if appropriate health insurance is available to either parent, states are required to establish an order requiring that the children be placed on such coverage with appropriate cost sharing. Moreover, states now are able to enforce such orders against both custodial and noncustodial parents.

[51] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16660.

[52] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 89, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

they take are solely at the tribe's discretion and are based on tribal policies, procedures, ordinances, and codes. Some of these enforcement remedies include several procedures that must be done collaboratively with states, such as federal income tax refund intercepts, bank levies, liens against non-reservation property, state hunting and fishing license suspensions, state fishing taxes, and passport denials.

Some examples of innovative methods that tribes and tribal organizations use to encourage timely and consistent payment of child support include the following: (1) some non-paying noncustodial parents are required to explain to an Elders' Panel why they are not supporting their children; (2) some tribes allow per capita payments[53] to be intercepted to meet child support obligations; (3) tribes with casinos may be able to withhold past-due child support (i.e., child support arrearages) from the winnings of tribal members; (4) reservation fishing taxes; (5) reservation hunting and fishing license suspension; (6) gaming license suspension; and (7) in cases where a noncustodial parent has been unable to find a job and make child support payments, a tribe can request that the court or administrative agency mandate a course of action to improve the noncustodial parent's employability (e.g., attending classes to obtain a certificate of general educational development or high school equivalent, undergoing alcohol or drug abuse treatment, undertaking a work search, attending trade classes).[54]

As noted above, with respect to child support enforcement/collection activities, tribes are only required to use the income withholding enforcement method. The income withholding requirements are similar to those requirements governing states' CSE programs, except that income is subject to withholding once the noncustodial parent has failed to make a payment equal to the support payable for one month.[55] Income withholding is not to be required in any case where either the custodial or noncustodial parent demonstrates, and the tribunal enters a finding, that there is good cause not to require income withholding; or where a signed written agreement is reached between the custodial and noncustodial parent that provides for an alternate agreement. The tribal CSE agency must allocate amounts withheld across multiple withholding orders, and in no case shall the allocation result in a withholding for one of the orders not being implemented. The tribal CSE agency is responsible for receiving and processing income withholding orders from states or other tribes and ensuring orders are promptly served on employers.[56]

Distribution of Child Support

CSE regulations stipulate that tribes have the option to condition eligibility for Tribal TANF assistance on assignment of child support.[57] A tribal CSE plan must outline procedures for distribution of child support collections. As a general rule, the tribal CSE agency must, in a timely

[53] "Per capita payments," in this context, are payments by a tribe to its individual members (e.g., from tribal trust property, gaming, or Indian claims awards). Such payments may also include Indian claims awards by the United States paid directly to individual members.

[54] Office of Child Support Enforcement, "OCSE Training Courses for Tribal IV-D Programs—Enforcement Module," http://www.acf.hhs.gov/programs/cse/resources/tribal/training/.

[55] Delinquency-based income withholding was made obsolete for state CSE programs when P.L. 100-485 (the Family Support Act of 1988) established immediate income withholding. The Family Support Act of 1988 greatly expanded income withholding by requiring immediate withholding to begin in November 1990 for all new or modified orders being enforced by states. Equally important, states were required, with some exceptions, to implement immediate wage withholding in all support orders initially issued on or after January 1, 1994, regardless of whether a parent has applied for child support services.

[56] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16645.

[57] 45 C.F.R. §286.155, p. 200 (October 1, 2015 edition).

manner, apply collections to satisfy current support obligations first, and pay all child support collections to the family unless the family is currently receiving or has formerly received assistance from the tribal TANF program and the state has opted to condition eligibility for tribal TANF assistance on assignment of child support rights,[58] or the tribal CSE agency has received a request for assistance in collecting support on behalf of the family from a state or another tribal CSE agency. Such requests for assistance may be to collect child support assigned to the state or tribe as a condition of receiving TANF assistance or to provide CSE services on behalf of a family residing in or receiving services from the referring state or tribe. When support is owed to both states and tribes, the tribal CSE agency may either send collections to the requesting state or tribe for distribution or determine appropriate distribution by contacting the requesting state or tribe and distribute collections accordingly. Federal regulations with regard to tribal CSE programs stipulate that any child support collections obtained through the Federal Income Tax Refund Offset program must be applied to satisfy child support arrearages.[59]

State and Tribal Cooperation and Coordination

Federal regulations require states to extend the full range of services available under their CSE plans to all tribal CSE programs.[60] Prior to the 1996 law, although state CSE agencies had the resources to obtain child support on behalf of Native American children, they usually lacked jurisdiction over tribal members. In contrast, tribal courts often did not have the resources to obtain child support on behalf of tribal members. Federal law now addresses the issue of nonpayment of child support, in part, by authorizing states and tribes to enter into cooperative agreements to facilitate obtaining child support for Native American children.

Realistically, in order to better serve Indian children, tribes must utilize the existing infrastructure of state CSE programs.[61] Federal regulations authorize tribal CSE programs to enter into cooperative arrangements with states. Pursuant to the regulations, a tribe may delegate functions of the tribal CSE program to another tribe, a state, or another agency or entity pursuant to a cooperative arrangement, contract, or tribal resolution, but the tribal CSE agency retains ultimate responsibility for meeting the CSE plan requirements.[62] Moreover, tribes may enter into agreements with any entity, including contracts with a private vendor, to carry out the functions required in the tribal CSE plan. Federal regulations make clear that tribes, not states, are to be held accountable for the proper operation of tribal CSE programs, including all actions undertaken on behalf of such programs. In other words, if the tribe or tribal organization delegates any of the functions of operating a CSE program to another tribe, state, or any other agency, the tribe is still responsible for compliance with the approved tribal CSE plan.[63]

Tribal cooperative agreements with state CSE agencies were part of the 1996 welfare reform law. Cooperative agreements under Section 454(33) of the Social Security Act are between a state CSE program and a tribe. The tribe performs agreed-upon activities and the state CSE program reimburses the tribe for these activities. These cooperative agreements are under a state CSE

[58] Ibid.

[59] 45 C.F.R. §309.115, p. 324 (October 1, 2015 edition).

[60] 45 C.F.R. §302.36(a)(2), p. 235 (October 1, 2015 edition).

[61] State CSE infrastructure includes the Federal and State Parent Locator Service, the National Directory of New Hires, state centralized units for the collection and distribution of child support payments (i.e., State Disbursement Units), and the array of state collection/enforcement methods.

[62] 45 C.F.R. §309.60(c), p. 319 (October 1, 2015 edition).

[63] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16651.

program and tribes must follow the state CSE program requirements within the scope of cooperative agreement responsibilities. The state is ultimately responsible for the operation of its CSE program and ensuring all requirements are met. However, if a tribal CSE program enters into a cooperative agreement with a state under Section *455(f)* of the Social Security Act, for the state to perform a service for the tribe, the state must meet tribal CSE requirements applicable to the actions taken pursuant to the cooperative agreement. Under this type of cooperative agreement, the tribe is ultimately responsible for the operation of its CSE program and for ensuring that all tribal CSE program requirements are met.[64]

In addition to the formal cooperative agreements, some commentators contend that the best interests of Native American children could be better served if states would incorporate the following procedures into their interactions with tribes and tribal organizations: (1) to determine if someone is enrolled in a tribe, ask the person for his or her Certificate of Degree of Indian Blood (CDIB) card or verification of Tribal Membership card; (2) remember that each tribe is different, with its own laws; (3) find out what procedure(s) are required to register a state support order for enforcement with the tribe; (4) coordinate service of process in Indian country with the tribe (e.g., when personal service is required, tribal authorities are often the most appropriate individuals for serving state process on a reservation); (5) rely on state and tribal court clerks for information regarding pleadings, required forms, and filing deadlines and procedures; and (6) ascertain tribal court practices and procedures (e.g., an attorney's authority/admission to practice law in a state court does not automatically mean that the attorney is admitted to practice in a tribal court in that state).[65] Also, child support administrators generally agree that cooperation between tribes and states is enhanced when common goals can be identified and articulated and an open dialogue is maintained between the tribes and state CSE staff.[66]

Automated Systems

With respect to the CSE program operated by states, there is widespread agreement that the achievement of CSE program goals depends in large part on the effective planning, design, and operation of automated systems. Automating CSE information systems generally improves caseworker productivity by allowing automatic searches of a variety of databases and eliminating the need for voluminous paper documentation. Automated CSE systems also help track court actions relating to paternity and support orders and amounts of collections and distributions.

With respect to tribal CSE programs, many commentators and interested parties contend that automation is necessary for tribes and tribal organizations to accurately and efficiently process child support collections. These commentators argue that the costs for development of automated programs should be allowable expenditures for tribal CSE programs (i.e., tribal expenditures for development of data systems should be eligible to receive federal matching funds).[67]

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[64] Office of Child Support Enforcement, Action Transmittal (OCSE-AT-05-07), May 12, 2005.

[65] See State/Tribal Child Support Partnerships In Washington State, http://www.dshs.wa.gov/pdf/esa/dcs/tribal/TribalPartnerships.pdf. See also U.S. Department of Justice, Tribal Judicial Institute, "Walking on Common Ground: Tribal-State-Federal Justice System Relationships," December 2008.

[66] See http://www.dshs.wa.gov/pdf/esa/dcs/tribal/GuidingPrinciplesCoop.pdf. Also see National Tribal Child Support Association, "Tribal Child Support Program: Information and Resource Guide," by Gloria Howard (Puyallup Tribal Child Support Program) and Tami J. Lorbecke (Keweenaw Bay Indian Community Office of Child Support Services), updated May 2009.

[67] *Federal Register*, vol. 73, no. 113, Computerized Tribal IV-D Systems and Office Automation—Notice of Proposed Rule Making, June 11, 2008, p. 33049.

Before the final regulations (released February 25, 2010) on tribal CSE automated systems, development of automated data processing systems was not an allowable activity or expenditure for comprehensive tribal CSE programs. They were generally only permitted to receive federal funding for costs associated with the establishment of intergovernmental agreements with states and tribes for the use of an *existing* automated data processing computer system necessary to support tribal CSE program operations.[68] In contrast, the recently released final regulations regarding computerized tribal CSE systems expand allowable activities and costs incurred by comprehensive tribal CSE programs with regard to automated data processing computer systems to include the installation, operation, maintenance, and enhancement of a *model* tribal system that is described in the regulations.[69] Comprehensive tribal CSE programs that are operating within the first three-year period of federal funding are reimbursed for 90% of the cost of their automated systems expenditures. Comprehensive tribal CSE programs operating after the initial three-year period are reimbursed for 80% of their automated systems expenditures.

Automated systems have, to a certain extent, reduced barriers that were often faced by some tribes who were geographically isolated from access to certain state or county CSE services. Concomitantly, an administrative structure that depends primarily on automation might be at odds with the types of flexible, face-to-face assistance that are often successful on Indian reservations.

Funding

Federal funding is based on the tribal CSE application, which includes the proposed budget and a description of the nature and scope of the tribal CSE program and gives assurance that the program will be administered in conformity with applicable requirements of the CSE program (Title IV-D of the Social Security Act), federal regulations, and other official issuances of HHS that specifically apply to tribes and tribal organizations.

A tribe or tribal organization may apply for federal funding in one of two ways. A tribe or tribal organization may apply to operate a CSE program that meets all of the 14 mandated requirements (as specified in federal regulations) for a tribal CSE program.[70] If the tribe or tribal organization can apply on this basis, it is considered a comprehensive tribal CSE program if it is approved by the HHS Secretary. If a tribe or tribal organization does not currently meet the regulatory requirements, it may apply for start-up funding. A tribe or tribal organization that applies on this basis (and has such a plan approved) is considered to be operating a tribal CSE start-up program.[71]

Unlike state CSE programs that are funded by both state and matching federal dollars, tribal CSE programs that are designated as start-up programs can be funded solely by federal dollars. Tribal CSE programs that are considered fully operational (i.e., comprehensive programs) are funded at 90% of total program expenditures for the first three years of the program, and at 80%

[68] Before the final regulations (February 25, 2010), tribal CSE programs generally managed and tracked their child support cases manually or contracted with the state to use their automated CSE system (45 C.F.R. §309.145(h)).

[69] *Federal Register*, vol. 75, no. 37, February 25, 2010, p. 8508.

[70] According to OCSE officials, although nine tribes began operating CSE programs after the 1996 legislation (P.L. 104-193) and before the final regulations on tribal CSE programs were published, those nine tribes had to reapply for direct CSE funding once the final regulations were issued.

[71] Office of Child Support Enforcement, Information Memorandum (IM-05-06), "Building a Tribal IV-D Program: A Guide to the Start-Up Application Process," June 22, 2005, http://www.acf.hhs.gov/programs/cse/pol/IM/2005/im-05-06.htm.

thereafter.[72] The non-federal share of CSE program expenditures may be in cash and/or in-kind, fairly valued, by the tribe or tribal organization and/or by a third party. Both state and comprehensive tribal CSE programs are considered entitlement programs and they both receive mandatory funding on an open-ended basis (meaning that they receive federal matching funding for all reasonable, necessary, and allocable expenditures on the CSE program).

Federal funds are available for the costs associated with operating a tribal CSE program that has been approved by the HHS Secretary, provided that the Secretary determines that such costs are reasonable, necessary, and allocable to the tribal CSE program.[73] Federal regulations provide a list of the kinds of activities and costs that can receive federal reimbursement. Federal regulations also stipulate that tribal CSE program funds may not be used for (1) activities related to administering other programs, including those under the Social Security Act; (2) construction and major renovations; (3) any expenditures that have been reimbursed by fees or costs collected, including any fee collected from a state; (4) expenditures for jailing of parents in tribal CSE cases; (5) the cost of legal counsel for indigent defendants in tribal CSE program actions; (6) the cost of guardians ad litem in tribal CSE cases; and (7) all other costs that are not reasonable, necessary, and allocable to tribal CSE programs.[74]

Start-Up Programs

As mentioned earlier, federal law and regulations permit tribes or tribal organizations that cannot satisfy all of the 14 mandatory provisions but that can demonstrate their ability to operate a CSE program to request start-up funding. Start-up funding is for tribes to develop a CSE program that will allow them to meet all the regulation requirements of a comprehensive child support program. Allowable start-up costs and activities include planning for the initial development and implementation of a program; developing tribal CSE laws, codes, guidelines, systems, and procedures; recruiting, hiring, and training tribal CSE program staff; and any other reasonable costs.[75]

During the period of start-up funding, a tribe or tribal organization will receive federal funds equal to 100% (subject to a capped amount) of the approved and allowable CSE expenditures made during that period.[76] Tribes and tribal organizations that receive start-up funding do not have to put up non-federal matching funds for their CSE programs. Federal funds are available

[72] Federal funding of tribal CSE programs differs significantly from state CSE programs. The federal government reimburses each state for 66% of the cost of operating its CSE program. In addition, the federal government pays states an incentive payment to encourage them to operate effective programs. For additional information on the financing of state CSE programs, see CRS Report RL33422, *Analysis of Federal-State Financing of the Child Support Enforcement Program*, by Carmen Solomon-Fears.

[73] After enactment of the 1996 legislation that provided direct funding for tribes and before the final regulations on tribal CSE programs were issued in 2004, OCSE gave tribes Special Improvement Project (SIP) grants to operate their tribal CSE programs. The purpose of the SIP grant program is to provide funding for projects that further the national child support mission and goals and to help improve program performance. SIP's legislative authority is Section 452(j) of the Social Security Act, and it provides federal funds for research and demonstration programs and special projects of regional or national significance relating to the operation of state child support enforcement programs. No applicant match is required. Eligible applicants include state and local public agencies, nonprofit agencies (including faith-based organizations), and tribal organizations.

[74] 45 C.F.R. §309.155, p. 331 (October 1, 2015 edition).

[75] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16647.

[76] Pursuant to federal regulations (45 C.F.R. §309.16), tribal CSE start-up programs must have the capability to meet all 14 components of a comprehensive tribal CSE program within a reasonable period of time, not to exceed two years. In other words, a tribal CSE start-up program can potentially receive 100% federal matching for up to two years.

for the costs of developing a tribal CSE program that meets federal requirements, provided that such costs are reasonable, necessary, and can be allocated to the program.[77] For start-up tribal CSE programs, 100% federal funding is limited to $500,000, and there is no tribal match required.[78] Start-up funding must be obligated and liquidated within two years of the date in which the start-up application was approved.

Comprehensive Programs

Tribes or tribal organizations that can meet all of the 14 mandatory provisions (such programs are considered comprehensive or fully operating programs) receive 90% federal funding during the first three years of full program operation. The tribe or tribal organization must provide a 10% tribal match in order to receive the federal funding.[79]

After the initial three-year period of operating a comprehensive tribal CSE program, the tribe or tribal organization will receive 80% federal funding each year thereafter for their tribal CSE program if the tribe continues to meet federal requirements. The tribe or tribal organizations must provide a 20% tribal match in order to receive the federal funding.[80]

Financing Mechanics

In order to receive federal funding, a tribal CSE agency must submit the following budgetary information: a quarter-by-quarter estimate of CSE expenditures for the fiscal year; notification of whether the tribe or tribal organization is requesting funds for indirect costs; a narrative justification for each of the required elements of the program (that are listed on the application form—start-up program may not include all of the 14 mandatory components); and either a statement certifying that the tribe or tribal organization has or will have the non-federal share of program expenditures available, as required, or a request for a waiver of the non-federal share.[81]

Unlike the state CSE program, which is funded on a prospective quarterly basis, tribal CSE programs that qualify for funding of less than $1 million per 12-month period receive a single annual award of the total amount. However, tribal CSE programs with funding of $1 million or more per 12-month period will receive quarterly awards similar to state CSE programs. OCSE documents indicate that the funding for tribal CSE activities is completely separate from funding for state CSE programs. A tribe's decision to run its own CSE program does not impact a state's CSE program funds. This means that tribal CSE funding is not apportioned from a state's CSE funding. However, funds for the tribal CSE programs come from the same appropriation as the state CSE program.[82]

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[77] Tribal CSE funds may not be used for activities related to administering other programs, including those under the Social Security Act; construction or major renovations; expenditures that have been reimbursed by fees collected, including any fee collected from a state; jailing of parents in tribal CSE cases; the cost of legal counsel for defendants in tribal CSE actions; or any other costs that are not reasonable, necessary, and allocable to the tribal CSE program.

[78] Federal funding for tribal CSE program development generally may not exceed a total of $500,000 except in very unusual or extraordinary circumstances. According to federal regulations (45 C.F.R. §309.16), "in extraordinary circumstances, the Secretary will consider a request to extend the period of time during which start-up funding will be available and/or to increase the amount of start-up funding provided."

[79] 45 C.F.R. §309.130, p. 325 (October 1, 2015 edition).

[80] Ibid.

[81] 45 C.F.R. §309.15, p. 315 (October 1, 2015 edition).

[82] *Federal Register*, vol. 69, no. 61, March 30, 2004, p. 16667.

Data

This section presents data on the number of Native Americans living in the United States, tribal population estimates, the percentage of Native American women who had children outside of marriage, living arrangements of Native American children, and the percentage of Native Americans with child support orders. It also provides statistical information on tribal CSE programs.

Data Problems

Although the data are useful in developing an understanding of tribal CSE programs, there are several problems associated with the data. First, population data for federally recognized Indian tribes are elusive. No federal entity performs a census of members of federally recognized tribes such as the Census Bureau does for the U.S. population, so there are no detailed demographic or socioeconomic data on tribal members alone. All Census Bureau data on American Indians and Alaska Natives (AIAN) are based on race, not tribal membership. The Census Bureau's decennial census and other surveys ask respondents to identify themselves by race, not by confirmed membership in a federally recognized tribe.[83] Not all persons self-identifying as AIAN are members of federally recognized tribes, and it may be that not all tribal members identify themselves as AIAN on the Census form. The decennial census does collect information by Indian reservation or other Census-developed statistical area, for almost all federally recognized tribes, so it can report AIAN race data (even if it cannot report membership) for a tribe's reservation or other statistical area. These reservation-specific AIAN decennial data may serve as proxies for actual tribal data. However, Census Bureau data collected through *non*-decennial sample surveys, such as the American Community Survey (ACS) or the Current Population Survey (CPS), cannot yet be used for the great majority of Indian areas because the Indian areas' populations are too small.[84]

The Bureau of Indian Affairs (BIA) publishes biennial estimates of its own service population—defined as AIAN living on or near a reservation and eligible for BIA services—based on figures received from federally recognized tribes. The BIA asks tribes to survey and provide estimates on their members, but does not require a tribe to carry out a census to prepare these figures.[85] The BIA report also lists tribal enrollment totals, as reported by the tribes, but the BIA does not conduct censuses to confirm these figures. The report does not provide tribal enrollees' geographic, demographic, or socioeconomic data, so it cannot show where enrollees are living or their age or other characteristics. (See **Table C-1** in **Appendix C** for population figures from differing Census and BIA sources for CSE tribes and the nation.)

Another problem is that the tribal CSE program data include missing data related to implementation issues. It is also important to note that this report does not try to analyze the impact of factors such as size of tribe, wealth or poverty status of tribe, source of resources,

[83] In the race question, the Census Bureau allows respondents to identify their tribe—still self-identification—but does not confirm a respondent's enrollment (or eligibility to be enrolled) in the tribe named. Hence, Census data on self-reported tribes cannot be assumed to correspond to data on federally recognized tribes.

[84] For ACS, see U.S. Census Bureau, "2008 American Community Survey: Overview of Census Geographic Areas in the United States and Puerto Rico," Table 1a, p. 2, http://www.census.gov/acs/www/Downloads/2008_geography_notes.pdf. For CPS, see U.S. Census Bureau, Current Population Survey Design and Methodology, Technical Paper 66, October 2006, pp. 21-22, http://www.census.gov/prod/2006pubs/tp-66.pdf.

[85] U.S. Department of the Interior, Bureau of Indian Affairs, 2005 American Indian Population and Labor Force Report Washington, DC, pp. v-viii, http://www.bia.gov/idc/groups/public/documents/text/idc-001719.pdf.

employment opportunities, or administrative structures (courts, administering agencies, etc.) on the effectiveness of tribal CSE programs.

Demographic Information[86]

In 2010, the Census Bureau estimated that there were about 5.2 million persons who were AIAN, either alone or in combination with other races. The number of these individuals who reported AIAN as their *only* race amounted to 2.9 million persons, or about 0.9% of the U.S. population, in 2010.[87] In 2010, 30% of persons classified as AIAN alone were under age 18.[88] As the discussion above indicated, these AIAN population figures are based on race, not on tribal membership; see **Appendix C** for other figures for the tribal population, for both the nation and each CSE tribe.

In 2010, about 66% of AIAN babies were born to unmarried mothers, compared with 17% of Asian or Pacific Islander babies, 29% of white babies, 53% of Hispanic babies, and almost 73% of black babies.[89]

In 2010, 52% of AIAN children were living in single-parent families, compared with 16% of Asian or Pacific Islander children, 24% of white children, 41% of Hispanic children, and 66% of black children.[90]

A special OCSE study that examined the CSE program with respect to minority families by analyzing pooled Census Bureau data from 1994 through 2002 found that, among custodial mothers, 51% of AIAN mothers had child support orders, compared with 66% of white mothers, 46% of Asian mothers, 43% of black mothers, and 42% of Hispanic mothers. Although AIAN mothers fared better than other minority mothers in terms of having child support orders, the rate at which noncustodial parents complied with those orders was lower for AIAN mothers than for many of their minority counterparts. For AIAN mothers who had a child support order, 67% received some child support, compared with 78% of white mothers, 70% of Hispanic mothers, 68% of Asian mothers, and 62% of black mothers.[91]

Child Support Awards Among Custodial Mothers, by Race and Ethnicity (Pooled Data)

	Percent with Child Support Orders	Percent Who Actually Received Some Child Support
White	66%	78%
Black	43%	62%
Asian	46%	68%
AIAN	51%	67%
Hispanic	42%	70%

[86] Census Bureau data in this section are based on race.

[87] U.S. Census Bureau, *The American Indian and Alaska Native Population: 2010*, by Tina Norris, Paula L. Vines, and Elizabeth M. Hoeffel, 2010 Census Briefs, C2010BR-10, January 2012, p. 4 and p. 17.

[88] In 2010, 23% of whites were under age 18, as were 23% of Asians, 28% of African-Americans, 30% of Pacific Islanders, and 34% of Hispanics. (Source: U.S. Census Bureau, *The 2012 Statistical Abstract*: The National Data Book, p. 16.)

[89] U.S. Department of Health and Human Services, National Center for Health Statistics, "Births: Preliminary Data for 2010," by Brady E. Hamilton, Joyce A. Martin, and Stephanie J. Ventura, *National Vital Statistics Reports,* vol. 60, no. 2, November 2011, Table 1.

[90] Annie E. Casey Foundation, Kids Count Data Center, Data for 2010, http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=107.

CSE Tribal Information

Below are two tables that highlight some of the financial and statistical data on tribal CSE programs (in the aggregate and individually) provided by tribes and tribal organizations to the federal OCSE. It is probably unwise to draw conclusions from the data because the complexity of individual tribal CSE programs is overly simplified by the summary statistics shown in the tables, there are wide differences among program indicators in tribal CSE programs, and the tribal CSE programs have been operating for only a relatively short time. Moreover, unlike state CSE programs, tribal CSE programs do not have the benefit of federal auditors who assess the completeness and reliability of tribe-reported data.[92]

The data in **Table 2** and **Table 3** are based on information from tribes and tribal organizations on their tribal CSE programs. Just as the state CSE data do not include child support cases heard within the legal or administrative systems of tribes or tribal organizations, tribal CSE program information does not include data on cases that were not processed through the tribal CSE program. This means that tribal CSE program data do not include state CSE data or information on cases connected with the other 505 federally recognized tribal governments.

Table 2 presents a summary of tribal CSE program data for the seven-year period from FY2004 through FY2011 and for FY2014.[93] The table only provides information on comprehensive tribal CSE programs. During the years FY2001-FY2006, there were nine comprehensive tribal CSE programs; in FY2007, there were 12 comprehensive tribal CSE programs; in FY2008, there were 25 comprehensive tribal CSE programs; in FY2009, there were 36 comprehensive tribal CSE programs; in FY2010, there were 38 comprehensive tribal CSE programs; in FY2011, there were 41 comprehensive tribal CSE programs; in FY2012, there were 45 comprehensive tribal CSE programs; in FY2013, there were 51 comprehensive tribal CSE programs; and in FY2014, there were 57 comprehensive tribal CSE programs (see **Table B-1**). Child support payments collected by tribes or tribal organizations increased from $14.5 million in FY2004 to $47.3 million in FY2014 (an increase of 196% between FY2004 and FY2014). The number of children whose paternity was established (or acknowledged) via the tribal CSE program increased by 150%, from 13,746 in FY2004 to 34,413 in FY2014.[94] The number of child support orders/obligations established increased by 246%, from 9,767 in FY2004 to 33,834 in FY2014. Tribal CSE program expenditures also increased substantially, from $9.1 million in FY2004 to $41.7 million in

(...continued)

[91] Department of Health and Human Services, Office of Child Support Enforcement, "Minority Families and Child Support: Data Analysis," December 2007, pp. 3-4, http://www.acf.hhs.gov/programs/cse/pol/DCL/2007/dcl-07-43a.pdf.

[92] Pursuant to P.L. 105-200, states are accountable for providing reliable data on a timely basis or they receive no CSE incentive payments. (In addition to the 66% federal matching rate for state expenditures on child support activities, the federal government provides states with an incentive payment—based in part on five program performance measures—to encourage them to operate effective CSE programs.) The federal Office of Child Support Enforcement (OCSE) Office of Audit performs data reliability audits to evaluate the completeness, accuracy, security, and reliability of data reported and produced by state reporting systems. The audits help ensure that incentives under the Child Support Performance and Incentives Act of 1998 (P.L. 105-200) are earned and paid only on the basis of verifiable data and that the incentive payments system is fair and equitable. If an audit determines that a state's data are not complete and reliable for a given performance measure, the state receives zero payments for that measure.

[93] FY2004 represents the first year for which *complete* tribal CSE data are available and FY2014 represents the most recent data available. For more information, see footnote 95.

[94] Legally identifying child's father is a prerequisite for obtaining a child support order. If there is no child support order, there is no legal financial obligation.

FY2014 (a 357% increase). However, during that same period, the tribal CSE program caseload only increased 83%, from 27,750 cases in FY2004 to 50,892 cases in FY2014.[95]

Table 2 also shows that during the period FY2004-FY2014, the tribal CSE program increased the amount it collected on current child support obligations by about 136%, from $12.9 million in FY2004 to $30.4 million in FY2014. During that same period, the tribal CSE program substantially increased the amount it collected on past-due child support obligations by 606%, from $1.7 million to almost $12.3 million. Nonetheless, in FY2014, $268.5 million in child support obligations was owed to families receiving tribal CSE services, but only $42.7 million was paid.[96] This means that in FY2014, the tribal CSE program only collected 16% of the child support obligations for which it had responsibility.[97] If current child support collections are examined separately, **Table 2** indicates that the tribal CSE program collected 48% of all current obligations in FY2014.[98] If collections on past-due child support obligations (i.e., arrearages) are examined separately, **Table 2** indicates that the tribal CSE program only collected 6% of child support arrearage payments in FY2014. The tribal CSE program closely parallels the state CSE program in its inability to collect a substantial portion of past-due child support obligations (i.e., child support arrearages).[99] If child support is not paid in the month in which it is due it is considered past-due child support. Thus, the past-due child support shown in the table for FY2014 could be from FY2014 or any of the prior years. In other words, the past-due child support shown for FY2014 could have accrued in any of the years shown in the table or even in earlier years. This means that much of the child support arrearages that are currently part of the tribal CSE program could have been transferred from a state CSE program to the tribal CSE

[95] See the FY2007 OCSE Annual Report to Congress for summary Tribal CSE data for FY2004 through FY2007 (Table 89) and the FY2011 OCSE Annual Report to Congress for summary Tribal CSE data for FY2007 through FY2011 (Table 102). The Office of Child Support Enforcement redesigned the FY2012 Annual Report to Congress, since then summary tables that display program statistics for tribes and tribal organizations as a group are no longer available. Instead, the statistical information for each individual tribe and tribal organization must be summed together. The FY2014 data are from the OCSE FY2014 Annual Report to Congress (Tribal Performance). For FY2012 tribal performance data, see OCSE FY2012 Annual Report to Congress (http://www.acf.hhs.gov/programs/css/resource/fy2012-annual-report-to-congress). For FY2013 tribal performance data, see OCSE FY2013 Annual report to Congress (http://www.acf.hhs.gov/programs/css/resource/fy2013-annual-report-to-congress).

[96] The $42.7 million figure is substantially larger than the $36.5 million mentioned earlier and shown in the first row of **Table 2** as distributed child support collections. These data come from two different sources (forms OCSE34A and OCSE75), which have different reporting criteria instructions. Other reasons for the difference could include the following factors: (1) child support forwarded to states is not included in the distributed tribal child support amount, (2) voluntary child support payments that were not part of a legally established child support order are not included in the distributed amount, and (3) interest payments and penalty payments on past-due child support (i.e., arrearages) are not included in the distributed amount.

[97] In FY2014, $63.5 million in current support and $205.0 million in past-due support was owed to families receiving tribal CSE services, but only $30.4 million in current support and $12.3 million in past-due support was actually paid to families.

[98] In its first year of full implementation (FY2004), the tribal CSE program collected more current child support obligations than were currently due. It collected $12.9 million in current child support obligations in FY2004 when only $9.1 million in current child support obligations were actually owed. If these data are accurate, it would indicate that noncustodial parents in the tribal CSE program paid 42% more than they were actually required to pay. CSE administrators have suggested that there probably were some reporting errors in FY2004.

[99] For state CSE programs, in FY2014, $148.6 billion in child support obligations ($33.8 billion in current support and $114.8 billion in past-due support) was owed to families receiving CSE services, but only $29.3 billion was paid ($21.7 billion current, $7.6 billion past-due). In FY2014, the federal/ state CSE program collected only 20% of child support obligations for which it had responsibility. If current child support collections are examined separately, the state CSE programs collected about 64% of all current obligations in FY2014. If child support arrearages are examined separately, the state CSE programs collected about 7% of child support arrearage payments in FY2014.

program. Indeed, **Table 2** shows that in FY2004 (the first year in which comprehensive data are available) child support arrearages were already at nearly $50 million.

The last row of **Table 2** shows a measure of CSE program effectiveness, obtained by dividing total tribal CSE collections by total tribal CSE expenditures (costs). This measure is sometimes referred to as the collections-to-costs ratio. The table shows that in FY2014, $0.87 was collected from noncustodial parents for the financial support of their children for each dollar spent on tribal CSE programs.[100]

[100] With regard to state CSE programs, in FY2014, $4.96 was collected from noncustodial parents for the financial support of their children for each dollar spent on state CSE programs.

Table 2. Tribal CSE Program Financial and Statistical Data, FY2004-FY2011, and FY2014

	2004	2005	2006	2007	2008	2009	2010	2011	2014	Percentage Change, FY2004-FY2014
Distributed Child Support Collections[a]	$12,327,444	$10,750,329	$12,885,776	$15,663,985	$19,873,555	$19,995,803	$29,225,754	$34,079,158	$36,484,842	196.0%
Collections Forwarded to States	$2,161,323	$1,823,836	$1,987,837	$2,169,604	$3,324,766	$5,575,833	$5,267,850	$5,913,502	$10,800,286	399.7%
Total Collections	$14,488,767	$12,574,165	$14,873,613	$17,833,589	$23,198,321	$25,571,636	$34,493,604	$39,992,660	$47,285,028	226.4%
Expenditures	$9,129,785	$9,427,218	$12,087,361	$13,478,997	$17,819,053	$26,172,089	$29,224,592	$30,886,548	$41,744,837	357.2%
Child Support Caseload	27,750	24,650	25,898	27,184	29,350	36,217	39,578	43,084	50,892	83.4%
Child Support Orders	9,767	8,162	9,128	12,567	14,414	17,714	22,567	26,729	34,413	246.4%
Paternity Established or Acknowledged	13,746	12,245	13,787	15,087	18,465	19,968	27,464	27,538	33,834	150.3%
Current Child Support Due	$9,145,632	$19,227,881	$21,708,165	$24,288,673	$28,121,641	$37,864,240	$40,641,149	$45,972,563	$63,506,256	594.4%
Current Child Support Collected and Distributed[b]	$12,892,936	$8,575,632	$9,664,579	$11,611,269	$16,144,883	$17,736267	$19,707,714	$27,501,826	$30,413,186	135.9%
Past-Due Child Support Owed	$49,876,837	$122,987,564	$310,145,753	$138,658,867	$150,974,343	$193,133,808	$182,893,770	$203,213,508	$204,991,610	311.0%

	2004	2005	2006	2007	2008	2009	2010	2011	2014	Percentage Change, FY2004-FY2014
Past-Due Child Support Collected and Distributed[b]	$1,736,722	$4,833,116	$4,603,739	$6,321,819	$10,358,264	$8,032,237	$9,216,570	$9,136,525	$12,260,500	606.0%
Total Collections Per Dollar of Expenditures	$1.59	$1.33	$1.23	$1.32	$1.30	$0.98	$1.18	$1.29	$0.87	-45.3%

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement (OCSE), Department of Health and Human Services.

Notes: See the FY2007 OCSE Annual Report to Congress for summary Tribal CSE data for FY2004 through FY2007 (Table 89) and the FY2011OCSE Annual Report to Congress for summary Tribal CSE data for FY2007 through FY2011 (Table 102). The Office of Child Support Enforcement redesigned the FY2012 Annual Report to Congress, since then summary tables that display program statistics for tribes and tribal organizations as a group are no longer available. Instead, the statistical information for each individual tribe and tribal organization must be summed together. The FY2014 data are from the OCSE FY2014 Annual Report to Congress (Tribal Performance).

Figures for "Collections Per Dollar of Expenditures" (i.e., the last row of the table) were obtained by dividing total collections (shown in the third row) by expenditures.

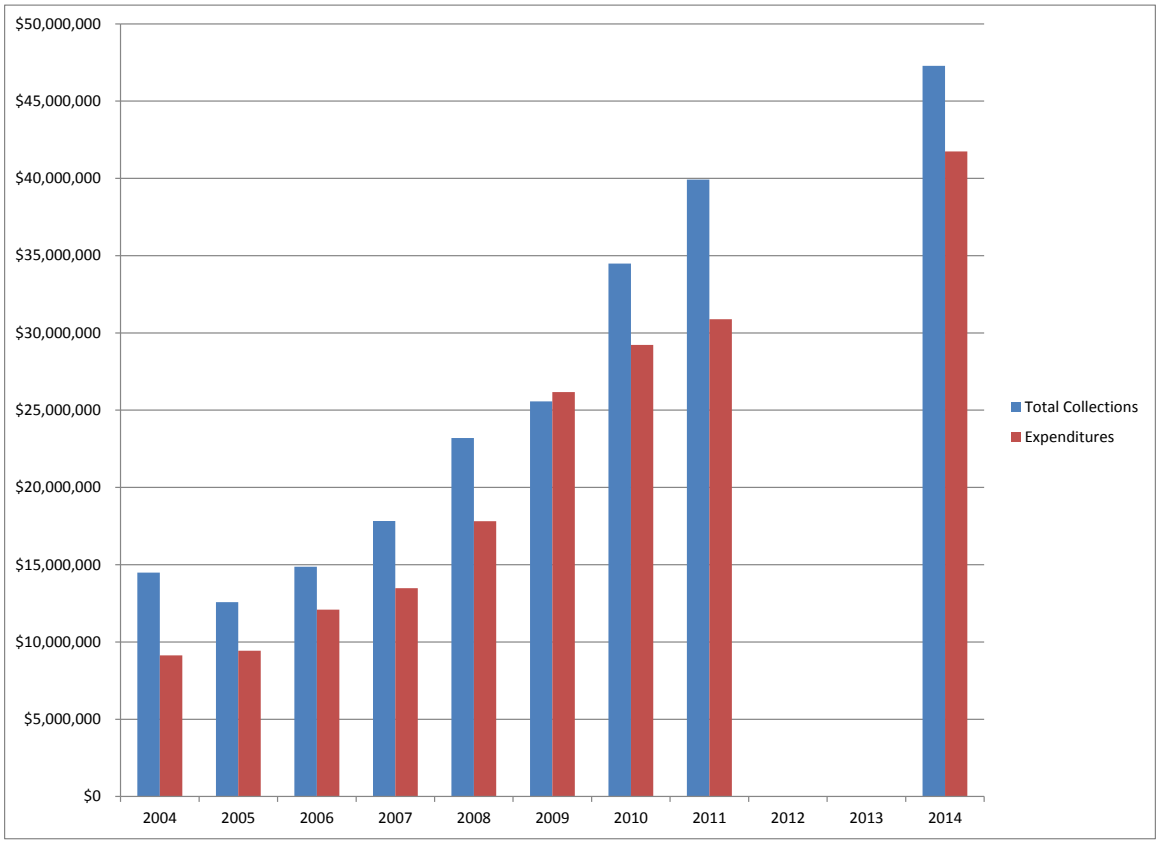
N.A.—not available.

a. This figure is smaller than the sum of the figures labeled "Current Child Support Collected and Distributed" and " Past-Due Child Support Collected and Distributed" primarily because the figures are taken from two different reporting forms that have different reporting criteria instructions. (This figure comes from form OCSE34A and the other figures mentioned come from form OCSE75.)

b. Some of this amount may have been owed to the custodial parent when the state-based cases were transferred to the tribe.

Figure 2 shows the amount of child support collected by the tribal CSE program for the period FY2004-FY2011 and for FY2014. It also shows the amount of expenditures associated with the tribal CSE program. As mentioned earlier, one measure of a program's cost-effectiveness is often portrayed as the relationship of benefits to costs. As shown in **Table 2**, in FY2004, the tribal CSE program collected $1.59 for each dollar that it spent. The collections-to-expenditures rate fluctuated throughout the 11-year period. In FY2014, it reached a low of $0.87. A reason for this might be that tribal CSE programs that are just getting underway are included in the data calculations. Another reason might be that the data may be inconsistent and/or unreliable across tribes.

Figure 2. Tribal CSE Program: Collections and Expenditures, FY2004-FY2011 and FY2014



Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Note: The Office of Child Support Enforcement redesigned the FY2012 Annual Report to Congress, since then summary tables that display program statistics for tribes and tribal organizations as a group are no longer available. Instead, the statistical information for each individual tribe and tribal organization must be summed together. Thus, data for FY2012 and FY2013 are not readily available and are not shown in this figure.

The data also show that expenditures per case in the tribal CSE program grew over the 11-year period FY2004-FY2014. Expenditures per case increased by 149% during that period, from $329 in FY2004 to nearly $820 in FY2014 (see **Table 3**). Collections per case also increased during the period, but not as much. Collections per case increased by 78%, from $522 in FY2004 to

$929 in FY2014.[101] As mentioned earlier, tribal CSE cases increased by 83% over the FY2004-FY2014 period.

Although the two measures, expenditures per case and collections per case (see **Table 3**), help illuminate the tribal CSE program, they are only averages and do not accurately reflect what individual families receive. As noted earlier, Census Bureau data pertaining to child support receipt do disaggregate by race, but AIAN are included in the "other race" category. OCSE data do not provide information on actual cases with collections for the tribal CSE program. Nevertheless, it is known that about $226 million of child support owed to tribal members went unpaid in FY2014, which is 84% of the amount of money that the tribes and tribal organizations were supposed to collect on behalf of Native American children.

Table 3. Tribal CSE Program, Expenditures and Collections Per Case, FY2004-FY2010, and FY2014

	Collections/Caseload	Expenditures/Caseload
2004	$522.12	$329.00
2005	$510.11	$382.44
2006	$574.32	$466.73
2007	$656.03	$495.84
2008	$790.40	$607.12
2009	$690.99	$736.19
2010	$812.23	$806.64
2014	$929.12	$820.26

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Table 4 and **Table A-6** show that there were wide differences among the tribes in how much child support was collected for each dollar spent on the tribal CSE program, ranging from 0 (zero) cents in the Blackfeet Nation tribe to $2.37 in the Forest County Potawatomi tribe.[102]

Table 4 presents tribal CSE program data by tribe (for the 57 comprehensive tribal CSE programs) for FY2014. It shows tribal CSE collections (distributed), expenditures, and caseload data. It also displays the number of paternities and child support orders established by the tribe or tribal organization, and the collections-to-expenditures ratio for each tribe or tribal organization. The table indicates that the Navajo Nation ranked highest in five of the six categories shown. The Navajo Nation collected the most child support payments, had the highest child support expenditures, had the largest child support caseload, and established the most paternities and child support orders. The Navajo Nation was one of the first tribes to receive direct federal CSE funding. It has had a comprehensive CSE program since FY2002. The Forest County Potawatomi tribe had the best collections-to-expenditures ratio in FY2014, about two times higher than the average ($0.87) for all tribes. The Forest County Potawatomi tribe has had a comprehensive CSE

[101] The "expenditures per case" data were obtained by dividing the child support expenditures (displayed in **Table 2**) by the child support caseload (also displayed in **Table 2**). The "collections per case" data were obtained by dividing the total child support collections (displayed in the third row of **Table 2**) by the child support caseload.

[102] As noted in **Table 2**, the average amount collected for each $1 spent for all of the tribes with CSE programs was $0.87 in FY2014.

program since FY2003 (one year after the Navajo Nation). See Tables A-1 through A-6 in **Appendix A** for a ranking of the tribes and tribal organizations with respect to each of the six program/performance indicators. The Navajo Nation is the largest Indian tribe in the United States, with about 14% of the U.S. tribal enrollment. Although the Navajo Nation is not among the wealthiest tribes per capita, it appears to have a very effective CSE administrative structure. In contrast, the Forest County Potawatomi tribe is a much smaller tribe but appears to be relatively wealthy[103] and seems also to have an effective CSE administration. (See **Table C-1** for enrollment and population data on these tribes.)

Table 4. Tribal CSE Summary Data by Tribe, FY2014

	Distributed Collections	Expenditures	Caseload	Paternities Established	Orders Established	Collections/ Expenditures[a]
Alabama-Coushatta	N.A.	196,510	N.A.	N.A.	N.A.	N.A.
Aleutian/Pribilof	$3,403	$539,576	16	2	13	$0.01
Blackfeet Nation	1,500	554,567	408	8	169	0.00
Cherokee Nation	2,965,747	2,101,713	1,665	26	1,580	1.41
Chickasaw Nation	2,861,520	2,535,678	1,572	1,175	1,461	1.13
Chippewa Cree (Rocky Boys Res.)	57,966	652,350	391	13	138	0.09
Coeur 'D Alene	180,183	801,269	247	6	247	0.22
Comanche Nation	474,725	518,691	450	2	N.A.	0.92
Confederate Tribe Of Colville	243,692	1,025,933	2,003	11	1,225	0.24
Eastern Band of Cherokee	2,948,972	1,336,632	1,218	1,104	1,006	2.21
Eastern Shoshone	98,800	596,071	403	31	175	0.17
Forest County Potawatomi	2,240,252	946,451	626	607	605	2.37
Fort Belknap	28,386	623,459	401	8	97	0.05
Ho-Chunk Nation		176,187	171	95	153	-
Kaw Nation	308,542	429,301	150	6	139	0.72
Keweenaw Bay	83,549	215,616	135	74	93	0.39
Kickapoo (Kansas)	106,700	375,031	194	90	167	0.28
Kickapoo (Oklahoma)	81,762	414,556	113	18	75	0.20
Klamath	7,847	399,296	462	477	222	0.02
Lac Courte Oreilles	94,459	850,560	365	282	252	0.11

[103] Indian gaming has greatly enhanced the economic development of the Forest County Potawatomi Community. The Forest County Potawatomi government is now able to provide employment, for both tribal and non-tribal people in the tribal offices, tribal businesses, and casinos, and is currently the largest employer in Forest County, WI (see http://www.fcpotawatomi.com/index.php/Treaties/history-overview.html).

	Distributed Collections	Expenditures	Caseload	Paternities Established	Orders Established	Collections/ Expenditures[a]
Lac Du Flambeau	702,454	372,583	1,207	611	1,207	1.89
Leech Lake Band	104,338	282,034	619	879	609	0.37
Lummi Nation	398,789	1,115,150	587	15	439	0.36
Menominee	1,603,454	770,653	1,783	1,576	1,701	2.08
Mescalero Apache	304,794	531,675	518	24	379	0.57
Mille Lacs Band	542,240	496,189	1,600	5	1,524	1.09
Modoc	1,774,978	1,873,650	1,181	1,182	989	0.95
Muscogee Creek Nation	1,416,094	2,132,179	1,339	981	1,079	0.66
Navajo Nation	8,864,498	3,965,043	14,984	16,253	6,949	2.24
Nez Perce	50,929	N.A.	349	10	336	N.A.
Nooksack	62,953	903,545	292	231	242	0.07
Northern Arapaho	214,797	971,098	2,148	23	1,265	0.22
Oneida Nation	2,168,647	1,345,215	2,872	1,838	2,528	1.61
Osage Nation	619,674	570,023	383	15	237	1.09
Penobscot Nation	41,939	671,161	22	N.A.	22	0.06
Ponca	123,557	542,221	107	116	94	0.23
Port Gamble S'klallam	138,113	846,924	446	285	326	0.16
Prarie Band Potawatomi Nation	298,249	361,363	197	3	149	0.83
Pueblo Of Zuni	257,128	176,578	42	8	42	1.46
Puyallup	97,241	1,238,899	1,022	362	634	0.08
Quinault Nation	207,587	593,726	884	7	879	0.35
Red Cliff Band of Lake Superior Chippewa	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Red Lake Band	218,677	89,759	1,039	937	770	0.56
Sac & Fox Tribe of the Mississippi in Iowa	N.A.	57,953	N.A.	N.A.	N.A.	N.A.
Saint Regis Mohawk	400	N.A.	3	N.A.	3	N.A.
Salish and Kootenai	135,490	395,146	355	142	327	0.34
Sisseton Wahpeton	467,137	920,324	1,520	40	827	0.51
Standing Rock Sioux	83,031	631,828	102	1	79	0.13
Stockbridge-Munsee	302	N.A.	8	1	2	N.A.
Suquamish	48,654	381,811	158	2	149	0.13
Three Affiliated	708,743	798,164	N.A.	N.A.	N.A.	0.89

	Distributed Collections	Expenditures	Caseload	Paternities Established	Orders Established	Collections/ Expenditures[a]
Tlingit and Haida	666,792	784,778	1,243	1,464	1,034	0.85
Tulalip	864,862	853,529	1,433	1,349	568	1.01
Umatilla	103,785	540,021	224	316	224	0.19
White Earth Nation	184,753	643,350	869	779	674	0.29
Winnebago	221,758	317,123	322	337	276	0.70
Yurok	N.A.	178,205	44	7	33	N.A.
Total	$36,484,842	$41,744,837	50,892	33,834	34,413	$0.87

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: According to OCSE, data reporting by the tribes has been an issue for three reasons: (1) reporting methods before 2006 were not clear, (2) in 2006, the reporting form changed again and what was required was not clear; and (3) until one of the tribes developed an MS Access-based case management system, all data were calculated manually (most tribes now use the Access system).

N.A.—not available. (For the most part, the tribes for which data are not available are tribes that began operating "comprehensive" tribal CSE programs in FY2013 or FY2014.)

a. This column shows distributed tribal CSE collections divided by tribal CSE expenditures. The total differs from **Table 2** because it does not include tribal CSE collections that were forwarded to states.

It should be noted that during the formative years of any program, the meaning of program indicators may not be clear-cut. For example, with respect to tribal CSE programs, a large caseload may mean that the program is doing an excellent job of informing potential recipients of the program, or it may mean that there are reasons external to the program that are contributing to the high number of cases, such as high divorce rates, high rates of single-parent families, high rates of nonmarital childbearing, or high rates of nonpayment of child support. Similarly, high expenditures may mean that the program is providing a range of services to ensure child support collections, or that it has increased program staff to facilitate outreach and program administration, or that the families it is servicing require a lot of assistance (e.g., location services, paternity establishment, order establishment). Thus, although the tables are provided to shed some light on how individual tribal CSE programs are doing, it is probably unwise to draw conclusions from the data or make broad generalizations about tribal CSE programs. The effectiveness of tribal CSE programs may prove to be even more difficult to determine and evaluate than state CSE programs.

Issues

Nearly eight years after tribes officially became part of the CSE program with the enactment of the 1996 welfare reform law, final regulations[104] were established to implement direct funding to Indian tribes and tribal organizations for tribal CSE programs. The final regulations require that all child support agencies accept applications for service from anyone and require that the tribal CSE agency provides appropriate services. This includes taking all applications, opening a case for each, determining what services are needed and may be provided by the tribal CSE agency, and providing all of those services required by tribal CSE regulations. The tribe must provide, at a

[104] The final rule pertaining to tribal CSE programs is found in *Federal Register*, vol. 69, no. 61,March 30, 2004. The federal regulations are codified at 45 C.F.R. §309.

minimum, basic assistance, such as location, preparation of documents for intergovernmental processing, and case monitoring and distribution of collections forwarded from another jurisdiction. There may be circumstances where the tribal agency's only appropriate service will be to request assistance from another tribal or state CSE program with the legal authority to take actions on the case. In these and other such instances, states and tribes must work together to ensure that families receive the child support that they deserve.[105]

Although tribes and tribal organizations can now operate CSE programs, many problems have yet to be resolved. Even though there are rules related to whether a state or a tribe has jurisdiction over certain cases, in some instances there is concurrent jurisdiction and in some instances the complexity of the case blurs jurisdictional lines. Although federal regulations clarify that establishment of paternity under tribal CSE programs does not infer tribal enrollment or membership, paternity is inextricably linked to tribal membership. Many tribes view tribal membership as a political and cultural issue and thereby do not want to rely on scientific technology to confer tribal membership. A major difference between state CSE programs and tribal CSE programs is that tribal CSE programs can authorize the use of noncash payments to satisfy child support orders. Some observers are concerned that requiring the tribe to place a dollar value on each type of noncash payment may prove to be administratively cumbersome and costly. They argue that it is hard to predict and include a dollar amount for all of the kinds of noncash payments that members of the tribe may want to use to satisfy their child support obligations.

Some child advocates are concerned that children who receive tribal CSE services may be less likely to receive the child support to which they are entitled than their counterparts who receive state CSE services, because tribal CSE programs do not have access to the vast array of state collection methods. Although nonpayment of child support is likely to be a perennial issue, especially for low-income noncustodial parents, some observers assert that tribal CSE programs that determine realistic and appropriate child support orders from the outset may improve the long-term success of their programs. In addition, some observers are concerned that unequal resources may result in children within a tribes' jurisdiction not getting the child support they are due, while others contend that the individualized approach used by tribes may counterbalance reduced and/or inadequate resources. This section examines the issues mentioned above.

Jurisdictional Matters

Indian tribes within the boundaries of the United States are considered "domestic dependent nations" under federal law, and tribal sovereignty and jurisdiction has been viewed by the federal government as limited. In general, tribal sovereignty applies in matters that affect tribe members who live on the tribe's reservation. Census data indicate that about 67% of AIAN, as defined by race, live outside reservations and other Census-defined Indian areas.[106]

When all parties to a domestic relations case are not members of the tribe or any federally recognized Indian tribe, the tribe may lack jurisdiction.[107] Whether a tribal court or state court has

[105] U.S. Department of Health and Human Services, Office of Child Support Enforcement, Tribal Policy Interpretation Questions, PIQT-05-02, April 26, 2005.

[106] U.S. Census Bureau, "The American Indian and Alaska Native Population: 2010," by Tina Norris, Paula L. Vines, and Elizabeth M. Hoeffel, 2010 *Census Briefs, C2010BR-10*, January 2012, p. 13.

[107] The Supreme Court, in Montana v. United States, 450 U.S.544 (1981), distinguished between retained tribal sovereignty and that which has been divested, emphasizing that a tribe's sovereign power is strongest when it is being exercised with respect to tribal members on tribal lands. The extent to which a tribe may exercise civil jurisdiction over (continued...)

jurisdiction may be crucial in paternity cases and in child support matters.[108] Most states do not have criminal or civil jurisdiction over Indian tribal members on their reservations. P.L. 83-280 (usually referred to as Public Law 280), however, was enacted in 1953 and the affected states received criminal and civil jurisdiction over Indians on some or all reservations within their boundaries. There are six mandatory Public Law 280 states (California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska), where Public Law 280 required state jurisdiction (with some exceptions); and there are 10 optional Public Law 280 states (Nevada, Florida, Idaho, Iowa, Washington, South Dakota, Montana, North Dakota, Arizona, and Utah), which chose to acquire various jurisdictional powers under Public Law 280's authorization. Public Law 280 provides that a state can exert jurisdiction over individual tribal members. This jurisdiction is concurrent with that of the tribe.[109] In general, a state with complete Public Law 280 civil jurisdiction has jurisdiction over domestic relations actions, to which Indians are parties, and which arise in Indian country. In the absence of Public Law 280 jurisdiction, if both parents are enrolled members of the same tribe and live in Indian country, it is generally held that the tribal court has exclusive jurisdiction.[110]

Although tribal courts have exclusive jurisdiction (in the absence of Public Law 280) over parentage and child support matters where both parents are from the same tribe and reside on the tribe's reservation,[111] there are many circumstances in which that is not the case. The following is a list of several examples that would raise the issue of tribal court versus state court jurisdiction: (1) Indian mother and non-Indian father, (2) non-Indian mother and Indian father, (3) Indian mother who is a member of the tribe and an Indian father who is not a member of the tribe, or (4) Indian mother who is not a member of the tribe and an Indian father who is a member of the tribe.[112]

Concurrent jurisdiction does not necessary resolve conflict. For example, if there is concurrent jurisdiction under Public Law 280, such as a case in which one party is a tribal member who resides on the reservation and the other party, who may or may not be a tribal member, resides off the reservation, it is possible that a state and a tribe may have competing interests. For example, while the tribe has a significant interest in establishing paternity in such cases, there also could be

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non-members involves a number of factors. Divestment of tribal authority may occur by virtue of a treaty or federal statute, or as a result of the status of Indian tribes as being subject to the overriding sovereignty of the United States.

[108] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 59, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

[109] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Policy Questions and Responses to Miscellaneous Issues regarding Provisions of 45 CFR part 309, the Tribal Child Support Enforcement Program Final Rule," OSCE-AT-05-07, May 12, 2005, p. 13.

[110] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 60-61, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

[111] A valid exercise of tribal court jurisdiction requires valid service of process. When the civil action is being heard by a tribal court, service should comply with the relevant tribal code. Most tribal codes allow personal service and/or service by registered mail, return receipt requested. The tribal code may also specify who may serve process. For example, in some tribes service of process may be performed by any person who is not a party and who is at least 18 years old. In other tribes, the court may require service of process by a tribal police officer or other person specially appointed by the court. (Source: U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 43, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.)

[112] U.S. Commission on Interstate Child Support, "Supporting Our Children: A Blueprint for Reform," 1992, p. 201.

state concerns, such as the application for public assistance or CSE services. Also, tribal courts might not use genetic testing for paternity establishment to the same extent as state courts. Tribal courts are also less likely to recognize presumptions of paternity, and they historically have given limited recognition to the marriage presumption. Balancing state interests and tribal interests is an important consideration in such cases.[113]

Native American children who receive TANF benefits are another example in which state court versus tribal court jurisdictional issues could arise. Some courts would characterize the state as a non-Indian party and analyze jurisdiction accordingly. Other courts could characterize the state as an Indian because it derives its interest in the child support actions from the Indian parent's assignment of child support rights.[114]

Even in mandatory Public Law 280 states, conflict over jurisdiction may occur. On January 19, 2010, the Central Council of the Tlingit and Haida Indian Tribes filed a lawsuit against the state of Alaska's Child Support Services Division (CSSD) for its refusal to recognize the tribe's child support orders. The state of Alaska and the Tlingit and Haida Tribes disagree on the underlying jurisdictional issue of the tribal court's authority to issue its own child support orders. CSSD provides all necessary services, such as the Permanent Fund Dividend (PFD)[115] intercept, to all "transferred" cases, but refuses to provide services when the underlying order is based upon a tribal court child support order. According to the Central Council of the Tlingit and Haida Indian Tribes,

> This lawsuit will allow both the State and Tribe to resolve these underlying jurisdictional issues and ensure that Native children and families receive the child support services necessary to meet families' basic needs. It will also address CSSD's refusal to follow Alaska's Uniform Interstate Family Support Act (UIFSA) to provide interstate services for Central Council's tribal child support orders.[116]

In October 2011, the Juneau Superior Court ruled in favor of the tribe[117] and agreed that the tribe has jurisdiction over child support when the case involves a child that is enrolled or is eligible for enrollment with the tribe.[118]

Some observers contend that states and tribes must avoid or set aside long-standing disputes over land and jurisdiction so that they can better serve custodial parents in obtaining the CSE services to which their children are entitled.

Jurisdictional issues between states and Indian tribes can be very complex, and even cases that seem straightforward may have twists and turns. For instance, even though the state of Wisconsin is a Public Law 280 state, which means that the state has jurisdiction over members of Indian tribes even if they reside on the reservation, the Menominee Reservation is excepted from Wisconsin's Public Law 280 jurisdiction.[119]

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[113] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Chapter 8, Paternity Establishment," in Essentials for Attorneys in Child Support Enforcement, 3rd ed. (October 2002); http://www.acf.hhs.gov/programs/cse/pubs/2002/reports/essentials/c8.html.

[114] U.S. Commission on Interstate Child Support, "Supporting Our Children: A Blueprint for Reform," 1992, p. 201.

[115] The Permanent Fund Dividend (PFD) are payments that are given to persons who are qualified Alaska residents.

[116] Tlingit & Haida Central Council, Tribal News, *Tribe Files Lawsuit Against State of Alaska*, February 2010.

[117] *Central Council v. State of Alaska*, 1JU-10-376 CI)

[118] Tlingit & Haida Central Council, Tribal News, *Tlingit and Haida Tribe and Alaska Child Support Services Division Agree to Release Garnished Permanent Fund Dividend Funds*, April 2012.

[119] State Bar of Wisconsin, "Jurisdictional Issues Relating to Contracts with Indian Tribes," by Brian L. Pierson, http://www.wisbar.org/AM/PrinterTemplate.cfm?section=indian_law_section&template=/cm/contentdisplay.cfm& (continued...)

Paternity Establishment

Legally identifying the father is a prerequisite for obtaining a child support order. Generally, if a child is born to a married couple, the wife's husband is presumed to be the baby's father. In the United States, nonmarital births are widespread, touching families of varying income class, race, ethnicity, and geographic area. In 2010, 40.8% of the 4.0 million U.S. births were to unmarried women. In that same year, 65.6% of the approximately 47,000 births to American Indian or Alaska Native women, as identified by race, were nonmarital births.[120]

In cases where a child is born to unmarried parents, paternity must be established or acknowledged. Tribes and tribal organizations allow the establishment of paternity through a variety of methods, including through voluntary acknowledgement, through the tribal courts, through the state courts, through an administrative process, by default, by stipulation, and through tribal ceremony for adoptions.[121]

Most experts agree that use of highly reliable DNA tests greatly increases the likelihood of correct identification of putative fathers. DNA tests can be used either to exclude unlikely fathers or to establish a high likelihood that a given man is the father of a child. DNA profiling allows for direct examination of the genetic material that a child inherited from his or her biological parents.[122] During the testing process, the genetic characteristics of a child are first compared to those of his or her mother. The characteristics that cannot be found in the mother must have been inherited from the biological father. If the tested man does not contain the genetic characteristics necessary to be the biological father of the child, he is excluded.[123] If the DNA of the tested man does contain those genetic characteristics, then the man cannot be excluded and the probability that the tested man is the true biological father can be calculated.[124]

Many tribes and tribal organizations view paternity differently than states. Although federal regulations clarify that establishment of paternity under tribal CSE programs does not infer tribal enrollment or membership, paternity may be inextricably linked to tribal membership. Thus, even though DNA testing is commonly used by tribes to establish paternity, many tribes view tribal membership as a political and cultural issue and thereby do not want to rely solely on scientific technology to confer tribal membership.

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contentid=53479. Also see http://www.falmouthinstitute.com/training/public/oct/LW005.html.

[120] The percentage of nonmarital births was 17.0% for Asian or Pacific Islander women (247,000 births), 29.0% for white women (about 2.2 million births), 53.3% for Hispanic women (946,000 births), and 72.5% for black women (589,000 births). (Source: U.S. Department of Health and Human Services, National Center for Health Statistics, "Births: Preliminary Data for 2010," *National Vital Statistics Reports*, vol. 60, no. 2, November 2011.)

[121] Office of Child Support Enforcement, "Tribal Child Support Enforcement Systems Workgroup, Session III Joint Application Development Final Report," October 2005.

[122] Since DNA is present in all cells of the body, DNA testing can be done on a specimen collected by gently rubbing the inside of the cheek with a cotton swab (i.e., the buccal swab method).

[123] Negative genetic test results are usually considered conclusive evidence that the alleged father is not the biological father. A negative genetic test result almost always results in a dismissal of all claims for child support.

[124] When a man is not excluded, the probability that he is indeed the father of the child can reach as high as 99.99%. The exact percentage used to determine paternity varies among tribes. When tests indicate a high probability of paternity, a rebuttable presumption arises and it becomes the man's responsibility to disprove the findings. If he has not challenged the results within the number of days specified in tribal procedures (and the genetic test results reach the threshold of probability established by the tribe), the tribe may seek a conclusive determination of paternity. (Source: U.S. Department of Health and Human Services, Office of Child Support Enforcement, "OCSE Training Courses for Tribal IV-D Programs—Paternity Module," http://www.acf.hhs.gov/programs/cse/resources/tribal/training/.)

Others note that many people view paternity tests as an affront to their integrity and an indication of a lack of trust. This situation is exacerbated in the case of an older child. According to some focus group discussants, for many couples, once one of the partners or alleged partners indicates that a paternity test is needed, any future chance for cooperative parenting is greatly diminished because of lingering animosity over the father not stepping forward and meeting his financial responsibility or the mother not being honest about her fidelity or use of birth control.[125] Although the discussants mentioned above were talking about problems with and ways to improve state CSE programs, it is not unrealistic to infer that clients of tribal CSE programs may hold similar negative views about the implications of paternity testing.

Although tribes and tribal organizations must give full faith and credit to child support orders, they do not have to recognize stand-alone paternity orders.[126] Some commentators contend that tribes and tribal organizations should not be given so much discretion with regard to establishing paternity. They maintain that the advances in science and technology make paternity establishment straightforward and relatively inexpensive and argue that a tribe's reluctance to use DNA testing stems from its disinclination to confer membership on more persons and belies a financial motivation in that some tribes might not want to share revenue from casinos, oil and water rights, etc., with more members.[127]

Moreover, some persons argue that DNA testing to establish paternity is different from DNA testing that tries to prove whether or not a person is a member of a tribe. They assert that DNA paternity testing is almost infallible (with probability of paternity values reaching as high as 99.999%). They also point out that federal regulations more than adequately protect the status of tribes by stipulating that establishment of paternity under tribal CSE programs does not infer tribal enrollment or membership.[128]

Federal CSE law requires that in the case of unmarried parents, the father's name shall not appear on the birth certificate unless he has signed a voluntary acknowledgment of paternity or a court has issued an adjudication of paternity; no such provision exists for tribal CSE programs. This means that in a case in which a tribe or tribal organization has jurisdiction, if a woman puts a man's name on the birth certificate of her child and he does not contest the paternity (perhaps because he does not know about it), the child could be deemed to be the child of the man whose name is on the birth certificate—regardless of whether the name is on the birth certificate due to a

[125] National Women's Law Center and Center on Fathers, Families, and Public Policy, "Family Ties: Improving Paternity Establishment and Practices and Procedures for Low-Income Mothers, Fathers, and Children," November 15, 2000, p. 15. See also Paula Roberts, "An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents," Center for Law and Social Policy, May 2001.

[126] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 59, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

[127] Kim Tallbear and Deborah A. Bolnick, "Native American DNA Tests: What are the Risks to Tribes?" http://www.williams.edu/go/native/tallbear_bolnick%20_dna.pdf.

[128] It is interesting that the biological child of a woman who is a member of a tribe may not automatically be a member of his or her mother's tribe. Tribal enrollment requirements preserve the unique character and traditions of each tribe. The tribes establish membership criteria based on shared customs, traditions, language, and tribal blood. Tribal enrollment criteria are set forth in tribal constitutions, articles of incorporation, or ordinances. The criteria vary from tribe to tribe, so uniform membership requirements do not exist. Two common requirements for membership are lineal descent from someone named on the tribe's base roll or relationship to a tribal member who descended from someone named on the base roll. (A "base roll" is the original list of members as designated in a tribal constitution or other document specifying enrollment criteria.) Other conditions such as tribal blood quantum, tribal residency, or continued contact with the tribe are common. (Source: http://www.doi.gov/archive/enrollment.html#Requirements.)

paternity adjudication, a default paternity order, or a paternity acknowledgment, and regardless of whether the man is the child's biological father.[129]

Child Support Enforcement Methods

Federal regulations require that tribes include in their tribal CSE plans tribal law, code, or regulations that describe the types of collection/enforcement actions the tribe can use. The only collection/enforcement method mandated (by federal regulations) for tribes and tribal organizations is income withholding. For the states, income withholding is by far the most effective method of obtaining child support payments. According to OCSE data, about 67% of child support collected through the state CSE agencies is collected via income withholding. However, if the noncustodial parent does not have a job or is self-employed, then income withholding is not applicable.

Federal law requires that states enact state laws that authorize the use of the following collection/enforcement methods: income withholding; intercept of federal and state income tax refunds; intercept of unemployment compensation; liens against property; reporting child support obligations to credit bureaus; intercept of lottery winnings; sending insurance settlement information to CSE agencies; authority to withhold or suspend driver's licenses, professional licenses, and recreational and sporting licenses of persons who owe past-due child support; and authority to seize assets of debtor parents held by public or private retirement funds and financial institutions. Moreover, federal law authorizes the Secretary of State to deny, revoke, or restrict passports of debtor parents. All jurisdictions also have civil or criminal contempt-of-court procedures and criminal nonsupport laws. In addition, federal criminal penalties may be imposed in certain cases. Federal law also provides for international enforcement of child support. Some tribes argue that allowing tribes to operate CSE programs but denying them access to the array of enforcement methods that are available to states results in inequities in service that adversely impact Native American children.

Even though tribes do not have access to the vast array of child support enforcement/collection tools that are available to the states, many tribes have been successful in implementing new and innovative enforcement techniques, such as elders' panels, attachment of per capita payments, attachment of gaming winnings, and personal improvement mandates. (All enforcement techniques must first be approved by the tribe's governing body.)

One of the child support collection methods that has been mentioned as a tool that would greatly benefit tribes is the federal income tax refund offset program.[130] According to a representative of the National Tribal Child Support Association, many noncustodial parents of Native American children are reluctant to use their federal income tax refunds to pay past-due child support but do not mind if their refunds are withheld from them to pay past-due child support. Some noncustodial parents view the refund as extra money, and while they might not use it to pay child support on their own, they recognize as legitimate the reason for withholding it from them.[131]

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[129] According to the National Tribal Child Support Association, although some tribes accept/acknowledge default orders, most do not (http://www.supporttribalchildren.org/NTCSA_TCS%20Info_Resource%20Guide_2009_May.pdf).

[130] According to an HHS document, direct access for Indian tribes to the Federal Income Tax Refund Offset program and the Federal Parent Locator Service could result in about $100 million in additional collections to tribal families over a five-year period. (Source: HHS Justification of Estimates for Appropriations Committees, Administration for Children and Families, FY2004, p. B-14.)

[131] Clifton Adcock, "Tribes Seek State Tools for Child Support," Cherokee Phoenix , http://www.cherokeephoenix.org/3855/Article.aspx.

Thus, some child advocates argue that the federal income tax refund offset is a very important enforcement tool that should be available to the tribes. Under current law, tribes do not have access to the federal income tax refund and because of jurisdictional boundaries, states cannot "serve" (i.e., deliver a legal summons) an individual in a child support case if that person is on Indian land. According to the National Tribal Child Support Association, several tribes are in the process of negotiating contracts for states to access the federal income tax refund offset on behalf of Indian children.[132] In order for tribes to have direct access to the federal income tax refund offset, Congress would have to pass legislation that specifically provided access to tribes and tribal organizations.

Tribes do not have access to most of the state child support collection tools, but tribes, unlike states, have the authority to allow noncustodial parents to use in-kind payments instead of cash to satisfy child support debt.[133] Many tribal CSE administrators view this as a great advantage, especially because many of the noncustodial parents associated with their caseloads are individuals with low-income and/or barriers to employment. The use of in-kind payments allows noncustodial parents of Indian children to reduce or eliminate their monthly child support obligation by providing a service to the custodial parent. Federal regulations require that child support orders clearly include a specific dollar amount reflecting the child support obligation. For example, a tribal CSE order could provide that a noncustodial parent owes $200 a month in current support, which may be satisfied with the provision of firewood suitable for home heating to the custodial parent and child. The child support order could provide that a cord of firewood has a specific dollar value of $100 based on the prevailing market. Therefore, the noncustodial parent would satisfy his or her child support obligation by providing two cords of firewood every month. The valuation of noncash resources is the responsibility of the tribe.[134] Other examples of in-kind payments include food such as salmon and buffalo, and ceremonial regalia.

Some tribal CSE administrators view in-kind payments as an effective and innovative enforcement strategy that encourages responsible parenting (by allowing noncustodial parents with little income to provide for their children with noncash payments/services).[135] Nonetheless, there is also the concern that requiring a tribe to place a dollar value on each type of noncash payment may prove administratively cumbersome and costly. Some observers argue that it is hard to predict and include in a tribal CSE plan all of the kinds of noncash payments that tribal members may want to use to satisfy their child support obligations. Others insist that one of the major roadblocks for tribal CSE programs is the lack of access to state locate resources and state enforcement tools.[136] However, pursuant to P.L. 113-183, the Preventing Sex Trafficking and

[132] Ibid.

[133] Although many custodial parents in state CSE programs receive some form of noncash support from the noncustodial parent, this noncash support does not reduce their child support obligation. According to Census data, 61% of all custodial parents received some noncash support from the noncustodial parent in 2005. The most common type of noncash support was gifts for birthdays, holidays, or other occasions (58%), followed by clothes (39%), food or groceries (29%), medical expenses other than health insurance (19%), and full or partial payments for child care or summer camp (11%). (Source: U.S. Census Bureau, "Custodial Mothers and Fathers and Their Children: 2005," P60-234, August 2007, p. 10.)

[134] U.S. Department of Health and Human Services, Office of Child Support Enforcement, "Tribal and State Jurisdiction to Establish and Enforce Child Support," March 12, 2007, p. 59, http://www.acf.hhs.gov/programs/cse/pol/IM/2007/im-07-03.htm.

[135] U.S. Department of Health and Human Services, Office Of Child Support Enforcement, "Tribal Community, In-Kind Payments a Useful Enforcement Strategy," by Deborah Yates, Director, Comanche Nation Child Support Program, Child Support Report, vol. 31, no. 10, October 2009, p. 8.

[136] Clifton Adcock, "Tribes Seek State Tools for Child Support," Cherokee Phoenix, http://www.cherokeephoenix.org/3855/Article.aspx.

Strengthening Families Act of 2014 (enacted September 29, 2014), tribes and tribal organizations are now considered "authorized persons" and thereby have direct access to the Federal Parent Locator Service (FPLS). Such access is expected to help increase the tribe's ability to locate noncustodial parents and their assets and resources.

Nonpayment Problems

As discussed earlier, in FY2014 the tribal CSE program collected only 16% of the child support obligations for which it had responsibility (i.e., 48% of current child support obligations and 6% of child support arrearage payments). Nonpayment of child support is a major problem for both tribal and state CSE programs. Some commentators contend that certain CSE procedures such as the use of default judgments and unrealistically high child support orders are major contributors to the problem of nonpayment of child support.

If a noncustodial parent gets a notice or a summons about child support or paternity establishment but does not appear in court at the stipulated date and time, the court can enter a child support order against the noncustodial parent by default. Although the majority of tribes with CSE programs do not acknowledge default judgments, some do. In cases where default judgments are recognized, if the noncustodial parent does not show up to tell his or her side of the story, the court can decide that the evidence against that person must be true. Thus, a "no show" by the noncustodial parent may result in the establishment of paternity and/or the establishment of a child support order, which will be effective whether or not the man in question is the actual father or whether or not the person in question has a job or a source of income. Some observers argue that the practice of using default judgments (i.e., judgments made in the absence of the alleged father), which is a practice of both tribal and state courts, has adversely affected many putative fathers who claim they are not the father of the child in question but, for whatever reason, did not show up in court to deny the allegations. Many analysts and observers maintain that the standards governing default judgments should balance the rights of the putative father to proper notice and the opportunity to be heard before paternity is established and a child support order is set against the right of the child to obtain a determination of paternity and support (on a timely basis) from a father who knowingly fails to appear in court.[137]

Although nonsupport can be partly attributed to the low incomes of many noncustodial parents, many commentators contend that unrealistically high child support orders and complicated time-consuming modification requirements exacerbate the problem. According to the American Community Survey (ACS) data for 2007-2011, 27.0% of American Indians and Alaska Natives, as identified by race, had incomes below the poverty level, more than twice the rate of their white counterparts.[138] Setting child support orders at a level that exceeds a noncustodial parent's ability to pay may in some cases decrease the amount of child support received by the custodial parent because of the noncustodial parent's low income and/or because of the noncustodial parent's contention that the CSE system is unfair.[139] In contrast, CSE policies, both tribal and state, that result in realistic child support orders, especially for persons at the lower end of the income scale,

[137] National Women's Law Center and the Center on Fathers, Families, and Public Policy, "Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers, and Children," 2002.

[138] The comparable figures for whites, Asians, blacks, and Hispanics were 11.6%, 11.7%, 25.8%, and 23.2%, respectively. (Source: Suzanne Macartney, Alemayehu Bishaw, and Kayla Fontenot "Poverty Rates for Selected Detailed Race and Hispanic Groups by State and Place: 2007–2011," U.S. Census Bureau, American Community Survey Briefs *ACSBR/11-17*, February 2013, Table 1.)

[139] Ingrid Rothe and Daniel R. Meyer, "Setting Child Support Orders: Historical Approaches and Ongoing Struggles," University of Wisconsin-Madison Institute for Research on Poverty, *Focus*, vol. 21, no. 1, Spring 2000, p. 61.

may result in more child support from low-income noncustodial parents. Some commentators contend that child support orders established by tribes are more realistic and fairer than those set by state guidelines. They argue that tribes are more aware of the circumstances of their people. There is agreement among policymakers and analysts that tribal CSE programs that establish realistic guidelines for child support orders, allow swift and in some cases automatic modification of child support orders, and provide effective means of cooperating and coordinating with states and other tribal CSE programs will probably avoid many of the mistakes of state CSE programs.

Some noncustodial parents claim that the child support guidelines are inherently unfair because they do not account for "affordability." They say that in many states and on many reservations, the basic living expenses of noncustodial parents, such as rent, food, and car payments, are often not considered a legitimate factor in determining the child support order. Many commentators agree that in many cases current levels of child support exceed what many middle and lower income noncustodial parents can afford to pay.

According to information for the Puyallup Tribe,[140] some tribes have significantly reduced child support debt that they claimed was inappropriately set by states or for which repayment would be impossible to achieve. However, other information indicates that some noncustodial parents who have appeared in tribal court to try to modify their child support order were told that the tribal court cannot modify their order because the custodial parent does not live on the reservation. They were told that the tribal court could not modify the underlying child support order, but it could make an "ability to pay" determination and thereby lower the amount to be paid to avoid a contempt of court ruling.[141]

Consistency of Tribal CSE Programs to Each Other and to State CSE Programs

While it is generally agreed that state and tribal CSE programs should move in the same direction, it is also acknowledged that tribes are a sovereign entity and thus should have the authority to develop their own policies to achieve CSE program directives. It is also recognized that tribes are at the early stage of CSE program development and therefore need flexibility (as long as they remain within the parameters established in the law) to adjust their programs so as to better serve their clientele.

Although tribes have historically had some things in common, like their "boarding school" experience[142] and how they viewed nature and shared a holistic philosophy based on the premise

[140] The Puyallup Tribal Child Support Program indicated that it continues to facilitate the reduction of child support debt that was either inappropriately set by the state or for which repayment would be impossible due to changes in circumstances. It reports that such reductions total over $2.3 million (Source: http://www.puyallup-tribe.com/index.php?nav=programs&id=8).

[141] North Dakota Supreme Court Committee on Tribal and State Court Affairs, April 12, 2002, http://www.ndcourts.com/court/committees/tribstat/Minutes/MinutesApr2002.htm.

[142] From the 1880s to the late 1970s, most Native American children attending BIA-funded schools were sent to BIA boarding schools, many for 12 years (since the late 1970s, most BIA students were in BIA day schools; see Paul Stuart, "Nations Within a Nation," 1987, pp. 111-168). Many Native Americans describe the boarding school experience as horrendous, they say that the purpose of the schools was to strip them of their culture, they were told that their manner of speaking and dressing was bad and that the only way for them to succeed was to ignore their cultural heritage and assimilate into "American" culture. Many analysts contend that the negative psychological, emotional, social, and cultural impact of that boarding school experience continues to affect the relationship between tribes, the federal government, and states. (Sources: "The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination," the Harvard Project on American Indian Economic Development, May 2007, chapter 13, pp. 235-250; (continued...)

of the "circle of life," they are also very diverse.[143] In most tribes, the father is highly respected but his role as a caregiver varies. In some tribes, the role of the father, like the mother, is to provide affection and support to his children while the uncles (and aunts) provide supervision and discipline. In other tribes, the father is very instrumental in assuring the cultural survival of the tribe, so he may have a very close relationship to his male children so that they will model his behavior and be prepared for leadership roles in the tribe. In other tribes, it is the grandparents who instill in the children the cultural mores of the tribe.[144] In many cases, the father's role in a particular tribe will have an impact on how other tribe members, including mothers, view paternity establishment and child support. In some tribes, establishing paternity and child support orders may be viewed as reducing the harmony and unity of the tribe. In some tribes, child support enforcement techniques such as suspending various types of licenses of noncustodial parents who owe past-due child support may be viewed as harming fathers rather than helping children. Some observers contend that the potential variation among tribal CSE programs may adversely affect some Native American children. They maintain that finding the correct balance between historical tribal practices and the present-day needs of children is a crucial part of developing and operating a tribal CSE program that will ultimately be successful in providing Native American children with the child support to which they are entitled.

As indicated above, tribal CSE programs vary. Below is a summary of some of their differences, as identified in a document prepared by the National Tribal Child Support Association.

- Some tribes have adopted their own codes/laws but have incorporated their state's child support statutes by reference, while other tribes have written their own codes/laws, procedures, and policies to govern their child support program.
- Most tribes have a court order process, some have CFR courts and some have tribal courts. The Navajo Nation has an administrative process.
- Some tribal CSE programs use the automated/computer systems of their corresponding state while others are not yet computerized and operate using manual systems.
- A few tribes have agreements with their individual states or counties for personal services on their reservation, although most do not.
- Administrative hearings may or may not be provided within the tribal programs.
- Some tribes will accept default orders (court or administrative), most will not.
- Some tribes will require paternity testing based on their tribal codes/laws if the original order does not meet certain criteria.[145]

(...continued)

"Native America in the Twentieth Century: An Encyclopedia," 1994, pp. 193-195.) In addition, some analysts contend that it is useful for state CSE administrators to recognize and not underestimate this history in their interactions with the tribes. (Source: Information obtained from seminar titled, "Government-to-Government Relations Between the Federal Government and Native American Tribes, Part 2 Working Together Today," presented by Randy A. Doucet at the 19th National Child Support Enforcement Training Conference, Washington, DC, November 3, 2009.)

[143] Department of Health and Human Services, Office of Child Support Enforcement, "Strengthening the Circle: Child Support for Native American Children," January 27, 1998.

[144] William Damon and Richard M. Lerner, "Handbook of Child Psychology: Social, Emotional, and Personality Development," 2006, p. 478-482.

[145] National Tribal Child Support Association, "Tribal IV-D Comprehensive Program Information, Key Differences and Similarities of Tribal Programs," by Gloria Howard (Puyallup Tribal Child Support Program), November 2008.

As seen earlier in **Table 4**, there are big differences between tribal CSE programs in terms of caseloads, collections, and expenditures. The Navajo Nation is one of the tribes that is credited with operating an effective CSE program. The Navajo Nation has a collaborative relationship with Arizona, Utah, and New Mexico (the three states in which a majority of its members reside). The New Mexico Child Support Enforcement Division has had a formal cooperative agreement with the Navajo Nation since July 1, 1997.

> The JPA [Joint Powers Agreement] between the State and the Navajo Nation provides the Navajo Nation with the ability to access the CSED's information system called the Child Support Enforcement System (CSES). The CSES information system is connected through the National New Hire Directory (NNHD), the Child Support Enforcement Network (CSENet) and the Electronic Parent Locator Network (EPLN) through the "Federal Case Registry" to the case registries of the 54 other states and territories, and 10 foreign nations. These connections are used for "locating" persons who owe child support and automatically "intercepting" their wage withholdings and other financial assets, and distributing it to the children and their custodial parents who are owed that child support. The CSES system cost the State of New Mexico $30 million in development costs over several years. ... In order to accomplish the child support casework on Navajo Nation lands, two new regions (known as Region 8 and Region 9) were created within both the physical structure of the CSED and within the CSES system. In Region 8 and 9, employees of the Navajo Nation perform all aspects of child support enforcement. Cases are transferred in or out of Regions 8 and 9 as needed. This lends itself to cleaner casework that is done at a site closer to the custodial parent.[146]

Cooperative agreements are viewed as a productive way to enable states and tribes to better provide child support services to Indian children and to establish and enforce child support obligations and judgments. Cooperative agreements are a tool that allows states and tribes to work together as partners to provide culturally relevant CSE services, consistent with state and federal laws, that are based on tribal laws and customs. Under most cooperative agreements, cases in which all or some of the parties involved are tribe members living on the tribal reservation are referred by the state to the tribe to be processed in the tribal court.[147]

An integral part of state CSE programs is the incentive payment system. The incentive payment system is part of the CSE program's strategic plan that rewards states for working to achieve the goals and objectives of the program. Incentive payments, although small when compared to federal reimbursement payments for state and local CSE activities, are a very important component of the CSE financing structure. Together with the incentive payment system is a penalty system that imposes financial penalties on states that fail to meet certain performance levels. The purpose of the two complementary systems is to reward states for results while holding them accountable for poor performance, thereby motivating states to focus their efforts on providing vital CSE services.[148] Although tribal CSE programs do not have an incentive payment component, in an effort to monitor the effectiveness of tribal CSE programs, federal regulations[149] require a tribe to submit tribally determined performance targets for paternity

[146] New Mexico Human Services Department, Program Assessments, "Native American Initiative Report," January 2005, p. 11-12.

[147] See, for example, *Revised Code of Washington State*, Title 26, "Domestic Relations," Chapter 26.25 RCW, "Cooperative Child Support Services—Indian Tribes," Section 26.25.010—Purpose, http://law.onecle.com/washington/domestic-relations/26.25.010.html.

[148] CRS Report RL34203, *Child Support Enforcement Program Incentive Payments: Background and Policy Issues*, by Carmen Solomon-Fears.

[149] 45 C.F.R. §309.65(a)(14), p. 320 (October 1, 2015 edition).

establishment, child support order establishment, the amount of current child support collected, the amount of past-due child support to be collected and any other performance measures a tribe may want to submit. Tribes determine their own performance targets for each required measure and report the level of performance.[150] Some analysts surmise that these self-ascribed performance targets might be intentionally low and that such a system provides little incentive for a tribe to operate more efficiently or effectively, especially given that the federal government pays for at least 80% of the tribe's CSE program costs regardless of the effectiveness of the program. Others note that tribal CSE programs are much smaller than state CSE programs and that tribal CSE programs generally view their clients as part of their extended family/community and thus may be more internally motivated to operate effective programs.

Conclusion

The precept "it takes a village to raise a child" could have had its foundation in Indian culture. For many years, the majority of Indian families maintained extended family relationships, usually living in groups that included the nuclear family plus grandparents, uncles, aunts, cousins, nephew, nieces, and other related individuals. Children were raised within this extended family network, which was responsible for their care, education, social well-being, cultural history, and traditions. This situation does not exist nearly as much today; Native American families, like those in many other population groups, have drifted apart over the past decades.[151]

Just as in the early years of the state CSE system when some noncustodial fathers moved from job to job or left the state where their children resided to avoid paying child support, it is surmised that some Native American noncustodial parents are residing on reservations to avoid paying child support. The principles of jurisdictional sovereignty, self-government, self-determination, and the government-to-government relationship that exists between tribes and the federal government were primary reasons why Congress provided direct federal funding of tribal CSE programs. It was meant to enhance tribal self-determination and to support Indian tribes and tribal organizations in their efforts to develop and implement their own programs to meet their particular and individual needs. Indian tribes were given the flexibility to design CSE programs that would meet the often complex and unique traditions and needs of Native American people.[152]

Nonetheless, new programs take time to mature. The state CSE program is now 41 years old, but during its early years, it faced many problems related to implementation, consistency of data, reporting of data, nonpayment of support, establishment of paternity, establishment of child support orders, distribution of support, and an antagonistic relationship with noncustodial parents. Many tribal CSE programs may also face these same problems, as well as problems related to the placement of the tribal CSE program within tribal government, reasonable salaries for workers, staffing, confidentiality of data, distribution of required notices, lack of reciprocity in enforcement, service of process, and poor communication.

Perhaps the most important measure of the federal-state CSE program is its impact on overall national rates of paying child support. Both Congress and the American public view the CSE

[150] Office of Child Support Enforcement, Action Transmittal (OCSE-AT-05-07), May 12, 2005, p. 18.

[151] National Research Council, "Changing Numbers, Changing Needs: American Indian Demography and Public Health," 1996, pp. 196-217. See also "The State of the Native Nations: Conditions under U.S. Policies of Self-Determination," the Harvard Project on American Indian Economic Development, May 2007, chapter 13, pp. 235-250. See also "Native America in the Twentieth Century: An Encyclopedia," 1994, pp. 193-195.

[152] New Mexico Human Services Department, Program Assessments, *Native American Initiative Report*, January 2005.

program as a means of improving the nation's system of ensuring that all parents who no longer live with their children continue to provide for their financial support. Although child support alone is generally not enough to raise family income above the poverty level, poor families who received child support but remained in poverty had their standard of living improved by the child support payments. Similarly, incomes and standards of living were improved by child support payments of non-poor families as well. On average, child support constitutes 14% of family income for households who receive it. Among poor households that receive it, child support constitutes about 49% of family income.[153]

Although the consistent and ongoing financial support of children by noncustodial parents is the main purpose of the CSE program, the program provides many other benefits to children.[154] One such benefit, for many children, is the establishment of paternity. Social science research generally indicates that in most cases the social, psychological, emotional, and financial benefits of having one's father legally identified are irrefutable.[155] The research also overwhelmingly indicates that both parents are critical in building the self-esteem of their children and helping the children become self-sufficient, responsible members of society. Some commentators contend that except for their role as payers of child support, fathers generally have been given short shrift by federal, state, and local social welfare programs.[156] They assert that tribal CSE programs are in the position of being able to recognize, right from the start, the importance of fathers (who are usually the noncustodial parent) in the lives of their children and to participate in cooperative, respectful communication with fathers. It is generally agreed that an amenable relationship (as opposed to an antagonistic relationship) between noncustodial parents and the CSE agency is more likely to result in more noncustodial parents paying their child support obligations.[157] Some observers also encourage tribal CSE programs to coordinate with state programs such as CSE access and visitation programs, healthy marriage promotion programs, and responsible fatherhood programs to further foster productive relationships with fathers, with the ultimate goal of obtaining the child support to which Indian children are entitled.[158]

It has been noted that there are 566 federally recognized tribal governments, but only 61 tribal CSE programs. Figures in **Appendix C** suggest that the 61 tribal CSE programs cover about

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[153] U.S. Census Bureau, *Current Population Reports, P60-255*, "Custodial Mothers and Fathers and Their Child Support: 2013," by Timothy Grall, January 2016. See Table 5, pp. 11 and 14 of the following pdf: http://www.census.gov/people/childsupport/data/files/chldsu13.pdf.

[154] P.L. 113-183 allows Indian tribes or tribal organizations that operate a CSE program to be considered a state for purposes of authority to conduct an experimental pilot or demonstration project under the Section 1115 waiver authority of the Social Security Act to assist in promoting the objectives of the CSE program. However, an Indian tribe or tribal organization that is applying for or receiving funding for a start-up CSE program is not be eligible for Section 1115 demonstration grants.

[155] Laurene McKillop, "Benefits of Establishing Paternity," Department of Health and Human Services, Office of Child Support Enforcement, reprinted September 1985. Also see National Women's Law Center and the Center on Fathers, Families, and Public Policy, "Family Ties: Improving Paternity Establishment Practices and Procedures for Low-Income Mothers, Fathers, and Children," November 2000.

[156] Michael E. Lamb (editor), "The Role of the Father in Child Development," Fifth Edition, 2010, p. 11.

[157] William J. Doherty, Edward F. Kouneski, and Martha Farrell Erickson, "Responsible Fathering: An Overview and Conceptual Framework—Final Report," Washington, DC, U.S. Department of Health and Human Services, Administration for Children and Families, Center for Policy Research and Policy Studies (HHS-100-93-0012), September 1996.

[158] The Obama Administration's FY2014 budget acknowledges that healthy families need more than just financial support. It includes a proposal to provide $448 million (over ten years) to support increased access and visitation services and integrates those services into the core CSE program (i.e., access and visitation expenditures would be matched at the general federal CSE matching rate of 66%.

30%-49% of the total population of tribal members (as variously estimated). Some observers contend it is likely that gaps in the provision of CSE services to Native American children will remain a significant problem for many more years. They question whether the needs of the universe of Native American children can be met through the current configuration of tribal CSE programs. Others assert that tribal CSE programs are still in their early stages, that it is too soon to judge their effectiveness, and that the eventual universe of tribal CSE programs is not yet knowable.[159]

[159] According to OCSE data, the 12 comprehensive tribal CSE programs operating in FY2007 could have potentially served about 600,000 tribal members, of whom approximately 135,000 were children under the age of majority. (Source: OCSE Training Courses for Tribal IV-D Programs, Module 1C: How is it Working? http://www.acf.hhs.gov/programs/cse/resources/tribal/training/text/orientation/orientation_mod1_less3_1.html.) The 600,000 figure represents roughly 27% of the U.S. Native American population. During the period FY2008-FY2014, an additional 45 tribal CSE programs became comprehensive tribal CSE programs. Although most of these additional programs were operated by tribes with relatively small populations, comparable data related to the potential client pool are not available.

Appendix A. Tribal CSE Program Indicators

This appendix includes six tables that arrange each tribe according to its ranking on several CSE program features or indicators. The data shown in all six tables are for FY2014. The tables only include information on tribes with comprehensive CSE programs. If the data are not available, it is so indicated.

The Appendix A tables highlight some important aspects of tribal CSE programs, but they do not capture the complexity of individual programs. A simple ranking of the tribal programs does not indicate a program's effectiveness. For example, one would expect programs with larger caseloads to have more child support collections (than other programs, all things being equal). Similarly, one would expect programs with larger caseloads to have higher program expenditures (than other programs, all things being equal). However, it may be less apparent that programs with smaller caseloads could have higher collections based on a tribe's access to casino profits and/or valuable mineral rights. Also, programs with smaller caseloads may have high program expenditures because a higher proportion of tribal members need paternity establishment services. Thus, broad generalizations about the data shown in the tables may prove to be inaccurate.

Table A-1 shows the amount of child support collected by each tribe. CSE administrators indicate that tribal CSE program collections data may provide an inaccurate picture of how well some tribes are doing because some collections obtained by tribes are distributed to the states and are thereby not reflected in the data shown in the table. **Table A-2** shows the amount of CSE expenditures for each of the tribes. **Table A-3** presents CSE caseload data. **Table A-4** displays the number of paternities established by each tribe. **Table A-5** displays the number of child support orders established by each tribe. **Table A-6** shows CSE collections per dollar of expenditures for each of the tribes. (The data in this appendix are from the Office of Child Support Enforcement, FY2014 Annual Report to Congress.)

Table A-1. Tribal CSE Collections by Tribe, in Rank Order, FY2014

Tribe	Distributed Tribal CSE Collections	% of Total Tribal Collections
Navajo Nation	8,864,498	24.3%
Cherokee	2,965,747	8.1%
Eastern Band of Cherokee	2,948,972	8.1%
Chickasaw	2,861,520	7.8%
Forest Co. Potawatomi	2,240,252	6.1%
Oneida Nation	2,168,647	5.9%
Modoc	1,774,978	4.9%
Menominee	1,603,454	4.4%
Muscogee Creek Nation	1,416,094	3.9%
Tulalip	864,862	2.4%
Three Affiliated	708,743	1.9%
Lac Du Flambeau	702,454	1.9%
Tlingit and Haida	666,792	1.8%
Osage Nation	619,674	1.7%

Tribe	Distributed Tribal CSE Collections	% of Total Tribal Collections
Mille Lacs Band	542,240	1.5%
Comanche	474,725	1.3%
Sisseton Wahpeton Oyate	467,137	1.3%
Lummi Nation	398,789	1.1%
Kaw	308,542	0.8%
Mescalero Apache	304,794	0.8%
Prarie Band Potawatomi Nation	298,249	0.8%
Pueblo of Zuni	257,128	0.7%
Confed. Tribes of Colville	243,692	0.7%
Winnebago	221,758	0.6%
Red Lake Band	218,677	0.6%
Northern Arapaho	214,797	0.6%
Quinault Nation	207,587	0.6%
White Earth Nation	184,753	0.5%
Coeur D' Alene	180,183	0.5%
Port Gamble S'Klallam	138,113	0.4%
Salish and Kootenai Tribes	135,490	0.4%
Ponca Tribe of Oklahoma	123,557	0.3%
Kickapoo (Kansas)	106,700	0.3%
Leech Lake Band	104,338	0.3%
Umatilla	103,785	0.3%
Eastern Shoshone	98,800	0.3%
Puyallup	97,241	0.3%
Lac Courte Oreilles	94,459	0.3%
Keweenaw Bay	83,549	0.2%
Standing Rock Sioux	83,031	0.2%
Kickapoo (Oklahoma)	81,762	0.2%
Nooksack	62,953	0.2%
Chippewa Cree	57,966	0.2%
Nez Perce	50,929	0.1%
Suquamish	48,654	0.1%
Penobscot Nation	41,939	0.1%
Fort Belknap	28,386	0.1%
Klamath	7,847	0.0%
Aleutian/Pribilof	3,403	0.0%
Blackfeet	1,500	0.0%

Tribe	Distributed Tribal CSE Collections	% of Total Tribal Collections
Saint Regis Mohawk Community	400	0.0%
Stockbridge-Munsee	302	0.0%
Alabama-Coushatta Tribe of Texas	N.A.	N.A.
Ho-Chunk Nation	N.A.	N.A.
Red Cliff Band of Lake Superior Chippewa	N.A.	N.A.
Sac & Fox Tribe of the Mississippi in Iowa	N.A.	N.A.
Yurok	N.A.	N.A.
Total	$36,484,842	100.0%

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: N.A.—not available. Note that in general the tribes for which the data were not available were tribes with comprehensive tribal CSE programs that were approved for operation in FY2013 or FY2014.

Table A-2. Tribal CSE Expenditures by Tribe, in Rank Order, FY2014

Tribe	Tribal CSE Expenditures	% of Total Tribal Expenditures
Navajo Nation	3,965,043	0.5%
Chickasaw	2,535,678	1.3%
Muscogee Creek Nation	2,132,179	1.3%
Cherokee	2,101,713	5.0%
Modoc	1,873,650	6.1%
Oneida Nation	1,345,215	1.6%
Eastern Band of Cherokee	1,336,632	1.9%
Puyallup	1,238,899	1.2%
Lummi Nation	1,115,150	2.5%
Confed. Tribes of Colville	1,025,933	3.2%
Northern Arapaho	971,098	1.4%
Forest Co. Potawatomi	946,451	2.3%
Sisseton Wahpeton Oyate	920,324	1.5%
Nooksack	903,545	0.4%
Tulalip	853,529	1.0%
Lac Courte Oreilles	850,560	0.5%
Port Gamble S'Klallam	846,924	0.9%
Coeur D' Alene	801,269	1.0%
Three Affiliated	798,164	1.0%
Tlingit and Haida	784,778	2.0%

Tribe	Tribal CSE Expenditures	% of Total Tribal Expenditures
Menominee	770,653	0.9%
Penobscot Nation	671,161	0.7%
Chippewa Cree	652,350	2.7%
White Earth Nation	643,350	1.8%
Standing Rock Sioux	631,828	1.3%
Fort Belknap	623,459	1.2%
Eastern Shoshone	596,071	4.5%
Quinault Nation	593,726	5.1%
Osage Nation	570,023	9.5%
Blackfeet	554,567	0.0%
Ponca Tribe of Oklahoma	542,221	2.2%
Umatilla	540,021	2.3%
Aleutian/Pribilof	539,576	3.2%
Mescalero Apache	531,675	1.4%
Comanche	518,691	1.6%
Mille Lacs Band	496,189	1.3%
Kaw	429,301	2.0%
Kickapoo (Oklahoma)	414,556	0.9%
Klamath	399,296	0.4%
Salish and Kootenai Tribes	395,146	3.0%
Red Lake Band	389,759	1.4%
Suquamish	381,811	0.0%
Kickapoo (Kansas)	375,031	0.9%
Lac Du Flambeau	372,583	0.1%
Prarie Band Potawatomi Nation	361,363	0.0%
Winnebago	317,123	0.9%
Leech Lake Band	282,034	2.2%
Keweenaw Bay	215,616	1.5%
Alabama-Coushatta Tribe of Texas	196,510	0.0%
Yurok	178,205	0.9%
Pueblo of Zuni	176,578	1.9%
Ho-Chunk Nation	176,187	1.9%
Sac & Fox Tribe of the Mississippi in Iowa	57,953	2.0%
Nez Perce	N.A.	1.3%
Red Cliff Band of Lake Superior Chippewa	N.A.	1.5%

Tribe	Tribal CSE Expenditures	% of Total Tribal Expenditures
Saint Regis Mohawk Community	N.A.	0.8%
Stockbridge-Munsee	N.A.	0.4%
Total	$41,744,837	100.0%

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Table A-3. Tribal CSE Caseload by Tribe, in Rank Order, FY2014

Tribe	Caseload
Navajo Nation	14,984
Oneida Nation	2,872
Northern Arapaho	2,148
Confed. Tribes of Colville	2,003
Menominee	1,783
Cherokee	1,665
Mille Lacs Band	1,600
Chickasaw	1,572
Sisseton Wahpeton Oyate	1,520
Tulalip	1,433
Muscogee Creek Nation	1,339
Tlingit and Haida	1,243
Eastern Band of Cherokee	1,218
Lac Du Flambeau	1,207
Modoc	1,181
Red Lake Band	1,039
Puyallup	1,022
Quinault Nation	884
White Earth Nation	869
Forest Co. Potawatomi	626
Leech Lake Band	619
Lummi Nation	587
Mescalero Apache	518
Klamath	462
Comanche	450
Port Gamble S'Klallam	446
Blackfeet	408
Eastern Shoshone	403
Fort Belknap	401

Tribe	Caseload
Chippewa Cree	391
Osage Nation	383
Lac Courte Oreilles	365
Salish and Kootenai Tribes	355
Nez Perce	349
Winnebago	322
Nooksack	292
Coeur D' Alene	247
Umatilla	224
Prarie Band Potawatomi Nation	197
Kickapoo (Kansas)	194
Ho-Chunk Nation	171
Suquamish	158
Kaw	150
Keweenaw Bay	135
Kickapoo (Oklahoma)	113
Ponca Tribe of Oklahoma	107
Standing Rock Sioux	102
Yurok	44
Pueblo of Zuni	42
Penobscot Nation	22
Aleutian/Pribilof	16
Stockbridge-Munsee	8
Saint Regis Mohawk Community	3
Alabama-Coushatta Tribe of Texas	N.A.
Red Cliff Band of Lake Superior Chippewa	N.A.
Sac & Fox Tribe of the Mississippi in Iowa	N.A.
Three Affiliated	N.A.
Total	50,892

Source: Congressional Research Service based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: N.A.—not available.

Table A-4. Tribal CSE Program: Paternities Established by Tribe, in Rank Order, FY2014

Tribe	Paternities Established or Acknowledged
Navajo Nation	16,253
Oneida Nation	1,838
Menominee	1,576
Tlingit and Haida	1,464
Tulalip	1,349
Modoc	1,182
Chickasaw	1,175
Eastern Band of Cherokee	1,104
Muscogee Creek Nation	981
Red Lake Band	937
Leech Lake Band	879
White Earth Nation	779
Lac Du Flambeau	611
Forest Co. Potawatomi	607
Klamath	477
Puyallup	362
Winnebago	337
Umatilla	316
Port Gamble S'Klallam	285
Lac Courte Oreilles	282
Nooksack	231
Salish and Kootenai Tribes	142
Ponca Tribe of Oklahoma	116
Ho-Chunk Nation	95
Kickapoo (Kansas)	90
Keweenaw Bay	74
Sisseton Wahpeton Oyate	40
Eastern Shoshone	31
Cherokee	26
Mescalero Apache	24
Northern Arapaho	23
Kickapoo (Oklahoma)	18
Lummi Nation	15
Osage Nation	15
Chippewa Cree	13

Tribe	Paternities Established or Acknowledged
Confed. Tribes of Colville	11
Nez Perce	10
Blackfeet	8
Fort Belknap	8
Pueblo of Zuni	8
Quinault Nation	7
Yurok	7
Coeur D' Alene	6
Kaw	6
Mille Lacs Band	5
Prarie Band Potawatomi Nation	3
Aleutian/Pribilof	2
Comanche	2
Suquamish	2
Standing Rock Sioux	1
Stockbridge-Munsee	1
Alabama-Coushatta Tribe of Texas	N.A.
Penobscot Nation	N.A.
Red Cliff Band of Lake Superior Chippewa	N.A.
Sac & Fox Tribe of the Mississippi in Iowa	N.A.
Saint Regis Mohawk Community	N.A.
Three Affiliated	N.A.
Total	33,834

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: N.A.—not available.

Table A-5. Tribal CSE Program: Child Support Orders Established by Tribe, in Rank Order, FY2014

Tribe	Orders Established or Acknowledged
Navajo Nation	6,949
Oneida Nation	2,528
Menominee	1,701
Cherokee	1,580
Mille Lacs Band	1,524
Chickasaw	1,461
Northern Arapaho	1,265

Tribe	Orders Established or Acknowledged
Confed. Tribes of Colville	1,225
Lac Du Flambeau	1,207
Muscogee Creek Nation	1,079
Tlingit and Haida	1,034
Eastern Band of Cherokee	1,006
Modoc	989
Quinault Nation	879
Sisseton Wahpeton Oyate	827
Red Lake Band	770
White Earth Nation	674
Puyallup	634
Leech Lake Band	609
Forest Co. Potawatomi	605
Tulalip	568
Lummi Nation	439
Mescalero Apache	379
Nez Perce	336
Salish and Kootenai Tribes	327
Port Gamble S'Klallam	326
Winnebago	276
Lac Courte Oreilles	252
Coeur D' Alene	247
Nooksack	242
Osage Nation	237
Umatilla	224
Klamath	222
Eastern Shoshone	175
Blackfeet	169
Kickapoo (Kansas)	167
Ho-Chunk Nation	153
Prarie Band Potawatomi Nation	149
Suquamish	149
Kaw	139
Chippewa Cree	138
Fort Belknap	97
Ponca Tribe of Oklahoma	94

Tribe	Orders Established or Acknowledged
Keweenaw Bay	93
Standing Rock Sioux	79
Kickapoo (Oklahoma)	75
Pueblo of Zuni	42
Yurok	33
Penobscot Nation	22
Aleutian/Pribilof	13
Saint Regis Mohawk Community	3
Stockbridge-Munsee	2
Alabama-Coushatta Tribe of Texas	N.A.
Comanche	N.A.
Red Cliff Band of Lake Superior Chippewa	N.A.
Sac & Fox Tribe of the Mississippi in Iowa	N.A.
Three Affiliated	N.A.
Total	34,413

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: N.A.—not available.

Table A-6. Tribal CSE Program: Collections Per Dollar of Expenditures by Tribe, in Rank Order, FY2014

Tribe	Collections/Expenditures
Forest Co. Potawatomi	2.37
Navajo Nation	2.24
Eastern Band of Cherokee	2.21
Menominee	2.08
Lac Du Flambeau	1.89
Oneida Nation	1.61
Pueblo of Zuni	1.46
Cherokee	1.41
Chickasaw	1.13
Mille Lacs Band	1.09
Osage Nation	1.09
Tulalip	1.01
Modoc	0.95
Comanche	0.92
Three Affiliated	0.89

Tribe	Collections/Expenditures
Tlingit and Haida	0.85
Prarie Band Potawatomi Nation	0.83
Kaw	0.72
Winnebago	0.70
Muscogee Creek Nation	0.66
Mescalero Apache	0.57
Red Lake Band	0.56
Sisseton Wahpeton Oyate	0.51
Keweenaw Bay	0.39
Leech Lake Band	0.37
Lummi Nation	0.36
Quinault Nation	0.35
Salish and Kootenai Tribes	0.34
White Earth Nation	0.29
Kickapoo (Kansas)	0.28
Confed. Tribes of Colville	0.24
Ponca Tribe of Oklahoma	0.23
Coeur D' Alene	0.22
Northern Arapaho	0.22
Kickapoo (Oklahoma)	0.20
Umatilla	0.19
Eastern Shoshone	0.17
Port Gamble S'Klallam	0.16
Standing Rock Sioux	0.13
Suquamish	0.13
Lac Courte Oreilles	0.11
Chippewa Cree	0.09
Puyallup	0.08
Nooksack	0.07
Penobscot Nation	0.06
Fort Belknap	0.05
Klamath	0.02
Aleutian/Pribilof	0.01
Blackfeet	0.00
Alabama-Coushatta Tribe of Texas	N.A.
Ho-Chunk Nation	N.A.
Nez Perce	N.A.

Tribe	Collections/Expenditures
Red Cliff Band of Lake Superior Chippewa	N.A.
Sac & Fox Tribe of the Mississippi in Iowa	N.A.
Saint Regis Mohawk Community	N.A.
Stockbridge-Munsee	N.A.
Yurok	N.A.
Total	$0.87

Source: Congressional Research Service, based on data from the Office of Child Support Enforcement, Department of Health and Human Services.

Notes: N.A.—not available.

Appendix B. Comprehensive and Start-Up Tribal CSE Programs

This appendix includes two tables. **Table B-1** displays the 57 comprehensive tribal CSE programs, arranged by the year in which they became comprehensive. A tribal program is considered comprehensive if it has all of the 14 program components stipulated in the federal tribal CSE regulations.[160] **Table B-2** shows the four start-up tribal CSE programs.[161] A start-up tribal CSE program does not have to have all of the required program components.

In FY2001 through FY2006, there were nine tribes or tribal organizations that had comprehensive CSE programs. In FY2007, 12 tribes or tribal organizations had comprehensive CSE programs. In FY2008, 13 additional tribes or tribal organizations (for a total 25) were operating comprehensive CSE programs. In FY2009, four additional tribes or tribal organizations (for a total 36) were operating comprehensive CSE programs. In FY2010, two additional tribes or tribal organizations (for a total 38) were operating comprehensive CSE programs. In FY2011, three additional tribes or tribal organizations (for a total 41) were operating comprehensive CSE programs. In FY2012, four additional tribes or tribal organizations (for a total 45) were operating comprehensive CSE programs. In FY2013, six additional tribes or tribal organizations (for a total 51) were operating comprehensive CSE programs. In FY2014, six additional tribes or tribal organizations (for a total 57) were operating comprehensive CSE programs.

Table B-1. Comprehensive Tribal Child Support Enforcement Programs, by Date They became Comprehensive

Three tribes became comprehensive in FY2001
Chickasaw Nation, FY2001
Puyallup, FY2001
Sisseton Wahpeton, FY2001
Three tribes became comprehensive in FY2002
Lac du Flambeau, FY2002
Navajo Nation, FY2002
Port Gamble S'Klallam, FY2002
Three tribes became comprehensive in FY2003
Forest County Potawatomi, FY2003
Lummi Nation, FY2003
Menominee, FY2003
Three tribes became comprehensive in FY2007:
Cherokee Nation

[160] U.S. Department of Health and Human Services, Office of Child Support Enforcement, FY2014 Annual Report to Congress, Office of Child Support Enforcement, May 2016. Also see the following webpage for a list of Tribal CSE programs as of April 2016—http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf.

[161] The information is this table was taken from the following webpage that lists the Tribal CSE programs as of April 2016—http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf.

Osage Nation

Tlingit and Haida

Thirteen tribes became comprehensive in FY2008:

Confederated Tribes of the Umatilla Indian Reservation

Kaw Nation

Keweenaw Bay

Mescalero Apache

Modoc

Muscogee Creek Nation

Oneida

Penobscot Nation

Ponca Tribe of Oklahoma

Quinault Nation

Red Lake Band

Three Affiliated

White Earth Nation

Eleven tribes became comprehensive in FY2009:

Chippewa Cree Tribe

Comanche Nation

Klamath

Kickapoo (Kansas)

Confederated Tribes of the Colville Reservation

Nez Perce Tribe

Nooksack

Northern Arapaho

Pueblo of Zuni

Tulalip Tribes

Winnebago

Two tribes became comprehensive in FY2010:

Coeur D' Alene Tribe

Eastern Shoshone Tribe

Three tribes became comprehensive in FY2011:

Leech Lake Band of Ojibwe

Mille Lacs Band of Ojibwe Indian Reservation

The Suquamish Tribal Council

Four tribes became comprehensive in FY2012:

Aleutian/Pribiloff Islands Association

Eastern Band of Cherokee Indians
Kickapoo Tribes of Oklahoma
Lac Courte Oreilles
Six tribes became comprehensive in FY2013:
Blackfeet Nation
Confederate Tribe of Salish and Kootenai
Fort Belknap Indian Community
Prairie Band Potawatomi Nation
Standing Rock Sioux Tribe
Stockbridge-Munsee Community
Six tribes became comprehensive in FY2014:
Alabama-Coushatta Tribe of Texas
Ho-Chunk Nation
Red Cliff Band of Lake Superior Chippewas
Sac & Fox Tribe (Meskwaki Nation)
Saint Regis Mohawk
Yurok Tribe

Source: Congressional Research Service, based on information from the Department of Health and Human Services, Office of Child Support Enforcement,. http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf.

Table B-2. Start-Up Tribal Child Support Enforcement Programs

(as of April 2016)

Apachi Tribe of Oklahoma
Delaware Tribe of Indians
Shinnecock Indian Nation
Shoshone-Bannock Tribes

Source: Congressional Research Service, based on information from the Department of Health and Human Services, Office of Child Support Enforcement, http://www.supporttribalchildren.org/Tribal%20Program%20Directory/Tribal%20CS%20Directory.pdf.

Appendix C. American Indian and Alaska Native Population Figures for Tribes with CSE Programs

Table C-1 shows four population figures for each of the 61 tribal CSE programs. For a discussion of the problems in determining tribal populations, see the "Data" section, above.

The second column is based on the 2005 Indian Population and Labor Force Report. The third column is based on the 2013 Indian Population and Labor Force Report, which provides data for 2010.[162] With regard to the Bureau of Indian Affairs data (columns 2 and 3), the bolded data represent 2010 data and the unbolded data represent 2005 data. The fourth and fifth columns are based on information from the decennial census, from the 2010 census. The total for all tribes nationwide are from the 2010 census, except for tribal enrollment, which is 2005 data.

Table C-1. Population Figures for Tribes with Tribal CSE Programs: Tribal Enrollment (2005), BIA Service Population (2010), and Census AIAN Populations in Census-Defined Federal AIAN Areas (2010)

CSE Tribes	Tribal Enrollment (Nationwide) (2005)	BIA Service Area Population[a] (On or Near Reservation) (2010)	Census AIAN Population Living in Census-Defined Federal AIAN Areas[b] (2010)	
			AIAN Alone	AIAN Alone or in Combination with Other Race(s)
Alabama-Coushatta Tribe of Texas	1,113	**522**	1,020	1,299
Aleutian Pribilof Islands Association	N.A.	N.A.	2,150	2,274
Apache Tribe of Oklahoma	1,860	2,978	492	739
Blackfeet Nation	15,873	**9,299**	27,279	105,304
Cherokee Nation	257,824	197,684	284,247	819,105
Chickasaw Nation	38,740	**32,372**	27,926	52,214
Chippewa Cree Tribe	5,656	3,379	6,058	7,918
Coeur D'Alene Tribe	1,968	**1,453**	1,600	2,101
Confederate Tribe of Salish and Kootenai	7,083	**10,993**	5,099	7,673
Confederated Tribes of Colville Reservation	9,171	**5,052**	8,114	10,549
Comanche Nation	12,514	**15,312**	12,284	23,330
Delaware Tribe of Indians	1,374	284	73	120
Eastern Band of Cherokee Indians	13,562	**8,600**	8,893	11,835

[162] According to correspondence from the Department of Interior, the Department of the Interior did not release the 2010 Indian Population and Labor Force Report in 2010 because of methodology inconsistencies. See http://www.bia.gov/cs/groups/public/documents/text/idc-019173.pdf.

CSE Tribes	Tribal Enrollment (Nationwide) (2005)	BIA Service Area Population[a] (On or Near Reservation) (2010)	Census AIAN Population Living in Census-Defined Federal AIAN Areas[b] (2010)	
			AIAN Alone	AIAN Alone or in Combination with Other Race(s)
Eastern Shoshone Tribe	3,724	4,036.	2,604	2,840
Forest County Potawatomi Community	1,295	1,352	502	551
Fort Belknap Indian Community	6,304	6,035	496	637
Ho-Chunk Nation	6,611	**7,109**	5,134	6,749
Kaw Nation	2,821	4,295	1,329	2,389
Keweenaw Bay Indian Community	3,315	2,829	1,326	1,869
Kickapoo Tribe (Kansas)	1,654	812	481	537
Kickapoo Tribe of Oklahoma	2,675	**2,635**	248	270
Klamath Tribes	3,579	**4,533**	2,528	4,413
Lac Courte Oreilles	6,230	8,062	3,137	4,237
Lac Du Flambeau Band of Lake Superior Chippewa	3,323	**2,056**	1,013	1,228
Leech Lake Band of Ojibwe	8,937	8,875	4,578	5,569
Lummi Nation	4,096	4,976	3,363	4,427
Menominee Tribe	8,311	N.A.	8,374	11,133
Mescalero Apache Tribe	4,309	**7,569**	5,311	7,583
Mille Lacs Band of Ojibwe	3,800	2,337	2,348	2,783
Modoc Tribe of Oklahoma	181	181	83	92
Muscogee (Creek) Nation	55,955	**68,879**	43,193	81,685
Navajo Nation	273,872	**195,963**	286,731	332,129
Nez Perce Tribe	3,338	**4,379**	3,735	6,705
Nooksack Indian Tribe	1,820	1,001	856	1,473
Northern Arapaho Tribe	7,417	N.A.	5,460	5,899
Oneida Tribe of Wisconsin	14,745	**6,946**	5,996	7,325
Osage Nation (Oklahoma)	19,929	11,960	8,938	18,576
Penobscot Nation	2,261	640	2,095	4,278
Ponca Tribe (Oklahoma)	3,195	3,146	204	242
Port Gamble S'Klallam Tribe	1,070	1,255	683	805
Prairie Band Potawatomi Nation	4,841	**733**	1,585	2,083
Puyallup Tribe	3,547	24,016	2,543	3,468

CSE Tribes	Tribal Enrollment (Nationwide) (2005)	BIA Service Area Population[a] (On or Near Reservation) (2010)	Census AIAN Population Living in Census-Defined Federal AIAN Areas[b] (2010)	
			AIAN Alone	AIAN Alone or in Combination with Other Race(s)
Quinault Indian Nation	2,454	3,203	2,354	3,402
Red Cliff Band of Lake Superior Chippewas	5,414	**1,790**	2,174	2,914
Red Lake Band of Chippewa Indians	9,541	10,338	7,459	8,421
Sac & Fox Tribe (Meskwaki Nation)	1,334	**1,426**	1,586	2,727
Saint Regis Mohawk Tribe	11,703	**6,362**	N.A.	N.A.
Shinnecock Indian Nation	N.A.	**584**	1,331	3,548
Shoshone-Bannock Tribes	4,796	**9,573**	4,449	5,315
Sisseton-Wahpeton Oyate Sioux Tribe	11,763	**6,233**	5,850	7,202
Standing Rock Sioux Tribe	14,170	**8,956**	9,089	10,381
Stockbridge-Munsee Community	1,569	681	2,149	4,114
Suquamish Tribal Council	863	3,783	736	1,033
Three Affiliated Tribes of Fort Berthold	11,897	8,773	2,731	3,379
Tlingit and Haida Indian Tribes (Central Council)	25,949	13,255	15,256	26,080
Tulalip Tribes	3,731	**2,331**	3,044	3,791
Umatilla (Confederated Tribes)	2,542	**4,343**	1,780	2,657
White Earth Nation	19,506	7,926	5,954	8,883
Winnebago Tribe (Nebraska)	4,321	**1,450**	302	429
Yurok Tribe	4,912	2,847	4,549	6,504
Zuni Tribe	10,258	**7,627**	9,946	11,828
TOTAL for CSE tribes	976,616	776,019	870,848	1,679,044
TOTAL for all tribes nationwide	1,978,099	1,969,167	2,870,645	5,220,579
CSE total as percent of nationwide total	49%	39%	30%	32%

Source: U.S. Department of the Interior, Bureau of Indian Affairs, *2005 American Indian Population and Labor Force Report*, 2007, available at http://www.bia.gov/idc/groups/public/documents/text/idc-001719.pdf. U.S. Department of the Interior, Bureau of Indian Affairs, 2013 American Indian Population and Labor Force Report (2010 data), January 16, 2014 (Table 4)—http://www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm. U.S. Census Bureau, American Indian and Alaska Native Tribes in the U.S, 2010, December 2013—http://www.census.gov/population/www/cen2010/cph-t/t-6tables/TABLE%20(1).pdf.

Notes:

With regard to the Bureau of Indian Affairs data (columns 2 and 3), the bolded data represent 2010 data and the unbolded data represent 2005 data.

Abbreviations:

n/a = Not available in source

AIAN = American Indian and Alaska Native

ANRC = Alaska Native Regional Corporation (statistical area)

ANVSA = Alaska Native Village Statistical Area

OTSA = Oklahoma Tribal Statistical Area

TDSA = Tribal Designated Statistical Area

BIA = Bureau of Indian Affairs

CSE = Child Support Enforcement

a. BIA service population includes Indians from other tribes residing within a tribe's service area (on or near reservation).

b. Census-defined federal Indian and Alaska Native areas include (1) American Indian Reservations and Off-Reservation Trust Lands, (2) OTSAs, (3) ANRCs, (4) ANVSAs, and (5) TDSAs.

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Acknowledgments

The map was prepared by James C. Uzel, Geospatial Information Systems Analyst, Resources, Science and Industry Section, KSG, Congressional Research Service. This report was originally co-authored by Roger Walke, Specialist in American Indian Policy.