



## THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT

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John F. Kennedy School of Government • Harvard University

### HONORING NATIONS: 2006 HONOREE

#### **Indian Child Welfare Services Department of Indian Child Welfare Services Houlton Band of Maliseet Indians**

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*For years, the State of Maine lacked appropriate procedures for identifying Native children in child welfare cases. Contrary to the intent of the Indian Child Welfare Act, Maine also failed to recognize Native nations' sovereign rights in such cases. Seeking to assert the tribe's right to help determine its children's futures, the Houlton Band of Maliseet Indians formed a Department of Indian Child Welfare Services. In turn, the Department developed a strategy to gain the respect of state child welfare authorities and to establish collaborative working relationships. In 2002, the Band and State signed an MOA establishing their partnership. Today they both make appointments to a Child Protective Team that manages placements and services for Maliseet children. Through culturally and family appropriate solutions, the team's work has drastically reduced the number of children in out-of-home-care situations. Together, the Houlton Band's programs, policies, and intergovernmental collaboration support families, improve government-to-government relations and reclaim the tribe's future its children.*

Before contact with Europeans, the Maliseet lived in the area of the present-day border between Maine and New Brunswick. Despite (or perhaps because of) early contact with Europeans, the nation did not obtain federal recognition until 1980. Even then, it was granted only because the Houlton Band of Maliseet was one of several winning parties in a suit brought by Maine-based Indian tribes against the state, and the terms were fairly restrictive. The Maine Indian Claims Settlement Act offered the Houlton Band recognition and limited funds to purchase land if the Band would give up its land claim (the tribes had proven that 12.5 million acres had been illegally acquired by Maine) and relinquish its powers of self-government to the state. Further, land purchases made by the Band had to be approved by the Maine Legislature, and the lands were to remain entirely under state jurisdiction.

As land purchases were approved, more Maliseet people gathered on the new reservation in Houlton. Ultimately, some 500 of the Houlton Band of Maliseet Indians' 800 citizens settled there. This clustering made it possible for the state child protective services agency to conduct round-the-clock surveillance of Maliseet families; surveillance that continued until the late 1990s. As a result, a disproportionate number of Maliseet children were removed from their homes and placed in foster care with other families, most of whom were non-Indian. Anecdotal evidence suggests that many of the children remained in care longer than was necessary and that many faced the termination of parental rights, which freed them for

adoption out of the tribe. One Houlton Band citizen remarked, "It was like genocide, our children were taken from us and we didn't know where to find them."

In taking these actions, the State of Maine was ignoring the mandates of the Indian Child Welfare Act (ICWA). It provides for immediate tribal notification of alleged abuse or neglect; inclusion of tribal designees in initial assessments of alleged abuse or neglect of Native children; the assignment of placement cases to tribal courts if possible; and placement of Indian children with extended family members, other tribal members, or other Indian families. Since Maine did not identify children as Native when they entered the system, no one knew exactly how many Maliseet children were in its care.

The Houlton Band of Maliseet Indians is a small Native nation. Its current form of government is young, and in many respects, the reaches of its sovereignty remained untested. Given the terms of the Maine Indian Claims Settlement Act, it was unclear what authority the nation really had to act on this issue. But leaders of the Houlton Band also knew that inaction meant continuing to put its most vulnerable citizens at risk and a slow but sure loss of the nation's future. Responding, they developed a two-pronged strategy to reclaim the Band's rights over the care and placement of Maliseet children. Internally, they pursued institutional and policy development through the creation of a tribal Department of Indian Child Welfare Services. Externally, they sought collaborative partnerships with other child welfare professionals and improved relationships with the State of Maine.

High standards were an important aspect of the Houlton Band's overall strategy. For example, regulations established by the Band's Department of Indian Child Welfare Services included standards that exceeded those of the state. By setting the bar high, operating effectively within this framework, fostering partnerships, seeking advocacy in the press, and maintaining an unfettering dedication to its children, the Maliseet government eventually earned the respect of outside governments. Its approach and programming were viewed as both legitimate and credible.

Substantive change, embodied in state policy, came in 2002, when the Maliseet Band and the Attorney General's Office and Department of Human Services of the State of Maine signed a formal Memorandum of Agreement (MOA). The agreement calls for maximum participation by the state in ICWA cases and lays out a dispute resolution mechanism to address any conflicts. The agreement also led to the development of an ICWA-mandated Child Protective Team (CPT) for Maliseet children.

The CPT includes professionals and volunteers from the Band and State (each government designates four team members) who are chosen for their diversity of relevant skills. At its monthly meetings, the Team reviews all open child protection cases that involve Maliseet children. As appropriate, families and members of their support networks attend the meetings; the CPT works with them to identify family challenges and to access resources for addressing those challenges. For example, when children are not at serious risk of harm, the CPT offers families services such as mental health counseling, medical treatment, legal aid, day care, and access to food pantries. Most of these wrap-around services are provided by the Band. The result is that more families are receiving services and improving their homes, more extended families are tapped to provide informal supports, and fewer families have open child protective cases.

Concurrent with the development of the MOA and CPT, the state was revamping its child welfare service delivery strategy. Through the Houlton Band's work on standard-setting, education, and collaboration, and with the CPT's provision of culturally relevant materials and

training for local providers, the county in which the reservation is located used this opportunity to better align its goals and the Band's goals. In particular, the county implemented a differential response system, immediately investigating only the most serious allegations of child abuse and neglect and investigating or referring services within 120 hours for all other reports. In addition, the county changed its standard investigative and assessment protocols to include questions that speed the identification of ICWA cases.

With the MOA, CPT, and effective tribal policies now in place, the Houlton Band of Maliseet and the State of Maine are working towards the goal of making their area the model for child welfare services. In 1999, there were at least 32 Maliseet children in out-of-home placements. This represents 16% of the total Maliseet child population and five times the foster care rate for Natives in the United States as a whole. By 2006, this number of Maliseet children in out-of-home placements had been cut in half.

In addition to the many impacts felt by families, a significant outcome for the Band is a stronger, more capable government. In advancing the tribe's authority over child welfare cases, the Band also has had to pay attention to court development, since ICWA identifies tribal courts as preferred venues for hearings. In the short term, the MOA deems the Penobscot and Passamaquoddy courts eligible to hear Maliseet ICWA cases. Over the longer run, however, the goal is for a Houlton Band of Maliseet to have their own court to assume authority. In other words, child welfare advocacy has been the inroad to core institutional development for the Houlton Band mutually desired by the Band and the state that seemed virtually unthinkable in 1980.

The Houlton Band of Maliseet's Department of Indian Child Welfare Services advocates for and protects Indian children, supports parental and family rights, restores and supports families, and solidifies connections between citizens (young and old) and their tribe. Partnerships forged with the state have yielded productive and trusting relationships in a once-difficult environment. Judicial development at the tribal level is further bolstering Maliseet self-governance. All told, this activism on child welfare issues has had broad impacts on the Band itself and on its citizens it has reclaimed its future.

#### Lessons:

- True sovereigns have the capacity and ability to protect and serve even their most vulnerable citizens.
- Using interagency and intergovernmental teams to address child welfare needs not only expands the types of services available to children and families but also increases the legitimacy of the tribe's actions with county and state partners.
- Nations that strategically develop institutional capacity can often use that success as a launching pad for more far-reaching issues.