Due to jurisdictional and funding issues, legal systems and human services systems in Tribal communities differ significantly from those in non-Tribal communities. Non-Tribal CACs committed to enhancing access to services for American Indian and Alaska Native (AI/AN) children and families should work to understand the unique jurisdictional and service system array in the local Tribal communities they serve and to incorporate this understanding into their MDT membership, case review and coordination processes, and other CAC operations.

**Jurisdictional Complexities**

As a result of Tribal sovereignty and the government-to-government relationship that Tribes have with the U.S. government, Tribal communities present CAC professionals with unique jurisdictional issues unlike those that apply to other child and family populations. An MDT considering cases involving AI/AN children must clearly establish which federal, tribal, and state entities including law enforcement, child protection, prosecutors, and courts have authority and under what circumstances. This will be dependent on the location of the maltreatment, the type of crime, and the tribal affiliation of both the victim and perpetrator.

The table below outlines the basics of multijurisdictional investigations of child abuse in Indian Country.
General Scope of Criminal Jurisdiction in Indian Country

<table>
<thead>
<tr>
<th>Race</th>
<th>“Major” Crime (Defined by Major Crimes Act)</th>
<th>All Other Crimes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indian perpetrator, Indian victim</td>
<td>Federal &amp; Tribal jurisdiction</td>
<td>Tribal jurisdiction</td>
</tr>
<tr>
<td>Indian perpetrator, non-Indian victim</td>
<td>Federal &amp; Tribal jurisdiction</td>
<td>Federal and Tribal jurisdiction</td>
</tr>
<tr>
<td>Non-Indian perpetrator, Indian victim</td>
<td>Federal jurisdiction</td>
<td>Federal jurisdiction</td>
</tr>
<tr>
<td>Non-Indian perpetrator, non-Indian victim</td>
<td>State jurisdiction</td>
<td>State jurisdiction</td>
</tr>
</tbody>
</table>

It is important to be aware of exceptions to these general rules, however. For states in which Public Law 280 has been adopted, federal criminal jurisdiction in Indian Country has been transferred to the state, meaning the state and tribe share investigative and prosecutorial authority and will have location-specific procedures and party-specific responsibilities.

Additionally, the 2022 U.S. Supreme Court decision, in Castro-Huerta v. Oklahoma, held that “the Federal Government and the State have concurrent jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country.” This decision marks a dramatic departure from the long-established status quo encapsulated in the table above. While the Supreme Court ruling will undoubtedly reshape the jurisdictional picture in Tribal communities unless Congress intervenes, it is not yet clear how Tribal Nations, the federal government, and states will respond in the wake of the decision.

Service System Characteristics

MDT Team composition and case flows may be affected by Tribal service system characteristics, in addition to jurisdictional issues. Health care, mental health care, victim services, and other relevant services may be provided by Tribal or federal entities, depending on the location and Tribe. Tribes are eligible to assert their sovereignty over various human services that would otherwise be provided by the federal government (through the Indian Health Service or the BIA, typically), using federal funds to provide services in ways that they deem best for their people. Some Tribes have the capability and desire to bring as many services as possible under the Tribe’s management, while others continue to utilize federally managed services and providers.

What Does This Mean for CAC Operations?

One of the first measures non-Tribal CAC professionals committed to increasing access for AI/AN children should take is to map out the jurisdictional and service array in the Tribal areas they serve. On reservations occupied by more than one Tribe, multiple jurisdictional and service arrays
may exist, as individual Tribes can enter into various contracts with the federal government to assume certain services but not others.

Having understood the overall array, CAC staff should then build relationships not only with current key personnel in the relevant agencies but with others in those agencies, as well as with community members who may be involved or connected to youth services, the courts, mental health, medical care, victim services, and related fields. NCARC also recommends seeking out Tribal elders, who are often informal community leaders and key sources of guidance for understanding local contexts and dynamics.

These external contacts will allow CACs to sustain connections to the community and to relevant agencies amid heavy staff turnover, which is typical among Tribal agencies and federal agencies that serve Tribal members. These agencies are often understaffed and forced to work in perpetual crisis-response mode. In addition to planning for staff turnover, CAC professionals should expect to be patient, persistent, and flexible in building relationships with agency and community members and in making arrangements for MDT participation.

In a Tribal community or a community where a majority of the service population consists of Tribal members, representatives of Tribal and federal jurisdictions and service systems should be core MDT members. A non-Tribal CAC that serves both non-Tribal and Tribal children should include Tribal and federal representatives without necessarily expecting them to be core MDT members, since they have no role to play on cases involving non-Tribal children and will likely have little available time to spare for non-essential tasks.

NCARC recommends that CACs/MDTs maximize the engagement of each professional by organizing their case review in whatever way allows for Tribes to participate when cases involve their children, while ensuring that the appropriate federal or state representatives are present to contribute, as well. If MDTs do not review each case monthly, one option may be to assess for themes across cases not being reviewed. For example, the MDT may decide to review all cases involving AI/AN children that require the FBI for prosecution, or all cases dependent on tribal police, to find commonalities or to develop strategies for better coordination and support. We also recommend that MDT facilitators lean into learning what the barriers are for engaging people or entities that are not actively involved in the case review process and developing plans to increase engagement.

MDTs that do not anticipate having the capacity to review each case might consider—after safety considerations have been thoroughly assessed—prioritizing those cases involving AI/AN children and families. Such an approach might be justified by the disproportional victimization rates of AI/AN children, as well as by the additional challenges that come with the jurisdictional, service system, and cultural complexities of such cases. If your team can efficiently and effectively investigate, prosecute, and provide treatment to AI/AN victims of child abuse, you will be demonstrating a capacity to address barriers and challenges that will benefit all children in your service population.
How These Issues May Affect MDT Roles and Case Flows

Below is a description of MDT roles that may be affected by Tribal jurisdictional and service system characteristics, along with considerations for case review and coordination. NCARC recommends that the appropriate Tribal or federal personnel in each category be included on MDT teams, but details may vary by locality.

Law enforcement. Most Tribes have their own law enforcement agencies responsible for investigating crimes that do not qualify as Major Crimes under the Major Crimes Act, as well as crimes involving Tribal perpetrators. Additionally, BIA law enforcement or the FBI may have jurisdiction in cases involving Tribal children. CACs should build relationships with the relevant personnel in Tribal and federal agencies and include them in MDT meetings involving Tribal children and families. If multiple law enforcement agencies (for example, tribal and county or tribal and federal) share jurisdiction, the MDT can play a key role in opening lines of communication and promoting collaborative decision-making.

Child protection. CACs should also develop an understanding of, and a close working relationship with, the child welfare agencies and personnel responsible for services on Tribal lands. Without these connections, a non-Tribal CAC may inadvertently obstruct avenues for referral to CAC services. CACs may also see their ability to gather information and coordinate cases with child protection agencies restricted, imperiling vulnerable children in need of support and protection.

Children living on Tribal lands are not subject to state/county child welfare jurisdiction. Depending on the location, child welfare services may be provided by the Tribe or by the Bureau of Indian Affairs (BIA). As explained in Practice Briefs 3 and 4, Tribal sovereignty in child protection matters is a responsibility that Tribes take seriously and that the BIA supports. The importance of sovereignty is reflected in Tribal and BIA agency policies and procedures, including standards for removal and placement preferences, which differ from those of state/county agencies. CAC professionals should be fully aware of the historical context of child welfare in Tribal communities, and they should find ways of accommodating Tribal/BIA policies and procedures in their own operations.

Data collection, management, and sharing are other points of difference between state/county and Tribal/BIA child protection systems. Tribal and BIA data are not necessarily part of state child welfare databases and case management systems, and these data are not generally publicly available. To gather even basic information about child protection on Tribal lands requires collaboration with local Tribal or BIA child protection offices.

Tribal and BIA child protection personnel may additionally be knowledgeable about or themselves equipped to provide culturally responsive services for Tribal children and families.

Prosecutors. Tribal prosecutors are invaluable MDT members on cases involving AI/AN children and families. In addition to prosecuting cases not classified as Major Crimes, Tribal prosecutors often have significant expertise in areas that other CAC professionals do not. For example, Tribal
prosecutors will typically understand the complexities of local jurisdiction and how to navigate cross-jurisdictional barriers in a way that promotes Tribal members’ best interests. They may be able to provide necessary guidance about local Tribal codes, serve as a liaison to Tribal judges in cases when warrants or other orders are necessary, and advise about prosecutions of perpetrators in Tribal court. When cases fall under the Indian Child Welfare Act, Tribal prosecutors (along with other Tribal legal professionals) can often provide expert advice about the MDT Team’s responsibilities under the law.

Medical and Mental Health Providers. Depending on the location and Tribe, Tribal members are eligible for medical and mental health care through the federally operated Indian Health Service (IHS) and/or Tribal health departments, Tribal mental health agencies, and/or other Tribal entities. In some locations, Tribes may provide both medical and mental health care, IHS may provide both, or the responsibilities may be split between the Tribe(s) and IHS.

Because Tribal members are eligible for government-funded care, they are sometimes restricted from accessing care through outside sources. In some cases, children and families may need pre-approval to be reimbursed for care provided off of Tribal lands or in a non-IHS/non-Tribal facility. The process for obtaining pre-approval may vary from location to location and Tribe to Tribe. MDT members should familiarize themselves with local procedures and develop positive working relationships with leadership or other staff at these facilities in order to ensure timely access to services.

One way of fostering close working relationships with these organizations is to include them in training opportunities. For example, when MDTs offer training to Sexual Assault Nurse Examiners or other medical providers, they might invite providers from local Tribal/IHS clinics or hospitals or hold additional trainings in Tribal/IHS facilities.

Additionally, CACs may consider supporting the granting of privileges for Tribal medical providers in non-Tribal medical facilities. A SANE nurse and/or physician from a Tribal or IHS clinic may be better positioned to serve Tribal youth in culturally responsive ways and may be better able to build the trust necessary for navigating these sensitive examinations.

CAC professionals should also be aware that mental health care usage rates are often lower among Tribal populations than in the U.S. at large, even when care is in sufficient supply. This can be due to mistrust of providers or cultural barriers, among other issues. Inclusion of or referral to Tribal practitioners may help address these issues. Additionally, inclusion of traditional healers on MDTs or as a referral resource may help meet the mental health needs of AI/AN children. Traditional ceremonies and cultural activities, alone or in combination with other mental health supports, may appeal to AI/AN children and families and open the door to healing.

Victim Advocates. CACs should seek out victim advocates with local Tribal knowledge for cases involving AI/AN children and families. An understanding of the local Tribal service system and the ability to connect children and families to the appropriate resources and individuals within Tribal
communities is essential to effective support. Culturally responsive one-on-one support is equally crucial to effective victim advocacy.