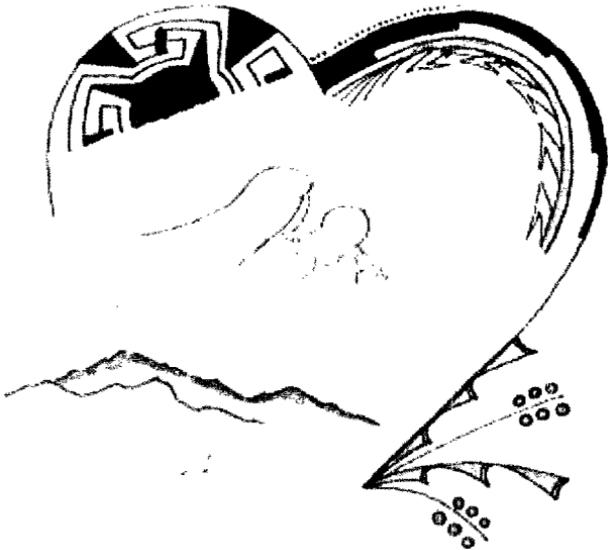


Understanding the Cultural Context: Working with American Indian Children and Families



Edited by:

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ABUSE AND NEGLECT INFORMATION

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This training curriculum is dedicated to the resilient American Indian children and their families who have survived and prospered despite their challenging history.

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Vital to the curriculum development and design process was the participation and guidance for the project's Advisory Committee. The members of this committee demonstrated their commitment to the improvement of child welfare services for American Indian children and families. The Advisory Committee was composed of individuals who are tireless advocates for American Indian children and families and understand the importance of the cross-cultural reality of Indian child welfare practice. The editors wish to express their sincere appreciation to all of those who served on the Advisory committee. Individuals serving on this committee included: Dr. James McNeley, Dine College; Al Long, M.A., Navajo Division of Social Services; Mark Lewis, M.S.W., Hopi Guidance Center; Lewis Lane, M.S.W., Arizona Department of Economic Security/ACYF; Odile Robinson, Arizona Department of Economic Security/ACYF; Robert Lewis, M.S.W., Salt River Pima-Maricopa Indian Community Social Services; Warren Kontz, M.S.W., Inter Tribal Council of Arizona, Inc., Jennifer Giff, J.D., Gila River Indian Community Law Office; Delores Greyeyes, M.S.W., Navajo Division of Social Services; and William Lindley, Paula Wright, and Robert Pegues, Arizona Department of Economic Security/ACYF Training Unit.

The curriculum development process included the use of state and tribal child welfare workers, including child welfare services supervisors, in focus groups to develop materials concerning child welfare practice. In turn this information was used by the writers to develop the curriculum modules. The editors would like to thank all of those workers and supervisors for their commitment to Indian children and families and to the improvement of child welfare practice. Additionally these same workers reviewed parts of the curriculum and provided insight for the final curriculum. These workers' unselfish commitment to this process and product was exemplary.

The "Circles of Wisdom", both urban inter-tribal and Navajo elders' groups, participated in this curriculum development project. They were instrumental in providing insight into the needs of American Indian families and the need for practice to be competently delivered. Additionally the elders presented the project with the added wisdom and understanding of the differences within the American Indian cultures. The project wishes to thank all of the elders who participated and to express their gratitude for the opportunity to include their view within this curriculum.

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The editors would like to recognize Lewis Lane, M.S.W., Indian Child Welfare Specialist for the Administration for Children, Youth and Families, Arizona Department of Economic Security not only for his participation on the Advisory Committee but his provision of linkages from this project to the State of Arizona's child welfare system. Mr. Lane has also committed to the pursuit of use of this curriculum within the training provided to workers within the Arizona system.

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FORWARD

Federal policies have impacted American Indian families throughout the history of the United States. The early history of the United States contains numerous examples of European colonial values impacting relationships with American Indians and shaping policies that later affected how tribes would be governed. As a federal system emerged with related United States policies, important lessons learned from positive interactions with the tribes were often overlooked and ignored. One example of this is drawn from the cultural view of children and their relationships with family and community and how these views differed between tribes and the developing federal values and policies. This is demonstrated from conflicting world-views of how children should be cared for by the larger community or "the state." In Eleanor Leacock's "Women and Colonization", this cultural clash was evident during early colonial contact between the French and the Montagnais-Naskapi. Jesuit values influenced French efforts to convince the Montagnais-Naskapi that relationships between children and their tribe should be limited only to parents. However, this biological limitation was not the Montagnais-Naskapi cultural value as expressed by one of the tribal fathers: "You French people love only your own children, while we love all the children of our tribe". The United States government adopted the protocol of the French and other Europeans by designing federal policies to strip Indian cultures. The adverse affects of the federal policies towards American Indians have been well documented, ranging from dependence and benign neglect to genocide. American Indian families suffered from child welfare practices which resulted in removals of American Indian children for social reasons at extremely high rates when compared to other children. American Indians were also separated from their families through the placement of their children in boarding schools. Collectively, such actions often led to the loss of individual tribal languages and customs.

Through advocacy initiated by concerned American Indians, legislation was developed to protect American Indian children from unnecessary removals and to provide strict requirements for states when they removed these children from their homes. This legislation, the Indian Child Welfare Act [ICWA], P.L. 95-608 passed in 1978, is considered to be the single most important federal law governing Indian child welfare. The ICWA establishes protections for Indian children and tribes as exemplified by the Preamble, "that Congress through statutes, treaties, and the general course of dealings with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources" and "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe". American Indian families have benefited for the past twenty-plus years from the protections provided by the ICWA but unfortunately have still experienced high rates of separation from their children.

Many supporters of the ICWA view it as a type of American Indian family preservation, providing for the prioritization of the American Indian family, both nuclear and extended, as caretakers for their children. The structure of the Indian family is well-defined within ICWA. The use of the definition of the extended Indian family is bolstered within ICWA by noting the functions of tribal law and custom, and

reinforced by the requirements to use the social and cultural standards of the tribe. Additionally, tribal affiliation must be considered by states when making any child placement plans, and the tribe itself becomes a party to any dependant child proceedings. With the introduction of the tribe into the proceedings and the legal jurisdiction guaranteed to the tribe in matters concerning their children, ICWA is seen as promoting the American Indian family and the tribe as the main resources for placement of the Indian child. While many state child welfare workers may view the ICWA as the law governing the placement of American Indian children and the corresponding requirements for notification of the tribes of the hearings and other court proceedings, the ICWA has very strict requirements for the preservation of the child's family, including the immediate return of the Indian child once the dangerous situation has been resolved and the immediate transfer of dependency cases to the tribal court when so requested. The passage and implementation of the ICWA has helped identify some of the best practices necessary for working with American Indian children and families, including the preservation of the relationships of the children with their families, both nuclear and extended.

Federal child welfare legislation for all children has included the focus on substitute care, family preservation and support, and the placements of children with ethnically appropriate caregivers. The Adoptions and Safe Families Act [ASFA], P.L. 105-89 passed in 1997, significantly changed the federal child welfare focus affecting the States, accelerating a trend towards permanency for children removed from their homes. Previous federal child welfare legislation directed towards all children focused primarily on family preservation and the resumption of responsibility by the parents for the safety and well being of their children. Family preservation and support were seen as a basis to ensure child safety and as an effective means to reduce the costs, both social and economic, of substitute and/or foster care. With the passage of ASFA the focus was shifted to the expedited permanent placement of children, either with their parents and families, or in another permanent home. Limits were placed on the length of time children should remain in foster care; adoption promotion and support services were mandated; and incentives were provided to States for the permanent placement of children from foster care. Additional incentive amounts were available to States for the permanent placements of special needs children, which included American Indian foster children. ASFA has affected the State's permanent placement activities with American Indian children in their care and potentially can narrow the choice to severance and adoption. Most American Indian cultures do not value severance as it conflicts with the recognition of the relationships of the child's with their families and with the tribal customs. Adoptions are not that frequent within tribal societies, usually happening with the consent of family members and the child themselves. Guardianships and family placements are much more prevalent because they have a better fit with many tribal societies' customs.

Both ICWA and ASFA are concerned with the safety of American Indian children but may differ in their focus on the outcomes when American Indian children experience problems affecting their ability to remain in their own homes. Additionally the ICWA prioritizes the child's extended family, their tribe's other members and other American Indians if placement outside of that home is necessary. With ASFA providing emphasis to States to expedite the permanent placement of children and the ICWA requiring more specialized work toward family reunification and increased networking

with tribes and their members, it was inevitable that some conflicts would occur. Additionally ASFA requirements include only the provision of "reasonable efforts" to reunite parents with their children, while the ICWA requires the provision of "active efforts" including remedial and rehabilitative services to families. While ASFA requires only reasonable efforts to reunite children with their family, those requirements for reasonable efforts are not required for certain classes of parents, and no such exclusions for active efforts exist for any parent within the ICWA. Also ASFA has as one of its goals to place children in permanent homes regardless of the location of that home, thus not allowing state boundaries to inhibit the placement of the child. In contrast ICWA is very concerned with the location of the placement and subsequently with the placement itself, requiring adherence to the placement preferences for both foster care and adoption. Equally as important, the ICWA specifics of 1) the trust responsibility of the U.S. for Indian tribes, 2) the recognition of the extended Indian family with their tribal laws and customs, and 3) the relationship of the Indian child to the tribe distinguish the ICWA from the ASFA.

With the conflicts noted above, state workers can feel pulled in different directions when working with American Indian children, especially when the child's parents are not immediately available or involved in the child's return. State child welfare administrators can also become conflicted, as complying with ASFA can impact child welfare funding, through both federal ASFA sanctions and incentives, while complying with ICWA does not have direct funding impacts. These types of conflicts and potential differences in the practice of American Indian child welfare have not gone unnoticed. The Children's Bureau, Administration for Children and Families recognized this situation and provided an opportunity to address the needs of state and tribal child welfare workers through the development of a training curriculum that helps to better prepare state and tribal workers to work with American Indian children and families.

The following curriculum is part of this initiative to develop training materials to assist child welfare workers in providing services to American Indian children and their families that address and comply with both the ICWA and the ASFA. Information, gained through the methodology employed in developing this curriculum, highlighted the uniqueness of individual tribal groups, within the larger group of American Indians and Alaskan natives. Competencies in working with American Indian children and families must be developed specifically to each unique group, using the groups stories, symbols, language, customs and other cultural specific approaches. Additionally this curriculum will present the training materials in such a way as to create a need to understand the unique status of American Indian children and their historical and cultural backgrounds. These elements of the unique legal status of American Indians and their specific histories and cultures are extremely important to guide and direct child welfare practices which will make sense within their community's frame of reference. Based on this methodology the following curriculum is titled "**Understanding the Cultural Context: Working with American Indian Children and Families**". The limitation for this curriculum and any curricula that attempts to describe all American Indian and Alaskan natives is considerable, as each group is unique and has their own culture and community context. This curriculum should be used with this limitation in mind, allowing for the uniqueness of the specific group to be determinant in its application.

This curriculum development included the use of an Advisory committee, composed of tribal and state administrators with extensive experience in American Indian child welfare services delivery and training. The Advisory committee assumed an oversight role for the curriculum development, ensuring the project remained true to its goals and methodology. This methodology included the use of focus groups of state and tribal child welfare workers and supervisors, and the "Circles of Wisdom" groups of American Indian elders. The "Circles of Wisdom" elder focus groups were presented with questions regarding the strengths of American Indian families; their present day challenges; and the qualities of an effective child welfare worker. Similarly the worker's groups were presented with questions regarding the, qualities, attitudes and beliefs of child welfare workers and the knowledge, skills, and abilities needed to work effectively with American Indian children and families. The information derived from these groups was given to a selected group of curriculum writers, based on their experience and expertise, to provide the basis for the training modules. The selection of the subject areas for the training modules and the identification of the curriculum writers were accomplished through the consultation with the Advisory committee. When the curriculum modules were drafted, they were then submitted for review by the state and tribal child welfare workers and supervisors. The review comments, developed by the workers' groups, were then reviewed by the "Circles of Wisdom" elders' groups. Fidelity to this process was maintained throughout the project to ensure the accuracy, utility and cultural context of the curriculum when working with American Indian children and families.

From the writings, reviews and comments the following curriculum, containing seven different modules, was constructed:

"Family Preservation" by Hillary Weaver, DSW, Lakota, Associate Professor at State University of New York at Buffalo who has written on American Indian health, culture and social work practice with American Indians.

"Family-Centered Practice" by Dr. Dan Edwards, Yurok, Director of Indian Studies University of Utah and Dr. Margie Egbert Edwards, Professor Emeritus, University of Utah, who have collaborated in writing on social work practice with American Indian youth, American Indian elders, and substance abuse issues and practice.

"Community-based Family and Children Services" by Dr. Eddie F. Brown, Pascua Yaqui, Director, Bruder Center at George Warren Brown School of Social Work, Washington University at St. Louis and Dr. Gordon Limb, Winnebago, Assistant Professor, Arizona State University West, Department of Social Work, who have collaborated in writing on the state compliance with ICWA, Title IV-B ICWA Sections of State Plans, and Tribal-State Title IV-E Intergovernmental Agreements.

"Clinical Practices with American Indian Children and Families" by Dr. Robert Robin, Department of Psychiatry, Yale School of Medicine who has written on sexual abuse in American Indian children, domestic violence with American Indians and family support from American Indian elders.

"The Interplay between the ICWA and the ASFA" by Paul Matte, PhD and J.D., Attorney for the Gila River Indian Community's Tribal Social Services Child Welfare

programs, has practiced law for the State of Arizona in ICWA cases as well as tribal courts.

“Court Related Indian Child Welfare Practice” by Veronica Geronimo, MSW and J.D., Tohono O’Odham, has practiced both social work and law in state and tribal court and is currently with the Attorney General’s Office of the Tohono O’Odham Nation.

“Permanency and Family Reunification with American Indians” by the National Indian Child Welfare Association, edited by Nadja Printup-Jones, MSW, Comanche, which has adapted this article from their training manual for working with American Indian children and their families.

This curriculum requires the reader to be familiar with the ICWA and the ASFA, assuming a basic understanding of the legislation and the practices associated with each of the laws. Also a basic understanding of child welfare practice is helpful to the reader in understanding some of the child welfare practice differences noted in the curriculum. With this in mind, the editors are hopeful that the use of this material will aid both state and tribal workers in improving the delivery of child welfare services to American Indian children and families.

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National Indian Child Welfare Association

Edited by,

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FAMILY PRESERVATION WITH AMERICAN INDIAN CHILDREN AND FAMILIES



Prepared By:
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Key Concepts

Cultural Competence

The ability to work with clients in a way that acknowledges, respects, and incorporates their cultural values and traditions. Cultural competence consists of a particular set of knowledge, skills, values and attitudes. Data is provided from two studies to help operationalize this concept in an American Indian context.

Family Preservation

A type of child welfare program characterized by multimodal, intense, home-based services. Family preservation services are guided by a strengths focused, family-centered philosophy designed to offer support that will enable them to raise children in a safe and stable environment.

Model Drift

Deviations from a stated ideal or set of values. This occurs when what is actually implemented in family preservation programs varies from the philosophy that is an integral part of this concept. For example, although a strengths-based focus is fundamental to family preservation philosophy, in reality some family preservation programs have a deficit focus.

Sovereignty

The inherent right of indigenous people to self-determination and self-governance. This legal principle has been recognized by the federal government in the United States Constitution and reaffirmed by the Supreme Court. While as a legal doctrine, sovereignty has been partially eroded by intrusions by the federal and state governments, as a philosophy it emphasizes the cultural integrity and on-going and distinct nature of American Indian cultures and societies in spite of changes brought on by contact with European and subsequently American societies. American Indian tribes retain "all the powers of self-government of any sovereignty except insofar as those powers have been modified or repealed by act of Congress or treaty. Hence over large field of criminal and civil law, and particularly over questions of tribal membership, inheritance, tribal taxation, tribal property, domestic relations, and the form of tribal government, the laws, customs, and decisions of the proper tribal governing authorities have, to this day, the force of law" (Cohen, 1986).

Training Objectives and Outcomes

- To understand the historical context of child welfare services for American Indian people including the detrimental impact of federal policies
- To understand the philosophical underpinnings of family preservation
- To understand how the political context has hindered full implementation of family preservation

- To understand the policies that guide implementation of family preservation in an American Indian context
- To understand the need for cultural competence, respect for sovereignty, and advocacy in order for family preservation to achieve its positive potential within an American Indian context

Training Curriculum Content

American society struggles with the issue of what to do with families where children are judged to be at risk for abuse or neglect. Many people have strong opinions on this subject and heated battles in the media are not uncommon. It is particularly heartbreaking when abuse or neglect results in the death of a child. In these instances, vocal critics often attack social workers and the child welfare bureaucracy for leaving a child in a dangerous situation. On the other hand, there are also heartbreaking stories of children who are removed from their families and are shifted from home to home. These children often develop a series of problems related to this instability such as emotional trauma and substance abuse.

The policies that guide child welfare services shift between favoring practices that support keeping children in families where they have experienced abuse or neglect while providing remedial services, and those that promote removal and termination of parental rights. In reality, all or nothing debates about how to handle child abuse and neglect cases are overly simplistic. Neither keeping families intact nor removing children should be the only option available for troubled families (McRoy, 2000).

In fact, either type of child welfare program typically provides a temporary fix for symptoms of the problem. In other words, they may offer substance abuse treatment or counseling to remediate child abuse and neglect when the underlying problem is really poverty (McRoy, 2000). Indeed, basic societal problems such as poverty, violence, and drugs are at the core of child welfare problems (Meezan, 2000). Until underlying problems are addressed, child welfare services will always be limited in their impact.

Another limitation of child welfare services is that models and practices such as family preservation are developed and applied with minimal regard for tailoring to distinct populations. It is not that models cannot be developed or shaped to meet the needs of different populations. In fact, there are many positive aspects of family preservation that easily lend themselves to practice with American Indian populations. In reality, however, the culturally-specific tailoring to meet the needs of American Indian clients rarely happens outside tribally-based programs.

This curriculum module begins with an examination of the concept and practice of family preservation. Subsequently, the historical context of services to American Indians and the impact of contemporary policies are examined. This is followed by an overview of family preservation within an American Indian context. The module concludes with a vision of what culturally appropriate family preservation could look like for American Indian people.

An Overview of Family Preservation

In recent decades, family preservation services have become common across the country. This section of the curriculum reviews how family preservation is defined and the philosophy behind this type of programming; a discussion of the content, implementation, and evaluation of family preservation programs; and a review of some of the challenges facing family preservation.

Definitions and Philosophy

Discussions of family preservation are muddled by unclear and sometimes conflicting definitions. The term family preservation is used differently by different people. Some define it as a practice or program model, while others see it as a philosophy guided by values and principles, a service delivery model, or a policy (McRoy, 2000). Lack of a clear and consistent definition is a barrier to effective service delivery and evaluation (Pheatt, Douglas, Wilson, Brook, & Berry, 2000). This lack of theoretical clarity has been identified by practitioners as a significant limitation (Hilbert, Sallee, & Ott, 2000). In this curriculum module, the term family preservation is used to identify a type of child welfare program characterized by intensive home-based services and grounded in a pro-family philosophy.

The philosophy that underlies family preservation is based on the premise that children develop best if able to remain with their family or at least use their family as a resource. In this philosophy, family, community, ethnicity, and religious background are strengths that can be used as resources (McRoy, 2000). Family preservation philosophy is based on assumptions that: 1) parents have a right to raise their children if at all possible; 2) child abuse has many causes, including external stressors, not just parent psychopathology; 3) children flourish with continuity and stability, thus the parent-child bond should be supported when possible; 4) biological connections are important to a child's identity and separations can be devastating; 5) children may feel responsible for removal from their families and have a negative self-image and feelings of rage and powerlessness fueled by subsequent losses and moves; 6) families have the strength and capacity for change and growth and can be helped through an empowerment approach; and 7) appropriate supports and interventions can help parents effectively care for children (McRoy, 2000).

Content and Implementation

Family preservation services are usually brief, concentrated interventions provided through protective services or a private agency. Services, typically delivered in the home, are designed to bring about behavior change in the family, make the environment safer, and prevent child removal. Similar services may be provided if a child is removed but the intent is to return the child to the family home (McRoy, 2000). Multiple concrete, clinical, and educational services tailored to each family's needs are provided (Cash, 2001; Littell, 2001; McRoy, 2000).

Family preservation services are typically offered for between one and four months. Workers have small caseloads and spend two to fifteen hours per week with each family (Littell, 2001). In-home services provide an opportunity for a comprehensive assessment of family functioning and allow for a broad base of services tailored to each family's needs (Gruber, Fleetwood & Herring, 2001).

The need for family preservation services arises when families cannot provide a safe environment for their children. One reason for this may be that parents are struggling with addictions. Substance abuse can have a significant detrimental impact on parenting abilities and the well-being of children. Family preservation can be effectively blended with substance abuse recovery content to address the needs of families struggling with addiction (Gruber, Fleetwood, & Herring, 2001), yet the issue of timing can be critical. For example, it is common for substance abuse services to have waiting lists, meanwhile the clock is running for federally mandated child welfare timelines. Ideally, child welfare and substance abuse services should compliment each other, however, in reality, they are often out of sync.

While family preservation services are typically offered within a nuclear family framework, kinship care can also be a form of family preservation (McRoy, 2000). It may be feasible to provide services to members of the extended family more capable and/or willing to care for children than the parents. Extended family members can be excellent resources and sources of stability for children. It is important to note, however, that kinship providers often need more resources than other foster families. More supportive and economic services need to be provided since kinship providers often do not have the training and economic supports of other foster families.

The number of family preservation programs increased dramatically during the 1990s. This trend was fueled by a declining number of foster families accompanied by a growing number of children in substitute care (McRoy, 2000) as well as by dissatisfaction with unnecessary child removals and other aspects of the foster care system (Hilbert, et al., 2000). In 1993, the federal government established the Family Preservation and Support Services Program which distributed almost \$1 billion to states over a five year period. States were encouraged to use this, along with other funding, to integrate preventive services into child welfare. Several states had already developed family preservation initiatives prior to this federal initiative (McRoy, 2000).

Family preservation programs offer substantial savings over traditional foster care or residential programs. Family preservation costs approximately \$3,000-5,000 per child, per year while family foster care costs around \$10,000 per child, per year. In spite of clear financial incentives and federal rhetoric in support of family preservation, \$16 billion was spent on foster care whereas only \$1 billion was spent on preservation during the same period (McRoy, 2000).

In some states, family preservation programming has become subject to managed care. For instance, in Kansas, family preservation like other child welfare services, is now contracted by the state to private agencies. Family preservation expenses are capped at \$3,400 which may lead to premature

termination if funds are exhausted. Meanwhile, in Kansas, foster care costs a minimum of \$15,500 (Pheatt, et al., 2000). Managed care further institutionalizes the funding inequities between family preservation and foster care.

Evaluation

Family preservation is one of the most widely studied models in social work (Cash, 2001). Past studies of family preservation programs have shown mixed results, often have not been rigorous (Altstein, 2000; Littell, 2001), and rarely compared family preservation to other services (Holosko & Holosko, 1999). There is, however, some empirical evidence and considerable practice wisdom that supports the effectiveness of particular elements of family preservation programming. One study found that when families collaborate with helping professionals in treatment planning they are more likely to comply with program expectations. This, in turn, leads to a significant reduction in both subsequent child maltreatment reports and out-of-home placement (Littell, 2001). Likewise, early intervention leads to more positive and lasting outcomes (Pheatt, et al., 2000).

A 10 year longitudinal study of the Homebuilders model of intensive family preservation found significant differences in parent-centered risk and parental disposition and in child-centered risk and child performance but not in economic risk or household adequacy (McRoy, 2000). This suggests that programming is effective in addressing social aspects of the problem but underlying problems such as poverty persist. Studies have also documented the effectiveness of family systems and ecological practice models (McRoy, 2000).

A meta analysis of 56 programs found that programs that promoted family wellness and prevention of maltreatment are effective. In particular, intensive programs with high levels of family involvement, an empowerment or strengths-based approach, and social support, were more effective than programs without these features. Programs with more than 12 visits and more than 6 months duration were most effective (MacLeod & Nelson, 2000). It should be noted, as stated earlier, that most family preservation services are of shorter duration than what research has documented to be most effective. In this regard, there is a significant disconnect between research and practice. This disconnect is created and reinforced by resource limitations.

Challenges Facing Family Preservation

Clearly, family preservation has the potential to have a significant positive impact on families where children are at risk for abuse or neglect. Unfortunately, not all family preservation programs have lived up to that potential. There are several obstacles to the success of family preservation programs. These include the limited availability of respite care, referring caseworkers lack of confidence in family preservation service providers thus referring to foster care instead, variance in services offered and judicial decisions, and lack of a clear model (Pheatt, et al., 2000). Two additional significant problems are clear: inadequate funding and model drift.

Family preservation must be adequately funded to be more than a temporary fix (McRoy, 2000). This has never been the case. As long as substantially more funding is spent on programs with a conflicting mandate like foster care, family preservation can never live up to its potential. These significant funding discrepancies undermine development of a true continuum of care where a variety of services are available to address a variety of problems. Additionally, until the underlying causes of abuse and neglect such as poverty and oppression are identified and addressed with substantial structural changes in American society, we will never have a truly proactive approach to supporting the well-being of children and families.

Model drift is another significant problem in the implementation of family preservation services (Red Horse, Martinez, & Day, 2001). In other words, what is actually implemented differs from the model as stated. While the philosophy of family preservation sounds very positive, in practice, this is an ideal that is rarely attained. For instance, mutuality and partnering between families and workers, a key component of family preservation, was not even mentioned as important in a survey of family preservation practitioners (Hilbert, et al., 2000). Likewise, the strengths base is considered a defining characteristic of family preservation, yet Red Horse, et al., (2001) identified shedding a deficit orientation as the greatest challenge facing family preservation.

The social disparities that underlie child welfare problems disproportionately effect children of color (Meezan, 2000). Solutions require a commitment to social justice and community building, not simply clinical and concrete services. American society has not yet mustered the will to address societal problems through mechanisms such as a living wage and health insurance for all. Social workers are well positioned to push for justice, fight oppression, and facilitate much needed societal changes. "It takes will and money and **a social worker**, rather than a rocket scientist or a politician, to alleviate the enormous pressures on our current child welfare system" (Meezan, 2000, p. 5; emphasis in original).

The Historical Context of Services to American Indians

The concept of sovereignty is fundamental to understanding both the historical and contemporary realities of American Indians. This concept is recognized in the U.S. Constitution. As indigenous people, American Indian tribes historically functioned as independent entities or nations. Treaties with European nations and later with the United States were based on government-to-government relationships. Over the years, the United States grew more powerful and violated these agreements, thus eroding sovereignty or the right to self-governance. American Indian tribes came to legally be considered domestic dependent nations. The federal government took on the role of paternal protector while placing American Indian tribes in the role of wards. This relationship, known as the federal trust responsibility, continues today. Aspects of sovereignty have eroded, yet, vestiges of it persist and it is a fundamental principle that must be upheld. The right to self-determination, self governance, and cultural integrity

must be respected within the context of child welfare policies, as within all other contexts.

There is a long history of government interventions with American Indian families and efforts to dismantle indigenous cultures. In particular, interventions often targeted changes in the family as a way to promote assimilation into American society. The legacy of these efforts provides the context for contemporary discussions of American Indian children and families. Notable policies of particular relevance to families include boarding schools, adoption programs, and sterilization policies. While indigenous people have survived destructive policies and practices, they have suffered a heavy toll (Red Horse, Martinez, Day, Day, Poupert, & Scharnberg, 2000).

Boarding schools were the tools of a long-standing federal policy of cultural destruction. This followed policies of physical genocide embodied in wars and deliberate spreading of diseases. Beginning shortly after the U.S. Civil War and not dwindling until the 1950s and 1960s, many American Indian children were removed from their families and communities to attend residential schools, often great distances from their homes. These schools emphasized vocational skills and gender socialization designed to assimilate American Indian children into particular roles in American society. Boys were typically taught to be farmers while girls were taught domestic skills. In these schools, indigenous languages and religions were usually banned. Strict rules were enforced by physical discipline based on a military model. For example, children were often beaten for speaking their Native languages. Physical and sexual abuse were common in the boarding schools. In these institutions, children had no positive role models for parenting. Once they had their own children, they often perpetuated the dysfunctional behaviors they experienced in the schools including physical and sexual abuse (Morrisette, 1994; Swinomish Tribal Mental Health Project, 1991; Weaver & White, 1999).

Boarding schools were the first out-of-home placement policy for American Indian children. These schools were based on the premise that American Indian families were inferior to Whites and all vestiges of traditional cultures must be eradicated. This philosophy of "kill the Indian save the man" dominated American Indian policy for over a century (Red Horse, et al., 2000).

As the boarding schools waned in favor, adoption programs were developed that continued to operate from a philosophy of cultural destruction as rehabilitation. The federal Bureau of Indian Affairs, in conjunction with the Child Welfare League of America, instituted the Indian Adoption Project in 1957. This served as a clearing house for interstate adoption of American Indian children by non-Indian families (Red Horse, et al., 2000). State programs developed similar efforts. For example, between 1944 and 1977, the Boys and Girls Aid Society of Oregon placed 94% of the American Indian children in their care with non-Indian families (Collmeyer, 1995). By the mid 1970s, 25-35% of all American Indian children were living away from their families (Brown, Limb, Chance, & Munoz, 2002; Red Horse, et al., 2000). This alienation of American Indian children from their communities and cultures was seen by many American Indians as a

significant threat that could ultimately lead to the total destruction of American Indian societies.

In another attack on American Indian families, the Indian Health Service, a federal agency mandated to promote the health and well-being of American Indian people, instituted a policy of sterilization. In the 1960s and 1970s, approximately 42% of all American Indian women of childbearing age were sterilized (Jaimes & Halsey, 1992). American Indian women were often threatened with the loss of their welfare benefits or the loss of children if they did not consent to sterilization. Others were sterilized without their knowledge or consent (Lawrence, 2000; Torpy, 2000).

U.S. policies such as those discussed above have deliberately undermined American Indian communities, families, and cultures. Cultural repression in both historical and contemporary times has caused a trauma that leads to identity crises, family dysfunction, and community disintegration (Red Horse, et al., 2000). Indeed, many of the contemporary social problems that family preservation and other services were designed to address can be directly linked to the social disruption caused by U.S. policies of assimilation and cultural destruction. This legacy must be acknowledged as part of developing healthy, pro-family programs.

The Impact of Contemporary Policies

United States policies continue to undermine American Indian cultures, although in more subtle ways than their predecessors. Examples can be found in contemporary child welfare practices. The "best interest of the child philosophy is antithetical to American Indian family preservation. Mainstream psychological theories of child development completely ignore Indian cultural factors such as kinship networks and other tribal customs in determining attachment and resiliency as phenomena in child development. Tribal practices of extended family and the significance of cultural attachment (not merely attachment to biological parents) are ignored, as is loss to the collective tribal community that results from a child's removal from his or her culture" (Red Horse, et al., 2001, p. 19).

Developing and implementing truly culturally competent family preservation programs is a significant challenge in today's policy environment. Policies and laws relevant to family preservation programs include the Indian Child Welfare Act, the Adoption and Safe Families Act, and Public Law 280.

The Indian Child Welfare Act

The Indian Child Welfare Act of 1978 (ICWA) is an anomaly among U.S. child welfare policies. The 1960s and 1970s, in spite of continuing atrocities such as government-sponsored sterilization, were an era in which the U.S. began to emphasize policies promoting self-determination for American Indian people. Indigenous people were given some measure of control to govern and serve their own people within a reaffirmation of the federal trust responsibility. This climate

led to the development of ICWA and tribal family and child welfare programs (Red Horse, et al., 2000).

ICWA can be viewed as a mediating effort for cultural affirmation (Red Horse, et al., 2000). This law was developed with significant input from American Indian leaders and helping professionals. ICWA was designed to address the longstanding problem of out-of-home placement of American Indian children and subsequent cultural loss. As such, the law takes steps to keep American Indian children within their cultural context, both in terms of their living situation (ideally remaining within their home or at least within their kinship network) and in terms of jurisdictional issues (keeping them within tribal social service and court systems rather than those of the state) (Weaver & White 1999). One of the key provisions of ICWA was the mandate that American Indian definitions of family be used as guides in child welfare (Red Horse, et al., 2000).

ICWA has reduced the number of American Indian children in state child welfare systems and the number of American Indian children in non-Indian homes. The Act's provisions, however, are still not systematically followed, thus, it has not reached its full potential (Brown, et al., 2002). American Indian children are still disproportionately in substitute care (Red Horse, et al., 2000). Now, however, American Indian children are more likely than in the past to be in foster care with American Indian families. The impact of this important law has been minimized because it has never received adequate funding. Additionally, helping professionals in state and private systems are often unaware of its requirements and, thus, provisions of the law are frequently violated. In order for ICWA to live up to its potential, substantially more funding for programs and training for helping professionals are necessary (Weaver & White, 1999).

ICWA can be viewed as a framework for indigenous family preservation (Red Horse et al., 2001). ICWA affirms the right of American Indian tribes to take over or at a minimum be involved with any proceeding that involves out-of-home placements of tribal members. This is premised on the sovereignty and integrity of American Indian nations/tribes. Tribal governments, legal systems, and social service systems are accorded "full faith and credit" under ICWA. This statement affirms that they are competent and on an equal standing with comparable non-Indian entities. ICWA emphasizes keeping American Indian children with their families or at the least within their cultural context. This mirrors the intent of family preservation.

The Adoption and Safe Families Act

The Adoption and Safe Families Act of 1997 (ASFA) was passed in response to public outcry over children lingering for years in foster care with little or no planning for a permanent solution to family problems. This law sets a timeline that limits the amount of time that can be spent in foster care. In most cases where children are unable to return home quickly, the law mandates moving toward a termination of parental rights, thus, freeing the children for adoption.

ASFA tips the balance between the philosophies of saving families for children and saving children from families (Meezan, 2000). "As ASFA transforms the child welfare policy agenda yet again, its focus on streamlining the adoption process, along with the implementation of a quota system for federal funding, will have serious implications for American Indian tribes, families, and children. As a consequence, the interface between ASFA and American Indian communities remains of great concern, particularly since it mirrors earlier attempts at assimilation, which was in the main, a precipitating cause for passage of ICWA. In this respect, current policy appears like old wine in new bottles: it recycles old efforts disguised in the language of 'the best interest of the child' and remains skewed in a non-Indian paradigm" (Red Horse, et al., 2000, p. 10).

Tribal leaders have expressed concern that ASFA is often mistakenly perceived to override ICWA (Red Horse, et al., 2000). ASFA, although it does not technically override ICWA, is antithetical to ICWA and tribal custom and practice (Red Horse, et al., 2001). The emphasis on quick planning and movement toward severing biological ties is contrary to American Indian cultures. Additionally, the emphasis on the nuclear family is inconsistent with kinship networks, clan systems, and concepts of tribal membership that are at the heart of American Indian identity.

Public Law 280

Another significant policy that shapes the context of social service provision for some American Indians is Public Law 280. This law, currently in place in 15 states, gives states total or partial jurisdiction over the American Indian people within their boundaries (Getches & Wilkinson, 1986). In states that have adopted Public Law 280, tribes face additional challenges to sovereignty that undermine tribal family preservation initiatives (Red Horse, et al., 2001). In these states, county social services may infringe on tribal family preservation programs. Additionally, state and county influences, such as those present in Public Law 280 states, have been documented to encourage model drift and impede implementation of tribal and social cultural standards (Red Horse, et al., 2000).

Whether or not they live in a state that has passed Public Law 280, American Indian communities and governments must interact with other aspects of American society. When those interactions are positive and respectful of American Indian cultures, it bodes well for culturally appropriate family preservation programming. When government entities outside tribal social services include cultural aspects in their programming this has proved important to indigenous family preservation services. In these instances, government-to-government relationships are maintained between tribes and states (Red Horse, et al., 2001).

Balancing Conflicting Policy Mandates

In spite of policies affirming self-determination, American Indians still are affected by mainstream child welfare services grounded in Eurocentric biases

(Red Horse, et al., 2000). Being culturally competent includes being aware of institutionalized discrimination and its impact on various populations (Meezan, 2000). Although ICWA affirms that American Indian tribes have the right to assume jurisdiction over child welfare cases involving their members, in practice this does not always happen. State or private child welfare workers who are ignorant of ICWA or do not recognize that a child in a foster care or adoption proceeding is American Indian, may neglect to notify a tribe that one of its members is being placed outside the home. Also, there are times when a tribe does not have the resources to assume jurisdiction over one of its members. In particular when a member is living far from the tribe, a great expenditure of resources would be required to handle the case. In cases such as these, American Indian children remain subject to state services.

Mainstream family preservation models have been criticized by American Indian professionals and clients. These models are still grounded in a Eurocentric foundation based on nuclear family systems, promoting development of the self, and individual success and autonomy. The underlying philosophy of mainstream programs promotes maturation away from the nuclear family of birth and formation of another nuclear family. Such concepts are alien to American Indian cultures. This individualistic philosophy in which children are expected to grow away from their family as a part of healthy development is at odds with indigenous philosophies that value the collective and emphasize continued interdependence through extended family networks as a sign of mature development. Extended family systems and community values are not duly considered in mainstream family preservation programs. Such programs do not typically acknowledge cultural traditions such as the central role of elders in family and community life and the importance of clan membership (e.g., among the Navajo, children belong to their clans). Additionally, family preservation models with their intensity may be perceived to replicate earlier aggressive government interference with the family. This type of intervention has been the hallmark of dominant society relations with indigenous people (Red Horse, et al., 2000).

Family Preservation with American Indians

Information gathered through traditional American Indian talking circles in Minnesota and Wisconsin confirmed that there is still significant mistrust and misunderstanding between American Indian people and social service providers (Red Horse, et al., 2000). A serious dilemma exists when state or county social service workers make decisions for, or counter to, tribal programs. This alienation of tribal decisions and values is a fundamental erosion of sovereignty. Community values and decisions must be affirmed in family preservation (Red Horse, et al., 2001).

Family preservation in an American Indian context is fundamentally linked to tribal sovereignty. Likewise, American Indian history and tradition are integral to the development of appropriate family preservation services (Red Horse, et al., 2000). "In tribal practice, family preservation involves bringing

families in balance with community, spiritual, and other natural relationships. Parents and children do not stand alone, either as perpetrators or victims. Each is part of larger systems of family, extended family, kinship, clans, community, tribe, and natural world" (Red Horse, et al., 2001, p. 22).

The family preservation program at Ft. Berthold in North Dakota provides a model of tribally-based services. A study of this program found that tribal family preservation requires community education and advocacy, tribal members as staff, reliance on cultural systems, and social work skills that incorporate culture and work from a strengths base (Red Horse, et al., 2001).

Integrating Cultural Competence in Family Preservation

Recent decades have seen increasing calls for cultural competence in all branches of human services. Only preliminary steps, however, have been taken in operationalizing this concept with specific populations such as American Indians. As part of the development of this curriculum, focus groups were held with tribal and state human service workers as well as American Indian elders to provide specific guidance for shaping cultural competence in this context. The findings of these focus groups closely parallel the results of a national survey of 62 American Indian social workers and social work students (Weaver, 1999).

Focus groups of tribal and state human service workers identified three major areas when asked about the values, attitudes, and beliefs associated with effective service provision for American Indian children and families. Helping professionals need to: 1) value the strength of American Indian families including their belief systems, and focus on their best interests; 2) respect families, demonstrate trust and a non-judgmental attitude, value relationships and the context of American Indian families; and 3) display cultural sensitivity toward children, families, and communities while having a curiosity and open-mindedness that leads them to seek cultural understanding. These findings were much the same as the national sample that identified 1) helper wellness and self-awareness, 2) humility and willingness to learn, 3) respect, open-mindedness, and a non-judgmental attitude, and 4) social justice as key components of cultural competence with American Indians (Weaver, 1999).

When asked about skills, knowledge, and abilities associated with effective work with American Indian children and families, the tribal and state human service workers stated that important areas include: 1) relevant laws, regulations, and ICWA; 2) knowledge of tribal government, tribal differences, and sovereignty; 3) knowledge of state and tribal perspectives on child welfare, abuse, and neglect, combined with the ability to work collaboratively; 4) skills in assessment and working with multiproblem families; 5) cultural knowledge; and 6) skills to communicate and negotiate with counterparts in state or tribal child welfare programs. In the national sample, American Indian helping professionals and students were asked separately about knowledge and skills associated with culturally competent service provision. Four important areas of knowledge were identified: 1) understanding diversity among and within American Indian groups; 2) history of American Indian people; 3) culture; and, 4) contemporary realities of

American Indian people. Two categories of skills were identified: 1) general skills such as networking and advocacy; and, 2) containment skills such as listening and allowing silences (Weaver, 1999).

Tribal and state human service workers were also asked to identify the motivation and commitment necessary for effective work with American Indian children and families. The areas they identified were: 1) desire to help and continually learn; 2) desire to practice social work values; 3) demonstrated interest in American Indian culture; 4) commitment to the rights of American Indian children to be safe, secure, and retain their culture; commitment to the rights of families to care for and protect children; commitment to fair and equal justice for children and families; and 5) the commitment to keep families together.

Focus groups held with American Indian elders explored different but related questions. The elders were asked to identify the qualities of strong parents and families. In response they came up with the following. Families need to: 1) have relationships both in their immediate and extended family to maintain a positive environment and role models; 2) provide discipline, rules, and boundaries for all members, especially children; 3) teach children roles including ceremonial roles and how to relate to others; 4) know and fulfill parental responsibilities; 5) infuse spirituality in daily life; and, 6) teach and demonstrate love.

Elders were also asked, How do we keep families strong today? They responded: 1) encouragement and appreciation for each other; 2) demonstrate togetherness through activities and events; 3) parents and grandparents prepare children for independence as defined by the family; 4) mutual respect; 5) parents and grandparents model respect, communication, and goal setting; and, 6) parenting classes and self-help groups.

Lastly, the American Indian elders were asked to identify the qualities of a good child welfare worker. They stated: 1) be professional, accountable, and visible in the community; 2) appropriate behavior that doesn't interfere with work; 3) humor, positive attitude and communication style, patience, compassion, and respect; 4) grounding in the culture, diversity of tribal communities, some bilingual skills; 5) educated, skilled, able to link to community resources; and 6) value children, relationships, and family.

The information gathered from American Indian helping professionals, students, and elders gives insight for shaping services with American Indian children and families. In reviewing the responses to the survey and focus groups, several issues are emphasized throughout. Concepts such as the strengths of families, respect, being open-minded and non-judgmental, and truly valuing American Indian families and cultures are echoed repeatedly. Human service workers need to be knowledgeable and skilled in working with American Indian families within the context of tribal communities, tribal governments, and policies like ICWA. Through these characteristics, helping professionals can support American Indian families as they strive to teach, guide, and raise their children in a positive, culturally-grounded environment.

Practice Issues

Although there are clear compatibilities between family preservation philosophy and American Indian values, in practice many family preservation programs are still culturally incompetent at serving American Indian children and families. In spite of rhetoric to the contrary, mainstream services and service providers continue to function from a deficit perspective, ignorant of indigenous cultural practices. This in turn, is harmful to American Indian children, families, and communities (Red Horse, et al., 2000).

Non-Indian frameworks inform contemporary family preservation models and theories. It is important to assess how much these frameworks transcend past colonialism. In particular, how do such models fit within a context of sovereignty? (Red Horse, et al., 2000). Instead of borrowing mainstream models in their entirety, it is more appropriate to integrate the framework and ideals of family preservation programs into an American Indian context.

Contemporary family preservation must incorporate healing of the American Indian "soul wound" that lingers from historical oppression (Red Horse, et al., 2000). This begins with a recognition of the historical trauma that has occurred to American Indian people and the contemporary impact of unresolved grief. For example, the intergenerational memory of on-going interference from the federal government often leaves American Indian people reluctant to trust professionals and be open to accepting help. Professionals must acknowledge the anger and grief related to past exploitation and be conscious of issues of power in the helping relationship.

Casework standards and practices should be based on tribal strengths (Red Horse, et al., 2001). Strengths can be identified by involving tribal members in the development of programs and standards. This is an important step in moving away from a deficit perspective. Strengths may include a strong clan system, cultural knowledge, spiritual practices, and tribal social services.

A lot can be learned from tribal social service programs already in existence. These can serve as models for the development of other tribal programs as well as providing guidance for non-tribal programs that serve American Indian families. For example, tribal social service workers in the program at Ft. Berthold do not see themselves as separate from the community or the people they serve. Formal social work training is considered helpful but cultural knowledge is considered vital. Culture is integral, not an add on to programming (Red Horse, et al., 2001).

The Challenges of an Urban Context

In this day and age, the majority of American Indians no longer live on reservations, yet funding and services have not kept pace with changing demographic patterns. This presents particular challenges for providing culturally competent family preservation services for American Indians. Many urban areas do have human service agencies that serve American Indians. Some of these agencies also have specific family preservation programs. Urban American Indian programs, however, often receive considerably less funding than their

reservation-based counterparts and do not even qualify to apply for many funding streams. In particular, although the Indian Child Welfare Act allows for funding of urban agencies, in reality, this funding stream has not existed for many years. This is especially problematic since most ICWA cases arise in urban areas, yet no funding is available to meet this need.

Urban American Indians, in particular, are likely to participate in mainstream programs rather than tribally-based services. Stereotypes held by professionals lead them to believe that none of their urban clients are likely to be American Indians, therefore, American Indian children and families often go unrecognized. Urban American Indians are also less likely than their reservation-based peers to have access to programs tailored to meet the needs of American Indians. It is quite challenging for an agency that serves a multicultural population to ensure that they are also meeting the needs of specific populations. In such contexts, American Indians typically get lost in the shuffle.

Examining Issues of Power

Power, although frequently not explicitly acknowledged, is one of the primary dynamics operating within child welfare services. Ultimately, someone in authority has the legal right to remove a child from his or her family; an awesome and often devastating power. Helping professionals can impose standards and require that families conform to certain rules or mandates. This opens the door to coercion that, while antithetical to social work values, often exists in subtle forms.

Family preservation philosophy espouses striving for a mutuality and a partnership between families and helping professionals. It is extraordinarily difficult for this to truly exist and be more than just lipservice given the operative power dynamics. It is also important to recognize that American Indians are minorities, often marginalized in American society. On the other hand, social workers are often members of the dominant society with all the privileges that entails. Even social workers who are themselves from a minority background have professional status and are associated with dominant society bureaucracies. This places them in powerful positions over clients. Indeed, the colonizer-colonized relationship that has defined United States and American Indian relations is often mirrored in the social worker-client relationship. Helping professionals must recognize and explicitly acknowledge the power dynamics present if they are to maximize the chances of truly providing culturally competent and productive family preservation services.

Like the micro or clinical context, the macro or policy context of family preservation is rife with power dynamics. Current policies continue the legacy of cultural destructiveness stated more explicitly in earlier policies. Policy makers must wrestle with how to be responsive to the needs of diverse populations in a multicultural society.

The foundation for culturally appropriate policy formation is already in place for American Indian people. Respect for sovereignty grounded in indigenous status has the potential to be the keystone for culturally appropriate service provision. Policies grounded in paternalism must be rejected. Policies

that support self-determination and equal power for American Indian tribes are the only way to escape the power dynamics inherent in colonization. While history cannot be overturned and colonization erased, policies such as ICWA that affirm cultural integrity and the rights of tribes to have a voice in their future, begin to realign the current power imbalance. For example, the "full faith and credit" provision of ICWA affirms that tribal social service and court systems are both competent and capable of serving the needs of their members.

Visions for the Future

The philosophical framework of family preservation is highly compatible with American Indian values and has the potential to be successfully implemented into quality programming. Looking toward the future, these principles can be integrated into a plan of what family preservation with American Indians should, could, and must look like. American Indian people and professionals tend to have a broader view of family preservation than that found in the human services literature. This includes an emphasis on extended family and tribal relationships, not just service provision. It is important to strive for a holistic, culturally grounded, community-based understanding of family preservation (Red Horse, et al., 2000).

Family preservation is most effective when it respects tribal values (Red Horse, et al., 2001). Traditional practices and values are critical for contemporary families. In spite of centuries of oppression, traditional values remain surprisingly strong (Red Horse, et al., 2000). These values should not be an add-on to an existing program but integral to the program itself. This can only be done with significant input from American Indian people in the development and implementation of services.

Social work must act as a cultural facilitator rather than function from a deficit model (Red Horse, et al., 2001). The challenge is for social work, like family preservation, to live up to its potential and stated values such as community empowerment and social justice. This must be done with an awareness of our professional history and where we have deviated from those values.

The primary scholars doing research on family preservation in an American Indian context are Red Horse and colleagues (see for example, Red Horse, et al., 2000; Red Horse et al., 2001). The following recommendations are taken from that body of work. In order to reach the goal of culturally competent family preservation services for American Indian families these steps are necessary:

- Support full implementation of ICWA
- Develop tribal codes that are explicit about county and state performance requirements
- Consider American Indian traditions and cultures as the cornerstone of family preservation
- Operationalize cultural beliefs in institutional structures and policies to guide the design and practice of family services

- Provide more funding for both mainstream and tribally-based programs.

In addition, it is clear that addressing structural issues in American society such as poverty, oppression, and colonization is the only way to proactively alleviate the problems that are the root causes of many family problems. Only a combination of culturally appropriate programming, adequate resources, and political will to redress societal injustices, can make a lasting difference in the wellbeing of American Indian families.

Pre-test/Post-test

True/False questions

- | | | |
|---|---|---|
| 1. Family preservation services currently receive approximately half the funding of foster care | T | F |
| 2. Family preservation is based on the philosophy that children develop best if able to remain with their family | T | F |
| 3. Kinship care can be a form of family preservation | T | F |
| 4. Research has consistently shown that family preservation is most effective when services are offered for less than six months and include fewer than 12 visits | T | F |
| 5. The Adoption and Safe Families Act does not apply in cases specifically covered by the Indian Child Welfare Act | T | F |

Multiple choice questions

6. Public Law 280 is
- A. A federal law that reaffirms tribal sovereignty
 - B. A child welfare policy that encourages transracial adoption
 - C. A law that allows some states to assume jurisdiction on Indian reservations
 - D. An amendment to ASFA
7. Characteristics of cultural competence with American Indian people include
- A. valuing the strengths of American Indian families
 - B. humility and willingness to learn
 - C. knowledge of relevant laws, regulations, and ICWA
 - D. All of the above
8. Criticisms that American Indian leaders and professionals have of mainstream family preservation programs include
- A. programs are grounded in Eurocentric biases
 - B. services last too long
 - C. programs overemphasize family strengths
 - D. All of the above
9. ICWA reduces the number of American Indian children placed in non-Indian homes by
- A. encouraging kinship placements
 - B. terminating parental rights as soon as possible
 - C. providing mediation in custody disputes
 - D. All of the above
10. The challenges of family preservation with American Indians in an urban context include
- A. limited funding for urban American Indian programs
 - B. mainstream programs may not identify clients as American Indian

- C. tribally-based programs may not have adequate resources to serve their urban members
- D. All of the above

Short essay questions

11. What is model drift and how is this an issue for family preservation?

12. Name two of the societal problems that scholars have identified as underlying child welfare problems.

13. Describe how boarding schools have had a significant impact on the integrity of American Indian families and communities.

14. Describe the principle of "full faith and credit" as it relates to ICWA.

15. Describe the issues of power inherent in child welfare services and how these may be perceived within an American Indian context.

Pre-test/Post-test Answer Key

True/False questions

1. Family preservation services currently receive approximately half the funding of foster care T F
2. Family preservation is based on the philosophy that children develop best if able to remain with their family T F
3. Kinship care can be a form of family preservation T F
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Short essay questions

11. What is model drift and how is this an issue for family preservation?

Model drift is deviations from a stated ideal or set of values. This occurs when what is actually implemented in family preservation programs varies from the philosophy that is an integral part of this concept. For example, although a strengths-based focus is fundamental to family preservation philosophy, in reality some family preservation programs have a deficit focus.

12. Name two of the societal problems that scholars have identified as underlying child welfare problems.

Poverty, violence, drugs, oppression.

13. Describe how boarding schools have had a significant impact on the integrity of American Indian families and communities.

Boarding schools were the tools of a federal policy of cultural destruction. Children were placed in residential facilities and were allowed limited contact with their families and communities. Physical and sexual abuse were common in the boarding schools. In these institutions, children had no positive role models for parenting. Once they had their own children, they often perpetuated the dysfunctional behaviors they experienced in the schools including physical and sexual abuse.

14. Describe the principle of "full faith and credit" as it relates to ICWA.

An affirmation that tribal governments, legal systems, and social welfare systems are competent and on an equal standing with comparable non-Indian entities.

15. Describe the issues of power inherent in child welfare services and how these may be perceived within an American Indian context.

Child welfare workers are vested with the authority to remove children. This places them in a position of considerable power over their clients. American Indians are minorities, often marginalized in American society while social workers are often members of the dominant society with all the privileges that entails. Even social workers who are themselves from a minority background have professional status and are associated with dominant society bureaucracies. Indeed, the colonizer-colonized relationship that has defined United States and American Indian relations is often mirrored in the social worker-client relationship.

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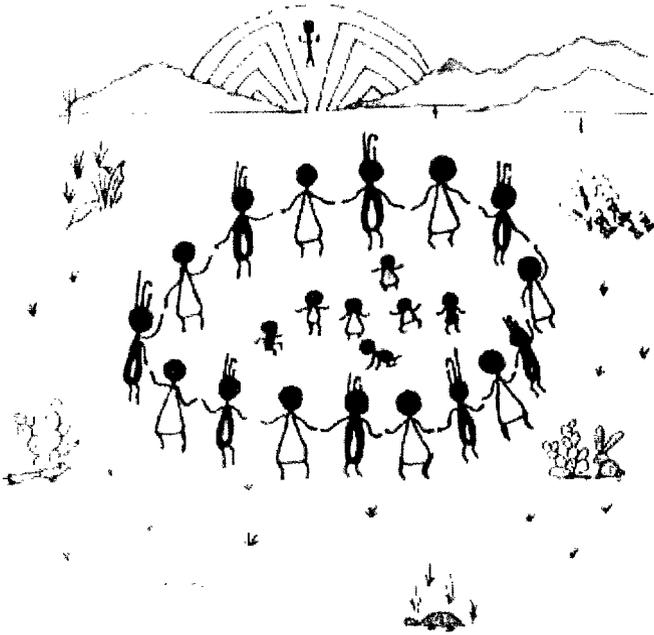
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FAMILY-CENTERED SOCIAL WORK PRACTICE



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FAMILY-CENTERED SOCIAL WORK PRACTICE

By

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Margie Egbert Edwards, Ph.D.

INTRODUCTION

Family-centered social work practice is a hallmark of the social work profession. Since its early beginnings, social work has been committed to protecting and enhancing the stability and well-being of children and families.

American Indians value and have well-defined expectations for the care and nurturing of children—expectations that reinforce the importance of every child. According to Chief Dan George (1974, p. 66), “the wisdom and eloquence of my father I passed on to my children, so they too acquire faith, courage, generosity, understanding, and knowledge in the proper way of living”.

The inter-relatedness of the family system was further described by Chief Dan George (1974, p. 6):

“Thanks:

“To my father! For he gave me skill, stamina and the knowledge of my past.

“To my mother! For she gave me the love for life and taught me to respect it.

“To my wife! Because she shared my burden when it threatened to slow my pace and kept by my side when we traveled lightly.

“To my children and their children! Because in their eyes I have seen myself.”

By focusing on the inter-relatedness of family members, social workers honor traditions and values of American Indian people. By focusing on the American Indian child, social workers promote the best interests of the American Indian family today and for generations to come.

TRAINING PURPOSES AND OBJECTIVES

Purposes: The purpose of this chapter is to promote greater understanding of social work knowledge, values and skills important to successful professional practice with American Indian families and children. Emphasis will be placed upon understanding traditional American Indian cultural values and traditions—their diversity and modification across the years. Content will reinforce the importance of individualization of each American Indian client, family, clan, community, tribe and /or nation in implementing social work intervention and prevention programs. Social workers will be encouraged to evaluate their own cross-cultural knowledge, values and skills and set appropriate goals for continuing cultural competence development (See Appendix A).

Objectives: The content of this chapter will promote opportunities to:

1. Study and increase awareness of traditional and current values important to American Indian people with emphasis upon families and children.
2. Emphasize ways in which social work knowledge, values and skills can be applied in a cultural context to promote successful social work **intervention**.
3. Emphasize ways in which social work knowledge, values and skills can be applied in a cultural context to promote successful social work **prevention** services.
4. Set goals for further individual social worker cultural competence development. (See Appendix A.)
5. Compare pre- and post-test data for evaluating individual learning achieved through this study experience. (See Appendix B.)

KEY CURRICULUM CONCEPTS

- ◆ **American Indian:** The term “American Indian” refers to the first “native” people of this country and their descendants, and is used interchangeably with Alaska Native, Eskimo, Aleut, Native American, Indigenous and First Nations people.
- ◆ **Culture:** Culture has been defined as “the life patterns, language, and beliefs of a group of people” (Brill, 1990).
- ◆ **Cultural competence:** Understanding the cultural uniqueness of individuals, families, groups and communities. Demonstrating appropriate attitudes and behaviors respectful of cultural uniqueness. Establishing effective policies in support of individual, group and community cultural needs.
- ◆ **Cultural sensitivity:** Moran (2001) maintains that “to be culturally sensitive, one needs to gain an understanding of the meaning of the institutions, values, religious ideals, habits of thinking, artistic expressions, and patterns of social and interpersonal relationships that influence the lives of the members of the community . . .” (p. 43).
- ◆ **Transcultural perspective for social work:** “Being comfortable and competent relating with people within and between diverse cultural groups”, including: (a) acquiring culture-specific knowledge, and (b) developing empathetic relationship, collaboration and language skills that lead to culturally-relevant assessments, practice and evaluation (Canada 1995, p. 33).
- ◆ **Transcultural social work practice:** Respectful recognition of the ways in which healthy individual, family, and community relationships are valued, reinforced and practiced. Application of these principles in social work prevention and intervention services.

AMERICAN INDIAN CULTURAL VALUES AND ISSUES

American Indians Today

According to the 2000 Census, the population of the United States includes approximately 2,400,000 American Indians—almost one percent of the total U.S. population (Utter, 2001, p. 37). Bureau of Indian Affairs (BIA) data recognize 558 federally recognized Indian tribes, of which 229 are recognized Alaska native entities. Not included in these data are a number of tribal groups that have been accorded state recognition but not federal recognition.

The diversity among these American Indian entities is extensive. Inter-tribal and inter-ethnic cultural marriages have influenced this diversity as has inter-cultural participation. While many American Indian nations continue to speak their tribal languages as their first language, other tribal groups are championing native language training programs to enhance the language skills of their people.

American Indians, as a group, are mobile people. Some Native Americans leave reservations for schooling, training and employment. Many tribal members continue to maintain contact with and take considerable pride in their native lands/reservations, returning to their homelands to participate in family, clan, community and tribal celebrations and spiritual activities. As a result, many American Indians maintain residences in both reservation and off-reservation locales.

American Indian Cultural Values

Many American Indian tribal groups share similar values and customs. Each tribal group, however, maintains pride in their uniqueness—with thoughtful recognition of their own tribal structures, clans, customs, values and beliefs.

An appreciation of the importance of each individual in promoting a sense of community has characterized traditional American Indian culture. Positive interpersonal relationships and collective solidarity are promoted through the many values shared by American Indian people including the following:

1. **Balance, Harmony, Spirituality.** Achieving balance and harmony within one's self and one's relationships with others, nature, and the Creator.
2. **Autonomy.** Respect for the uniqueness, worth and self-determination of each individual tribal member, including children.
3. **Solidarity.** Respect for and understanding of the importance of belonging and contributing to the group.
4. **Competence.** Respect for and appropriate use of talents, abilities and skills.
5. **Knowledge/Wisdom.** Understanding and applying knowledge and values for the well-being of all living things and the perpetuation of communities and cultures. (1998, Edwards & Egbert-Edwards).

Other generally accepted American Indian values include (1) honoring and respecting children, parents, nature and all living things; (2) honoring and

respecting elders as cultural guardians and educators; (3) behaving honorably and maintaining pride in family, clan, tribe and tribal traditions; and (4) using humor and story telling appropriately.

American Indian Values Related to Families and Children

Many American Indian tribal groups believe that the rearing of healthy children is so important that it should **not** be left solely to the parents. "Historically Indian children were raised in strong extended family groups wherein adult relatives and older siblings had well defined roles in providing instruction and nurturance" (Sharp, 1996). Responsibilities for child care, including teaching, advising, disciplining and nurturing, were shared broadly within tribal groups. American Indian children often resided for extended periods of time with aunts and uncles. In some tribal groups, children were honored when selected to live in the homes of grandparents and provide necessary care for their elders.

Many American Indian tribal groups believed that "special" children were often sent as a gift from the Creator to fulfill purposes important to tribal well-being. According to Ladoux (1996):

When a child in our tribe acquires a disability or chronic illness, we believe that this child is here to remind us that something is out of balance with the universe. We must pay attention to all this child will teach us, for in this way, we will be guided to discover what we need to know to move toward balance.

Concern for the well-being of children was a high priority of American Indian people and sincerely referenced in Chief Joseph's message of surrender, ". . . It is cold and we have no blankets. The little children are freezing to death. . . I want to have time to look for my children and see how many of them I can find. . . ." (Howard, 1941, p. 282).

In general, American Indian children were regarded as gifts from the Creator, and, as such, were to be treated with respect and dignity. Discipline was achieved by talking with the children, explaining how their "misbehavior" would sadden or disappoint people who had confidence in them. Elders related stories that were often the source of education and "motivation" for appropriate behavior. Children were instructed as to their responsibilities and appropriate ways of "behaving" in accordance with the values of their family, clan and tribe. Children had many occasions to observe the "modeling" of values and behavior by other youth, adults and elders. "Belonging" to the family, clan and tribe was highly valued and often sufficient motivation for children to behave according to values and customs of "the people". Feelings of "belonging" then led to an awareness of and appreciation for their own individuality and independence. Children were granted autonomy at early ages and increasing responsibility as they matured. Positive rewards and recognition were also important in children's developmental processes.

Understanding the Importance of Culture in Family-Centered Social Work Practice

The profession of social work continues to emphasize the importance of "culture" in providing intervention and prevention social work services. Social work intervention requires attention to both individual and collective cultural considerations. To become a culturally competent professional social worker, Terry Cross (1996, p. 3) suggests that social workers acquire knowledge related to "the impact of a culture's history on families, the role of acculturation and assimilation, patterns of communication, family structures, cultural norms and values, etiquette, . . . spirituality and its impact on concepts of health and healing, and help-seeking and problem solving behavior".

Individualization is a critical social work variable when working cross-culturally with American Indian people. Each American Indian client has an individual, family and tribal history. There is much diversity within each client's experience that warrants attention. Clients' behaviors will be influenced by their responses to acculturation and assimilation experiences. Many clients are bi-lingual, with their native language being their first language. Language speaking abilities are often reflective of a clients' identity. Many American Indians, however, are strongly identified with their Indian culture, and practice traditional values, but lack native language speaking skills.

Concepts of "wellness" and "spirituality" are interrelated values of American Indian people. While traditional healing practices vary from tribe to tribe, most native Americans believe that "wellness" is achieved when appropriate attention and care are directed toward the physical, mental, emotional and spiritual aspects of their lives. According to a Navajo medicine man (Beiser & deGroat, 1974, p. 12), "Religion is like a tree with roots and branches which spread everywhere. . . . We are meant to live in harmony with the earth, the sun, and the waters. . . . If we live in harmony with all these things, there will be no illness. If a man falls ill, he is out of harmony and it must be restored".

As with every culture, American Indian tribal groups are concerned with the ways in which their cultures are being impacted from changes within and without their tribal groups. Many American Indian people are living in settings where they have opportunities to interact with a variety of other cultures. According to Weaver (1996, p. 102), many American Indian youth today are identifying "with more than one culture". She affirmed that cultural traditions among aboriginal people are important strengths and recommended that they should be appropriately integrated into social work interventions.

Many American Indian tribal groups are offering both required and optional native language classes in schools and community centers. Other American Indian groups are promoting "cultural revitalization" (Miller, 1996, p. 156) with programs such as tribal, local, regional and national cultural arts associations that promote basketry, pottery, weaving or other traditional arts. American Indian museums are being constructed. Spiritual lands are being

reclaimed. Social activities and ceremonial events are being enjoyed in traditional and non-traditional venues. Indian colleges are opening and expanding. American Indians are responding with pride in these cultural revitalization activities. Becoming informed and keeping abreast of these developments may be stimulating and energizing for everyone involved—including social work professionals. Encouraging native clients to participate in these activities may enhance their cultural identification and individual and collective self-esteem.

EFFECTIVE SOCIAL WORK INTERVENTION APPROACHES

Social workers pay close attention to the “values, knowledge and skills” they bring to the social work relationship. These concepts are equally important to an understanding of what clients and communities bring to the “work” or “tasks at hand”.

Agency values, missions and purposes must be reflective of clients and community needs, interests, and strengths. Agencies must also facilitate social work intervention by establishing culturally sound and sensitive policies. Attention to these important considerations will facilitate a partnership reflective of all team members, and lead to accomplishment of ongoing and culturally sensitive individual and community goals.

Cultural Considerations Important in Developing Effective Therapeutic Relationships

“Beginning where the client is” presents some unique challenges to social work professionals as they strive to achieve the “cultural sensitivity” they desire in working with American Indian people and communities. Traditional values, beliefs and customs continue to be practiced within American Indian societies with considerable diversification. Social workers must recognize the evolving nature of American Indian culture. Because of the uniqueness of each Indian person and each American Indian culture, social workers will be challenged and stimulated as they work toward the development of cultural competence.

Brill (1990, p. 57) reminds us that “in the development of the counseling relationship, respect and cultural sensitivity are closely aligned”. On-going in-service training is often recommended to enhance social worker cultural sensitivity. Social workers may profit from individual study regarding the traditional values of the Indian tribal groups with whom they are working. Many social workers form relationships with elders or other respected tribal members and professional social workers from whom they can obtain cultural information important to the enhancement of effective culturally sensitive therapeutic relationships.

Weaver and White (1997, p. 67) have pointed out that “the root of many current social and health problems among Native people lies in the past”. The losses that many American Indian people have suffered are numerous and may

include loss of home lands; loss of their native languages; death of family and clan members; and loss of cultural traditions and ceremonies.

Culturally competent social workers will strive to understand these losses, the context in which the losses have occurred, and traditional ways of dealing with such matters. These social workers will also strive to understand cultural considerations that are important to developing effective therapeutic relationships with the American Indian people with whom they work. Among these cultural considerations are the following:

- ◆ Understand that sharing of emotional responses or “feelings” may be difficult for American Indian clients in beginning social work relationships.
- ◆ Allow clients “quiet” time to ponder and think about questions or offer input into the social work session.
- ◆ Recognize that even though clients may be “quiet”, they are likely to be actively observing and assessing all that is happening. Many American Indian people have been taught to think through what has been asked of them before giving an answer. They believe that thinking through one’s responses will more likely result in showing wisdom on their part.
- ◆ Recognize that some traditional Indian people may view the therapist as an “elder” with expertise. “Elders” are expected to have knowledge and wisdom and provide direction and information to others.
- ◆ Recognize that traditional American Indian people may have greater difficulty working with a professional person who is considerably younger and less knowledgeable than the social worker with whom they expected to work.
- ◆ Weaver and White (1997, p. 77) remind us that “expressions of grief are not necessarily therapeutic. Among traditional Lakota, grieving for someone who is in the process of dying is seen as hurrying that person on his or her way. Ventilating feelings about someone who has died is unacceptable since it may hold his or her spirit back.”
- ◆ Avoid using given names of deceased people. Use terms such as daughter, husband, wife, aunt, friend, grandmother, etc.
- ◆ In many tribal groups it is considerate to invite participation of significant family members if the client wishes to do so.
- ◆ Avoid extended eye contact with older and traditional Indian people. Clients are often observing the social worker and the setting. It is considered polite to allow them opportunities to make their own assessments.
- ◆ Understand that American Indian people may be “late” for their appointments, or miss them altogether because of situations beyond their control. They may lack transportation or be required to attend to the needs of a family member or friend. They may respond to a “more important” invitation or responsibility, i.e., going grocery shopping or attending an Indian ceremony or celebration.
- ◆ Checking back promptly with American Indian clients may be helpful in assessing reasons for non-attendance at appointments.

- ◆ The use of humor is an important part of American Indian culture. Among many Indian tribes, however, it is considered “rude and inappropriate behavior” to laugh at someone who is in an embarrassing situation—unless they laugh at themselves. Social workers are often accepted when social workers can also laugh at themselves.
- ◆ Accept a quiet “hand shake” as an expression of appreciation and respect from a traditional American Indian person.

Effective Social Worker Relationship Skills

Culturally sensitive social work skills are essential to the development of a therapeutic relationship with American Indian people. Among the culturally sensitive social work skills appropriate for relating with American Indian clients are the following:

- ◆ Appreciation of the rich cultural heritage and traditions of the American Indian people with whom you are working.
- ◆ The ability to look at issues from the perspectives of the American Indian community and tribal groups with whom you are working.
- ◆ Openness in learning and commitment to cultural competence skills.
- ◆ Ability to adapt assessment, intervention and prevention skills to a cultural competence model.
- ◆ Ability to encourage American Indian family members to work cooperatively in behalf of individual clients and community plans.
- ◆ Ability to involve extended family members, as appropriate, in the social work intervention plans.
- ◆ Knowledge of and ability to work well with tribal judicial systems, governments and agencies.
- ◆ Ability to advocate for American Indian clients with appropriate resources.
- ◆ Utilization of appropriate tribal problem resolution programs such as the Navajo Peacemaking Program.
- ◆ Ability to communicate clearly with children, adults, families and community leaders.
- ◆ Team player and collaborator
- ◆ Organizational skills.
- ◆ Perseverance and responsible in completing assignments.
- ◆ Patience in working with American Indian children, families, and communities.
- ◆ Ability to maintain balance and harmony in one's own life.

Culturally Sensitive Social Work Assessments

In working with American Indian people, it is important to develop culturally sensitive assessments from a strengths perspective. A strengths perspective assesses all phases of the clients' cultural value system including physical, emotional, mental and spiritual components. This assessment also seeks information regarding the client's identification with “Indianness” generally,

and their tribal heritage specifically. Other information important to a strengths' assessment includes information regarding the client's coping and problem-solving strategies utilized in present and past circumstances.

Weaver and White (1997, p. 78) also advocate for a "positive, objective approach to each Native American family assessment". They caution against looking only at weaknesses. Social workers should recognize and avoid preconceived notions about the Indian people with whom they are working.

Amy James (1996, p. 10) recommends considering two levels of assessment in working with American Indian people: (1) an assessment of the unique issues faced by individuals and (2) an assessment of both familial and community concerns. Specific areas to be addressed in this two-level assessment include:

- ◆ The extended family – including as many people as appropriate to facilitate understanding of the client and to serve as resources for the client.
- ◆ The client's level of involvement with American Indian culture, with an assessment of social support available to the client.
- ◆ The strengths and internal resources of the family and community as well as the *coping strengths of the family*.
- ◆ A psychosocial history focusing on loss of family members and trauma experienced in childhood and throughout one's life-time.
- ◆ The extent to which substance use and abuse contributes to the client's problems—with a focus upon self and others.
- ◆ The extent to which "neglect" may have impacted the client or family system (James, 1996 pg. 10-11).

It is often helpful to ask clients about the reasons for their appointments—whether they are self- or other-referred; and what they hope to achieve or obtain as a result of their appointment with the social worker. Other questions may address the extent to which they would appreciate involvement of other family members, and, if so, how they believe extended family members would want to be involved.

It is often helpful to know the history of the problem or related problems. Is this a "first time" occurrence of the problem, or is this a recurring issue? If the client has visited with social workers previously, to what extent were the services helpful?

Another important assessment issue relates to how the client's cultural value system would evaluate the problem/issue. This information may be available from the client, or the social worker may wish to rely on information from informed sources within the American Indian tribal community to provide this assessment.

Terry Cross (1996, p. 5) believes that "the core question to be asked is: what does the family's behavior mean in their cultural community?" To answer this question, Cross believes that "it is necessary to have specific knowledge about the culture", and further that "family-centered practice professionals should

examine the relationship between the (client) and his or her cultures, and the complex dynamics that result from that interaction. . .”.

Many social workers believe that clients have the keys to understanding their problems, needs and strengths, and can be encouraged to verbalize these perceptions in making assessments and actualizing an intervention plan. Encouraging clients to offer this information is a respectful and culturally sensitive approach to working with American Indian clients.

Working with Individuals

Each American Indian client is a unique individual. It is important to avoid stereotyping assumptions based upon limited knowledge and understanding. Seeking professional social work services often requires considerable courage, risk and strength. Traditional American Indian people are often required to adapt traditional behaviors in order to avail themselves of this new experience. Social workers should recognize and appreciate the strength required of culturally diverse people to enter a strange and new environment to request unknown and unfamiliar services

Amy James (1996, p. 10) points out that the therapeutic setting of choice may be an American Indian person's home. She identifies “transportation difficulties and discomfort in non-American Indian settings” as possible barriers to accepting social work services. Home visits may provide opportunities to gather data about “resources, the stress of poverty, and the level of order or chaos in the home”. Many American Indian clients may feel more comfortable in non-Indian settings after they have established a beginning relationship with a social worker in the comfort of their own home.

According to Vontress, Johnson and Epp (1999, p. 27), “for many clients, the idea of introspecting and self-disclosing is cause for high anxiety”. Lee (197, p. 9) observes that “the only counseling many (culturally diverse clients) have received has been a forced, rather than a voluntary, experience with a culturally insensitive agent of some social welfare agency. Many people from diverse cultural backgrounds, therefore, perceive counseling as a process that the dominant society employs to forcibly control their lives and well-being”. Making a comfortable entrée into a social work setting is, therefore, a critical consideration.

Confidentiality is often a concern of American Indian people. Professional people must maintain well-defined boundaries in sharing or seeking information about their clients.

American Indians often “present” with tangible problems that could be addressed with provision of resources such as food, clothing, referrals for employment, education, housing, health or other treatment needs. If the professional person initially delves too extensively into “therapy” services, many Indian people may find talking about personal and family issues not conducive to resolving their immediate, tangible problems. It is important for professionals to

“listen” to what the Indian person wants and expects from this contact and to respond, as appropriate, to these initial requests.

American Indians believe that physical, emotional, mental and spiritual health are nurtured by living in harmony with all nature—including people and the environment. Social workers can help enhance or restore this balance by reinforcing appropriate cultural principles that promote “balance in work, leisure, recreation, family, health, cultural and spiritual activities” (Edwards & Edwards, 1998). To accomplish this goal, American Indians may benefit from services of both professional social workers and Native medicine people.

Encouraging the thoughtful use of both professional western health services and traditional medicine people reinforces the strength and power of the American Indian culture. This approach is often seen as an affirmation of the positive aspects of diverse cultures and validates their internal strengths and resources.

Knowing the Native medical practitioners in specific tribes and speaking respectfully about their potential usefulness in addressing concerns of American Indian people will often earn the respect of Native American clientele. It is not appropriate to speak in depth about these traditional services. A simple acknowledgement of their availability, and possible assistance in accessing these services may be reassuring and helpful to American Indian clients.

According to Halfe (1989, p. 39), “my people believe in visions, dreams and spirits. . . . If we pay particular attention to our dreams, then our personal visions become clearer”. Traditional medicine people may be available to assist American Indian clients in understanding and using their visions to restore the balance and harmony in their lives. Halfe (1989, p. 39) also advises that for many Native patients “grieving, like any other human emotion, is dealt with in an individual manner”. Native people may share limitedly, or may listen in silence. Quietness in times of sorrow is often considered wise behavior.

Shorr, J.E. et.al. (1989, pgs. 49-50) identify tangible Native medicine resources that may be beneficial to American Indian clients. “Medicine bundles or medicine shields are created to provide the individual with concrete ways of remembering and reviving the visions. The medicine bundle is a leather pouch filled with objects such as stones, feathers, herbs, etc., that provide special meaning or connection to the visions. . . . Such objects can be very useful in therapy. Clients are instructed to find something to represent a spiritual learning experience, carry that object or place it in some conspicuous place as a constant reminder that awakens feelings of the experience.”

Allowing time for silence and appreciating the thoughtful reflection occurring during this silence is respectful of American Indian people. On occasion, after a quiet session, an American Indian person may rise, gently shake (or touch) the social worker’s hand, and acknowledge, with a grateful nod, appreciation for the session – all without saying a word.

It is important to remember that although American Indian clients may miss appointments, these clients expect professionals to maintain their commitments. To facilitate continuity in social work services it is often helpful to (1) clarify and write down appointment times; (2) clarify worker schedules; (3)

identify procedures for canceling or re-scheduling appointments; (4) identify crisis services; (5) ask clients to summarize this information in their own words.

Each of these procedures may be helpful in concluding an interview. It is important to begin the “termination” phase of each interview early in the interview process – as clients may save their most important questions for these final minutes – after they have established a sense of comfort and trust with the social worker. Reinforcing and re-stating important decisions could also be effectively addressed prior to the conclusion of an interview.

Working with Children, Families and Extended Families

“There is strength in the Indian family” (Edmo, 1988-89, p. 4).

There is also strength in individuals—children, adults, and elders. Rowe (2002) reminds us that there are many bright and talented American Indian youth who are serving their people and their communities and are achieving in educational, athletic and community activities. While many American Indian children are developing appropriately and accomplishing much success throughout their childhood and adolescence, some of these American Indian children may also be under stress and at risk for mental health and health problems. It is important that mentors continue to provide contact with and support for “achieving” youth, as well as those whose levels of stress may be more easily recognizable. Culturally sensitive social workers will give appropriate attention to the “achieving” American Indian people—identifying their strengths, concerns, hopes and goals and helping them to further their individual and collective growth and development.

Goodluck and Willetto (2000) report that American Indian families show the same trends as non-Indian families in (1) increasing divorce rates and (2) increasing numbers of single parent families. Poverty, underemployment, and unemployment are problems of concern impacting Native children.

Many health and wellness issues are also of concern to American Indian people. Nelson, et. al. (1992, p. 257) indicate that “Native Americans appear to be at higher risk than other US ethnic groups for mental health problems, including depression, substance abuse, domestic violence, and suicide.”

Taggart (1999, p. 12) identified chronic health problems of concern to American Indian people living on reservations. These include “diabetes, drug and alcohol abuse and injuries from violence and motor vehicle accidents”.

The health and mental health of Native American youth have been a cause of concern to American Indian people over the past several years. A recent study of 14,000 American Indian and Alaskan Native adolescents revealed important data regarding Native American youth. Many of these youth worried about family economics and domestic abuse. More than 20 percent indicated they were tense, stressed, and/or burnt out. While most youth reported being happy, having supportive families, liking school, and living in nurturing environments; of concern were those youth who reported feelings of profound stress and sadness, as revealed in responses of hopelessness, worry and suicide ideation (*The State of Native American Youth Health*, 1992).

McCoy (1996, p. 331) is concerned that “family dissolution has been most damaging to the mental health of Native Americans”, but points to community efforts that are successfully addressing these family problems. An example of such an effort is noted in the Flathead Indian community in Montana. Concerns with increased alcoholism and violence in their community led to open community meetings that were scheduled to “improve the quality of life in the community” (McCoy, p. 332). Younger professionals and elders recommended incorporating spiritual customs and “traditional methods for maintaining a strong healthy mind/body” to the mental health services delivery systems.” (p. 332).

Bea Medicine (1996, p. 195) identifies areas of improvement she sees in Native American families including (1) emerging self-help systems that confront alcohol abuse and encourage sobriety; (2) adaptation of treatment programs from the larger society which leads to culturally specific effective programs; (3) parenting models projected for use in education systems; (4) community control of educational systems; (5) tribally controlled community colleges; and (6) the use of traditional belief systems in addressing dysfunction aspects of family life geared toward re-orienting the family.

Other programs in reservation and urban areas are committed to addressing needs of American Indian children with emphasis upon protecting the children; recruiting more American Indian foster and adoptive homes; strengthening American Indian families and provision of traditional and cultural activities that cater to the entire family.

Parenting programs are being instituted across the country for American Indian parents and grandparents. Some of these programs are adapted from non-Indian programs with a goal of infusion of American Indian culture and traditions. Others have been developed by American Indian staff with a strong tribal and cultural basis. Many programs emphasize what parents can give their children to enable them to operate successfully in many cultural settings. The curriculum and discussions often focus on:

- ◆ Helping children acquire comfort and pride in their own identity and cultural heritage.
- ◆ Helping children gain understanding of parental, tribal, and cultural values and how to incorporate and practice these in their lives.
- ◆ Developing the ability to “risk” while enhancing physical, mental, social, cultural, and spiritual abilities.
- ◆ An appreciation of their own uniqueness.
- ◆ An appreciation of the privilege of “belonging” to their family, clan, tribe and community.
- ◆ Academic skill development, with emphasis upon reading, math, and individual talents.
- ◆ Comfort in expressing feelings including hopes and fears.
- ◆ The ability to laugh and enjoy interactions with peers, families, and others.

Alcohol use and abuse has often been identified as a serious problem impacting American Indian families. Utter (2001, p. 302) reports that “even though the alcoholism *rate* among the Native population as a whole is comparatively high, the fact remains that a relatively small minority of American Indians are alcoholics”. The impact of alcohol use and abuse, however, is a topic of concern with most American Indian tribal groups.

Earle (2000, pgs. 20-21) identifies several sources that indicate that there are wide variations in rates of use of alcohol by Native people. “As with other social problems reported as being high among Native people, recent efforts by tribes and communities have had an impact on the use of alcohol, leading to voluntary sobriety of many Native individuals and Native tribes/nations”.

Although tremendous strides have been made in addressing substance abuse problems with American Indians, attention is warranted in many areas. Bea Medicine (1996, p. 194) indicates that “one outstanding cause of dysfunctionality in Indian families derives from the use and abuse of alcohol”. She identifies many problems associated with alcohol abuse. Among these problems are the following: “spousal and child physical abuse, sexual abuse, divorce, teenage pregnancies, lack of parenting skills, suicides of young Indian males, drop-out rates from high school accidents, violence and aggressive behavior”.

Fetal alcohol syndrome (FAS) is a concern of many American Indian people. Both prevention and intervention programs are being implemented in American Indian communities. May (1996) has reported that these programs are showing positive results as American Indian people appear to be the most well educated group in our country regarding FAS – thanks to concerted tribal, local, state and national cooperative efforts. Some research has demonstrated that where American Indian communities are supportive of pregnant women and provide necessary services, FAS rates are lower than in communities where such support is not readily available. Many resources are available to promote FAS education and prevention, such as the new State of Washington program, “Journey Through the Healing Circle” (2001).

Problems with alcohol use and abuse among “elders” is an extremely sensitive topic. For some Indian people, it is difficult to confront this concern because, traditionally, elders are to be treated with respect. Others deny that any problems exist. Family members may be “hurt” by the drinking behaviors of beloved elders. They may also feel guilty because they don’t know what to do, but believe they should *do something*. Fortunately, many American Indian people are concerned about the alcohol and drug use of elders and are asking questions, seeking factual information and offering suggestions as to how this problem may be addressed. It is important to assess the factors involved in an “elder’s” drinking patterns. Some seniors use alcohol because of loneliness, infrequent involvement with family members and lack of social interactions with other Indian people. Some may drink in “housing complexes” where they live in close proximity to other elders who drink. Some drink with their children and grandchildren. Wherever possible, American Indian elders should be

encouraged to participate in worth-while social, community and educational activities, offering their talents and skills in fulfilling important elders' roles in their communities. When elders are actively involved in family and community activities, such participation is a deterrent to alcohol use and an avenue for continued social and personal growth and development.

Cigarette use among American Indian/Alaska Native youth is also of concern to American Indian communities. A recent National Household Survey on Drug Abuse (January 25, 2002, p. 1) reported that American Indian/Alaska Native youth were "more likely than youths from other racial/ethnic groups to smoke cigarettes", and were less likely to believe that their parents or peers would disapprove of their smoking behaviors. Obviously, parents and communities must prioritize positive health education for their children. Financial resources and community/family efforts must be re-directed toward programs serving children and adolescents. Mentoring must be provided at all levels to promote healthy lifestyles of all family members.

Many tribal groups are instituting successful prevention and treatment programs to attack substance use and abuse problems. These programs stress the importance of balance, harmony and spirituality in the lives of American Indian people. Alcohol and drugs disrupt this balance. Traditional Indian people and professional social workers are advocating community development and cultural enhancement programs to address community problems and needs. Edwards et. al. (1995) have identified specific outcomes that may present when communities implement these approaches. These outcomes often include the following:

- ◆ Reduction of drug and alcohol use
- ◆ The disruption and breaking of inter-generational cycles of alcohol abuse
- ◆ Enhanced community support
- ◆ Strengthened individual and group cultural identity
- ◆ Strengthened tribal and individual leadership development
- ◆ Increased personal and intertribal problem-solving skills.

Trimble (1992, pgs. 270-271) describes a "cognitive-behavioral approach to drug abuse prevention and intervention" that is tailored for use with American Indian youth". The components of the program include (1) cognitive-behavioral prevention skills; (2) bicultural competence skills; and (3) social skills enhancement. The program can be adjusted to "fit the cultural lifeways of a community". The "prevention strategy is adaptive, flexible, and amenable to revision to accommodate different cultural perspectives". In order to achieve success with this program, Trimble indicates "we have learned that the community where the training occurs must be collectively supportive, must take a stand against local drug and alcohol abuse, and must be active in promoting prevention and intervention approaches that meet local needs".

There are many challenges that face American Indian people individually and collectively in addressing alcohol and drug use and abuse. Individually, American Indian people must be willing to admit their problems and willing to enter treatment programs that show promise in addressing their needs. Collectively, American Indian communities must be willing to study and identify problems within their communities and how they contribute to alcohol and drug use and abuse. Resources must be developed within American Indian and broader communities. Considerations must be given as to how every member of the community can be a part of this effort. Most importantly, abstinence and sobriety must become tribal and cultural values that support the worth, self-determination and self-enhancement of every American Indian person, individually and collectively.

Working with Groups

Social group work is often the “treatment of choice” with American Indian people. Culturally, groups are traditional avenues for recreational, social, community and tribal activities. Feasts, ceremonies, celebrations and decision making are promoted in American Indian group settings.

With the emphasis on “cohesiveness” in many American Indian communities, groups provide opportunities to welcome each member and validate their uniqueness and ability to contribute to the larger group. Groups are “action” oriented. Members enjoy the stimulation and growth promoted in group activities. Members converse in their Indian languages. Cultural activities are programmed for group involvement. New experiences, talents, and skills are actualized in group settings.

Some cautions are important when using a group format. “Confidentiality” is a critical variable. Breaches of confidentiality may destroy a group’s effectiveness. “Confidentiality” principles relate closely with American Indian values of “speaking for oneself”. Introducing confidentiality from a cultural perspective may reinforce the importance of this principle in facilitating honest, open discussions and in respecting the “confidentiality” of each group member’s participation.

Many American Indian people have experienced negative interactions in groups. They may have been rejected or discriminated against in a group setting. Too often, positive group experiences in which American Indians have participated have been cancelled. When American Indians are enthused about a group experience, canceling group sessions or terminating the group experience can lead to increased feelings of rejection and disillusionment on the part of group members. It is important that group workers make commitments that are within their ability to deliver. Alternative plans are important if a group activity requires elements over which you don’t have control, i.e., weather conditions; financial costs; signed permission slips; or approval from administrative sources. Group leadership and support must be readily available to ensure that positive group experiences are continued and fulfill the contracts they have made with group members.

American Indian people readily participate in cultural groups where they learn the arts, crafts, and skills of their tribal group. Some Native Americans may be hesitant or embarrassed if others are more skilled than they are, or if they feel that group workers or tribal members expect them to possess greater cultural knowledge and skills than they do.

Group workers have been known to **over-estimate** the commitment to group experiences of American Indian people in the initial stages of the group's development. At this stage, American Indians may be "testing" the experience and the group worker to evaluate their continuing in the group. Group workers often **underestimate** the meaning and worth of the experience to American Indian people in the latter stages of the group's development and particularly at the termination stage. American Indian people who have enjoyed the group experience may be very reluctant to terminate and could view **forced termination** or "completion" of the group experience as rejection.

Groups are effective **prevention** resources where education and personal development are emphasized. Such groups may focus on (1) cultural skills enhancement; (2) development of personal skills and talents; (3) drug and alcohol education and prevention including FAS/FAE/ARND/ARBD education; (4) gang prevention; (5) leadership skill awareness and enhancement; (6) service opportunities; (7) goal setting and future planning; and (8) education and employment opportunities.

Treatment groups are effective in addressing a number of concerns of Indian people. Groups may address: (1) sexual and other abuse; (2) violence and anger management; (3) educational issues including underachievement; (4) addictions including alcohol and drugs, gambling, eating disorders; (5) life-skills training; (6) management and treatment of depression, anxiety and other **mental health** disorders; (7) management and treatment of diabetes, obesity and other **health** problems; (8) PTSD disorders, including those associated with wars or military conflicts, and sexual abuse of adults in boarding schools or other situations, etc.; (9) and stress identification and management.

Many groups have been utilized and/or adapted from traditional American Indian practices. Groups such as talking circles and sharing circles are effective treatment and education resources for many American Indian people. These groups emphasize respect and mutual support from a cultural perspective, belonging, healing, sharing, and confidentiality. Community development groups are also effective in American Indian settings. Some of these groups include: (1) community boards and task forces; (2) child protection teams; (3) tribal action plans for addressing alcohol/drugs and other community problems; (4) tribal elders advisory committees; (5) tribal cultural committees; (6) language instruction and revitalization committees; and (7) community service advisory committees.

American Indian "gatherings" are opportunities for socialization, cultural celebrations, and "fun". Having a social outlet to look forward to appeals to everyone. Successful "gatherings" involve all community members in planning, staging, clean-up, and evaluation of these community and cultural activities.

Creativity is encouraged. Community activities may include: powwows, fairs, rodeos, dances, reunions and traditional events associated with specific tribes, such as “harvest” celebrations or “feast days”, and commemoration of national, state, tribal and community holidays.

Some social service agencies utilize groups in creative ways. Several alcohol recovery programs plan family activities as a group for weekends. Other agencies plan weekend family outings for all participating families as a “reward”. Agencies may plan a special “holiday” activity for each month of the year. Each community agency assumes responsibility for planning one of these events. Other activities require a coalition of agency sponsorship, which is effective in building community inter-agency cooperation and awareness. Family involvement promotes successful outcomes of these activities. Agency sponsorship may come from community organizations, business enterprises and community support groups such as Girl Scouts, Boy Scouts, 4-H, libraries, school reading programs, community service programs, arts organizations, sports organizations, educational groups, dance, drama and music groups, nature and science groups.

Working with Communities

“Community is an important concept for American Indian people. The most universal symbol in Indian art, the circle, symbolizes cycles of life and tradition. The circle is a metaphor for living in harmony with one another, with the environment, and with the spiritual forces of the Indian universe” (Hill, 1992, p. 14).

Social work’s community organization principles have much to offer in supporting the community concept that is so important to American Indian people. Before initiating a community development program, social workers must invite broad-based community participation. Everyone must be included “in” throughout the program’s planning, development, implementation and evaluation. This will require time and commitment. Reviewing existing research data is important to the beginning effort. Needs assessments help determine goals and objectives. On-going reporting to the community is important. Seeking continual input along the way is crucial. Evaluation is necessary at each step of the program’s development. Cultural values, beliefs and traditions must be emphasized and acknowledged throughout the process. Sharing credit for success supports continued community involvement throughout the effort.

When these community principles are operationalized, community ownership of community problems is more likely to be achieved. When communities own their problems, they often become more aware of their potential for finding solutions.

Edwards and Egbert-Edwards (1998, pgs. 39-40) advocate a community development and cultural enhancement model that “relies heavily on the maturity and personality traits of all community participants—not just the leader(s).” These traits include the following:

- ◆ Community members must be visionary. They see, feel and experience the goals, work, and potential accomplishments.
- ◆ The community project must be conceptualized as a *journey*. This *journey* (process) will take time, energy and long-term commitment.
- ◆ *Everyone must be included "in"*.
- ◆ Personal issues must be subjugated for the success of the project. Credit must be shared for accomplishments throughout the process.
- ◆ Criticism and divisiveness must be acknowledged, understood, addressed and diffused.
- ◆ Motivation and high energy must be maintained through positive interactions, on-going rewards, and use of appropriate humor.
- ◆ Recognition is important for everyone who has contributed to the project. Celebrate the achievement!

Many community programs include children and youth in planning of community activities. Youth councils provide leadership and direction for developing programs and are also effective mentors for younger children. Cheyenne youth in Clinton, Oklahoma (Cheyenne Visions for 2001) have become "Circle Keepers". These youth have made public pledges to avoid alcohol and other drugs and are dedicated to learning and preserving the Cheyenne way of life. They are also exposing non-Indian youth to these values. Other effective American Indian community programs recognize children and youth as well as adults in appropriate community activities. One American Indian community sponsors annual "sobriety campouts". Children, along with adults, receive T-shirts and other recognition for each year of their sobriety.

Working with Tribal Entities

The success of many community development projects will depend upon the support of tribal governments, their organizations and staff. Trimble (1993, p. 440) in his research with American Indian people of the southwest observed that "tribal governments seem to work best under a strong and visionary leader . . . or where the community still maintains a solid identity allowing a citizens' government to twine through the lives of its people".

Tribal governments face many challenges. Unfortunately among some tribal groups there is evidence of divisiveness and discontent. Tribal elections have been challenged. Tribal leadership officers have resigned. Tribal members have been asked to participate in voting – confidence or non-confidence in their tribal governments.

It is important that social workers understand the political processes of the tribes with which they work. Soliciting support from all political factions of the community is an important social work role. Participation in partisan politics presents risks that may be detrimental to the success of the community projects social workers seek to implement.

According to Edwards and Edwards (1998):

Successful American Indian community development programs “require strong leadership from community leaders who have long-term, realistic commitments to their programs, goals, and communities. These leaders understand the strengths and developmental needs of their communities. They respond to criticism openly. They welcome suggestions for improving their programs and creatively modify and expand their service delivery systems. They give credit to all factions of the community who are contributing to community development. They support the programs of other agencies. Cultural principles are incorporated into all aspects of their programs. Positive identification with tribal and Indian heritage is enhanced through programs and celebrations that promote and reinforce success”. These leaders serve with dignity and support future tribal leaders with the same respect they have engendered because of their service.

Men and women have served effectively in a variety of tribal leadership positions. There are few female role models or mentors in leadership positions among many tribal groups, just as there is within the dominant culture. Some American Indian people continue to advocate for leadership appointments for all American Indian people who have leadership potential and abilities to serve their tribal groups, regardless of gender.

EFFECTIVE SOCIAL WORK PREVENTION APPROACHES

As indicated previously, American Indian people value the traditional practices that promote balance and harmony in their lives. They appreciate the power of contentment that comes from the knowledge that they are living in harmony with their people, environment and Creator. They understand *prevention* and its importance in promoting a harmonious life style.

When balance and harmony are not present in the lives of American Indian people, social work services can be a resource in helping to restore this balance. This is most often accomplished when social workers understand tribal traditions and practices and have achieved a culturally competent practice knowledge base.

Suicide prevention counselors are utilizing cultural teachings to address and prevent suicides. Harry Hill, a youth worker for the Native American Community Services of Erie and Niagara Counties, NY, presents month-long workshops for at-risk American Indian youth who live in urban settings (Vilschick, 2002, p. 7) “We focus on Native American culture and our own teachings to help them deal with suicide and look beyond it”

Several community interventions relate to the prevention of family and tribal problems. Alcohol and drug prevention programs are encouraging American Indian youth to participate in cultural and educational activities that promote academic achievement and greater pride and comfort in their identity. Cultural activities have united communities in expressing grief and resolving differences through resolution of personal grief and loss issues. Boys and girls

group homes allow children and adolescents to remain in their tribal communities.

Economic development and employment are being stimulated.

Community pride is enhanced through tribal enterprises such as American Indian owned grocery stores, motels, hotels, recreation ventures, gambling enterprises, American Indian music tapes and CD's, tribal insurance plans, Native American herbal teas, American Indian bottled water, and other tribal owned enterprises.

Cultural organizations such as the San Francisco Bay Area Urban Indian Basket Weavers are advancing the study, practice, promotion, preservation and perpetuation of American Indian arts. Mentor programs such as the Yurok *Mentor and Protégé program* are matching mentors to proteges in activities that are culturally meaningful such as ceremonial dances, regalia making, gathering of traditional foods and materials for cultural crafts and utensils, and sports such as "stick games" (tribal wrestling using 'sticks').

In preventing alcohol misuse among American Indians, Moran (2001, p. 56) believes prevention workers must ensure that (1) prevention programs emerge from the community; (2) prevention workers demonstrate a commitment to the community; and (3) non-community members develop cultural sensitivity. Moran (2001) further recommends that, wherever possible, program staff include American Indian persons who can incorporate cultural concepts within the programs. These programs should be components of a comprehensive community-wide plan and approach that involves and focuses on strengthening the community and the family. Both Moran (2001, p. 57) and Trimble and Beauvais (2001) recommend that these programs strengthen participants' abilities to identify with and function biculturally in both their American Indian community and the dominant society.

Mohatt, Hazel and Mohatt (2001) have studied the alcohol and drug prevention programs initiated in Alaska and remind us of the diversity of the Alaska native population. They, like many other researchers, emphasize the importance of understanding that the problems of misuse of alcohol and drugs originate in the communities, and, therefore, solutions to these problems should also be "communal" in nature (p. 120).

SUMMARY

There is considerable individual and tribal diversity among the members of the 558 federally recognized American Indian tribal groups in the United States today. American Indians, however, collectively value and have well-defined expectations for the care and nurturing of their children. Traditionally, family and extended family members contributed extensively to the well-being of American Indian children. It is important for social workers to understand and rely upon the structure and strength of American Indian culture as they work with American Indian children and families today.

Achieving cultural sensitivity is a goal of all professional social workers. Social workers often acquire cultural competencies by pursuing individual study of the American Indian tribes with which they are working; by attending in-service

training; and by collaborating with knowledgeable American Indian and professional consultants.

Culturally sensitive social work assessments and interventions focus on a strengths perspective that addresses all phases of the clients' cultural value system including the physical, emotional, mental and spiritual components.

Culturally competent social workers will enjoy opportunities to work with American Indian children, adolescents, adults, elders, families, groups, communities and tribes. Both intervention and prevention approaches hold promise in achieving desired goals. There are many needs and services that are important to the continued development of American Indian people and their communities. Social workers have made and will continue to make important contributions to these processes as they operate from a culturally sensitive model. Acknowledging the strengths of American Indian people and providing opportunities for further growth are opportunities available to the culturally competent social worker and the American Indian people with whom they work—opportunities for individual and collective fulfillment.

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APPENDIX B
PRE-TEST AND POST-TEST

True / False Questions: (Please circle the correct answer)

- T F 1. All social workers working with American Indian people possess cultural sensitivity and culturally competent knowledge, values and skills.
- T F 2. Each American Indian client has an individual, family and tribal history.
- T F 3. Many American Indian youth today are identifying with more than one cultural group.
- T F 4. In order to be effective in working with American Indian people, social workers must recognize the evolving nature of American Indian culture.
- T F 5. The sharing of emotional “feelings” is never difficult for American Indian clients.
- T F 6. A culturally sensitive social work assessment should focus on only the problems within the individual, family, community and tribe that have caused an individual to seek counseling.
- T F 7. Seeking professional social work services often requires considerable courage, risk and strength.
- T F 8. In order to help American Indian clients adjust to the counseling setting, the social work appointments should be scheduled in the social worker’s office.
- T F 9. American Indians believe that physical, emotional, mental and spiritual health are nurtured by living in harmony with all nature.
- T F 10. Native Americans appear to be at higher risk than other US ethnic groups for mental health problems, including depression, substance abuse, domestic violence, and suicide.
- T F 11. American Indian people appear to be the **least well educated** group in the USA regarding Fetal Alcohol Syndrome (FAS).
- T F 12. American Indian youth are **less likely** than youth from other racial/ethnic groups to smoke cigarettes.

- T F 13. Traditionally and currently, American Indian people do not like to participate in groups.
- T F 14. Breaches in confidentiality in a group setting may destroy the *group's effectiveness*.
- T F 15. "Community" is an important concept for American Indian people.
- T F 16. When communities "own" and take responsibility for their problems, they usually become discouraged and unable to identify possible solutions.
- T F 17. The success of many community development projects will depend upon the support of tribal governments, their organizations and staff.

Multiple Choice Questions: (Please circle the correct answer)

1. According to the 2000 Census, the population of the United States includes approximately.
- a. One million American Indians;
 - b. Two million American Indians;
 - c. 2,400,000 American Indians;
 - d. 5,500,000 American Indians.
2. To develop an effective counseling relationship with American Indian people, social workers should:
- a. Attend in-service training to enhance social worker cultural sensitivity;
 - b. Pursue individual study regarding traditional values of the Indian tribal groups with whom they work;
 - c. Seek information from respected American Indian elders, other tribal members, and other professional social workers;
 - d. All of the above.
3. A culturally sensitive social work assessment should focus on:
- a. An assessment of the unique issues faced by individuals;
 - b. An assessment of both familial and community concerns;
 - c. An assessment of the social worker's credentials.
 - d. A and b of the above.

4. Problems associated with alcohol use and abuse among American Indian people include:
 - a. Spousal and child abuse;
 - b. Violence and aggressive behavior;
 - c. Lack of parenting skills;
 - d. All of the above.

5. The “community development and cultural enhancement model” advocated in this paper requires:
 - a. That every community member must be welcomed to participate;
 - b. That community criticism and divisiveness must be ignored;
 - c. That only community and tribal leaders be recognized;
 - d. That goals be accomplished quickly.

6. In order to be effective, social work programs with American Indian people should focus on:
 - a. Intervention approaches with children and families.
 - b. Intervention approaches with groups and communities.
 - c. Prevention approaches.
 - d. All of the above.

KEY TO THE SOCIAL WORK PRE-AND POST TEST

True / False Questions

1. False. This is a goal of this training. See pages 2 and 3.
2. True. See pages 2 and 7.
3. True. See pages 8 and 34.
4. True. See page 9.
5. False. See page 10.
6. False. See page 13.
7. True. See pages 15-16.
8. False. See page 16.
9. True. See pages 5 and 17.
10. True. See pages 20-25.
11. False. See pages 22-23. They appear to be the **most well educated** group in the USA.
12. False. See page 24. American Indian youth are **more likely** than youth from other racial/ethnic groups to use cigarettes.
13. False. See pages 25-26.
14. True. See page 26.
15. True. See page 29.
16. False. See page 30.
17. True. See page 31.

Multiple Choice Questions

1. c - See page 4.
2. d - See pages 9-10.

APPENDIX A

GOALS For SOCIAL WORKER CULTURAL COMPETENCE DEVELOPMENT: A CHECK LIST

	Seldom	Often	Always		
	1	2	3	4	5

1. I enjoy working with American Indian children.
2. I enjoy working with American Indian adults and elders.
2. I honor and respect the cultural traditions and practices of the American Indian people with whom I work.
3. I strive to learn and understand the cultural values and beliefs of the American Indian people with whom I work.
4. I attend in-service training programs to learn more about the American Indian people with whom I work.
5. I respectfully consult with knowledgeable tribal members about the cultural history, values and beliefs that I believe will help me become a more culturally sensitive social worker.
6. I am aware of the negative stereotypes about American Indians generally and the tribe with whom I am working. I look for experiences that refute these stereotypes and strive to educate others about the inaccuracies of these stereotypes.
7. I enjoy learning about Indian culture from books, other reading materials, tribal elders and other tribal resources.
8. I enjoy attending American Indian cultural events when I am invited.
9. I work to improve my tribal language speaking skills.

	Seldom	Often	Always		
	1	2	3	4	5

1. I have patience in working with American Indian **children**.
2. I have patience in working with American Indian **families**.
3. I value the importance of American Indian families and their values and beliefs.
4. I am committed to working in behalf of the best interests of American Indian children and families.
5. I am committed to values that advocate that children should be safe in their homes and communities.

6. I strive to look at issues from the perspectives of children, families, Indian culture, and Indian communities.
7. I strive to involve extended family members in social work decisions as appropriate and desired by clients and extended family members.
8. I appreciate and respect American Indian grandparents and their potential influence for good in the lives of their families.
9. I encourage family members to work together in resolving family problems.
10. I encourage family members to work with other community and tribal resources in resolving family problems.
11. I encourage parents to participate in American Indian and other parent education programs.
12. I encourage families to do things together as a family – to enjoy one another and the events they attend.
13. I encourage families to be supportive of one another and to encourage each other in their school, work and community activities.
14. I encourage families to be supportive of American Indian family values including appreciating each family member as an individual, and promoting independence.
15. I am committed to making a positive difference in the lives of American Indian children and their families.

<u>SOCIAL WORKER PROFESSIONAL SKILLS</u>	Seldom	Often	Always
	1	2 3	4 5

- | | |
|-----|--|
| 1. | I am open to and enjoy improving my cultural competence skills. |
| 2. | I continue to improve my communication skills. |
| 3. | My personal values and beliefs are motivators in working with American Indian families and children. |
| 4. | I understand the importance of balance, harmony and spirituality in American Indian culture. |
| 5. | I have a genuine desire to help people help themselves. |
| 6. | I am a self-starter and take appropriate initiative. |
| 7. | I am organized, on time, and keep my commitments. |
| 8. | I show appropriate compassion and patience. |
| 9. | I am friendly and encouraging. |
| 10. | I do not give up easily and look for resources to meet client needs. |
| 11. | I strive to learn more about policies and procedures important |

to fulfilling my professional assignments.

12. I am honest and open and have a positive attitude.
13. I believe in the preservation of the family.
14. I continue to improve my professional skills.
15. I strive to maintain balance and harmony in my own life.

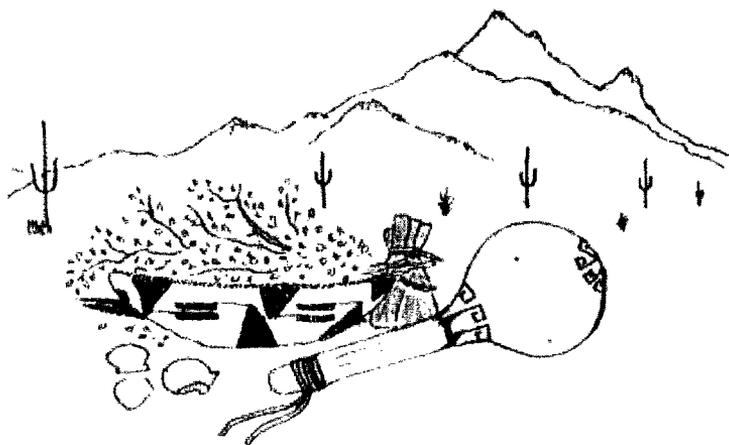
		Seldom	Often		Always
<u>SKILLS IN WORKING WITH AMERICAN INDIAN COMMUNITIES</u>		1	2	3	4 5

1. I value the uniqueness and individuality of each American Indian client with whom I work.
2. I know the resources that are available in my communities.
3. I am an advocate for and educate people about ICWA.
4. I work well with tribal judicial systems, governments and agencies.

		Seldom	Often		Always
<u>SOCIAL WORKER KNOWLEDGE AND SKILLS</u>		1	2	3	4 5

1. I work to improve my skills in working with people individually.
2. I work to improve my skills in working with people in groups.
3. I work to improve my skills in working with people in communities.
4. I have knowledge of human growth and development.
5. I utilize research effectively in my work assignments.
6. I have administrative skills to complete work assignments.
7. I understand the importance of working with the physical, social, emotional, mental and spiritual components of a client's world.
8. I work to improve my skills with clients who have been abused or are victims of violence.
9. I work to improve my skills with people with substance abuse issues.
10. I work to improve my social work **assessment** skills.
11. I work to improve my social work **intervention** skills.
12. I work to improve my social work **prevention** skills.
13. I enjoy planning innovative programs to meet client needs.
14. I am a team player and collaborate well with others.

**THE INTERPLAY BETWEEN THE INDIAN CHILD WELFARE ACT AND THE
ADOPTION AND SAFE FAMILIES ACT:
A CURRICULUM**



Prepared By:
Dr. Paul J. Matté III, Ph.D., J.D.

THE INTERPLAY BETWEEN THE INDIAN CHILD WELFARE ACT AND THE ADOPTION AND SAFE FAMILIES ACT: A CURRICULUM

I. Outline of the curriculum

- A. Purpose
- B. Legal Basis
- C. Statement of the General Issue
- D. Areas where ICWA impacts ASFA Requirements
 - 1. Preliminary Protective Hearings
 - 2. Reasonable and Active Efforts
 - 3. Permanency Hearings
 - 4. Termination of Parental Rights

II. Key Concepts

- A. Supremacy
 - 1. As a federal law, ICWA governs in cases where the requirements of ICWA may conflict with state law or procedures.
 - 2. As a law specific to Indian Children, ICWA governs in circumstances where the requirements of ICWA conflict with the requirements of ASFA, which is general in its applicability.
- B. Notice

ICWA requires that an Indian Tribe be given meaningful notice of any state court proceeding involving a child who is a member or is eligible to be a member of the Tribe and be given an opportunity to participate in such proceedings.
- C. Heightened Burden of Proof

The burden of proof necessary for the state to convince a judge that something should be done, such as terminating a parent's rights to the child, is greater in cases falling under ICWA than in a general case falling under ASFA.
- D. Active case management

Under ICWA, a social worker must "actively" attempt to remedy the circumstances which cause the Indian child to be in an out of home placement. This may require a social worker to ensure that a parent participate in culturally appropriate remedial services, making necessary appointments for the parent and providing transportation to and from such appointments.
- E. Preferential placements

ICWA requires that the worker place an Indian child in a placement which most closely approximates the child's Indian home, either through kinship placements or placement in Native American foster homes.
- F. Funding Statutes vs. Proscriptive statutes

ICWA is a federal proscriptive statute. That is to say, it establishes requirements which a state court must ensure are followed in a case involving an Indian child. Failure to follow the

requirements of ICWA may result in the state court orders being void or voidable. ASFA, on the other hand is a federal funding statute. It establishes requirements which must be followed if the state is to be eligible for federal funding for programs established under ASFA. Failure to follow the requirements of ASFA would make the state ineligible for federal dollars, but would not, by itself, be grounds to overturn a state court's actions on appeal.

III. Training Objectives and Outcomes

At the conclusion of the curriculum, the worker should have an understanding of those points in a child welfare case where standard social work requirements under ASFA may have to be modified in cases dealing with Indian children to fulfill the requirements and spirit of ICWA.

IV. Curriculum

A. PURPOSE

To acquaint social workers with areas where the requirements of the Indian Child Welfare Act (ICWA) impact state social work practice under the new requirements of the Adoption and Safe Families Act (ASFA).

B. LEGAL BASIS

The Indian Child Welfare Act of 1978, P.L. 95-608, can also be found at 25 U.S.C., § 1901 et seq. The worker should also be familiar with the federal guidelines to the Indian Child Welfare Act published in the Federal Register at Volume 44, No. 228, November 26, 1979. The Adoption and Safe Families Act of 1997, P.L. 105-89, can also be found at 42 USC §§ 622, 653, 671, 673, 674, 675, 678, 679, 1305 et seq. Explanatory Rules and Regulations are found in the Federal Register, Vol. 65, No.16, January 25, 2000.

C. STATEMENT OF THE GENERAL ISSUE

ASFA was enacted to address the issue of children spending protracted periods of time in foster care by mandating that permanency planning and permanent placements be done within a fairly short period of time, usually no more than a year, after the child was placed in foster care. Unfortunately, the drafters of ASFA failed to take into account the special issues involved when an Indian child is in foster care, issues which ICWA was designed to address. In their efforts to fulfill the requirements of the fairly recently enacted ASFA, and obtain the federal monies which flow from fulfilling those requirements, most, if not all, states have promulgated new procedures which presumably comply with ASFA, while forgetting, or ignoring, the requirements of ICWA which were established in 1978.

D. AREAS WHERE ICWA IMPACTS ASFA REQUIREMENTS

1. Preliminary Protective Hearings:

Perhaps in response to the shortened time frames of ASFA, many states have enacted laws requiring an early conference and hearing once a child has been removed from the parent's custody¹. In Arizona, this hearing must be held *within 5-7 days of the removal*², and the only notice which a tribe may receive is a phone call from the state worker, or a faxed notice of hearing.

Many state judges are under the impression that this preliminary hearing is required by ASFA, when in fact it is not. ASFA only requires that a permanency hearing be held within 12 months after the date the child entered foster care. A child shall be considered to have entered foster care on the earlier of 1) the date of a judicial finding that the child has been subjected to child abuse or neglect; or 2) the date that is 60 days after the date the child was removed from the home.³

ICWA mandates that no hearing may be held until 10 days after the parents and the tribe are given notice of such hearing. This notice must be given by registered mail, return receipt requested. The parent or the tribe then has the right to request an additional 20 days to prepare for the hearing. Faced with this, the judge who believes the preliminary hearing is required by ASFA may feel that he/she is faced with conflicting federal laws. In fact, they are not.

It would be the responsibility of the state's attorney, tribal attorney, or in their absence the tribal social worker, to bring to the attention of the participants in this "preliminary hearing and conference", including the judge, that the tribe had not received the notice required by ICWA and, therefore, the hearing must be continued until the tribe and the parents have received proper notice.

The question may then be raised at this "preliminary hearing" as to whether the tribe and/or the parents are willing to waive the notice requirement, that is to allow the hearing to proceed without the notice required by ICWA, thereby avoiding any perceived conflict with ASFA. There is a legal question about whether a party can even waive the notice requirements of ICWA, but at least as far as the tribe is concerned, the notice requirements should not be waived. The additional time will allow the tribal social worker to make preliminary inquiries into the enrollment status of the child(ren), family members who might be able to provide a placement for the child(ren) and services that might be available to the family through the tribe.

This is not to say that participation in the "preliminary conference" would be without benefit. The conference could be used to identify the parties and the issues, tribal ties and remedial services that might be available to the family.

It is also correct that even under ICWA, the judge has the authority to make such temporary orders as might be necessary to provide for the protection of the Indian child.⁴ However, any further hearing or orders without proper notice to the parties would violate ICWA. If the judge insists on proceeding with the preliminary hearing, the tribal attorney should make a record at the start of the hearing, explaining why the hearing is not required under ASFA and that ICWA requires the hearing be continued. The tribal social worker should then be prepared to participate in the hearing in any way that he/she can.

2. Reasonable and Active Efforts

ICWA mandates that any party who seeks to place an Indian child in foster care or to terminate a parent's rights to an Indian child must satisfy the court that **active efforts** have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.⁵

As opposed to "passive" efforts, the concept of "active efforts" requires that a case manager actively assist the client in accessing necessary services and participating in them. These efforts may include making appointments for the client with particular providers, providing transportation to and from such appointments and closely monitoring the participation of the client in such services. The case manager is also responsible for ensuring that services provided to the client are culturally appropriate. "Active efforts" also requires that the case manager make ongoing efforts to place a child in a placement consistent with the requirements of the ICWA.

Under ASFA, **reasonable efforts** must be made to prevent or eliminate the need for removing the child from the child's home or, if removed, to make it possible for a child to safely return home⁶. The efforts contemplated by ASFA are the provision of time-limited services to the family, which are:

- 1) Individual, group, and family counseling.
- 2) Inpatient, residential, or outpatient substance abuse treatment services.
- 3) Mental health services.
- 4) Assistance to address domestic violence.
- 5) Services designed to provide temporary child care and therapeutic services for families, including crisis nurseries.
- 6) Transportation to or from any of the services and activities described in this subparagraph.

The concern of the social worker in an ICWA case should be to ensure that culturally relevant services which may be of benefit to an Indian family, but which are not on the ASFA "laundry list", are still considered and provided. For instance, mental health services might be expanded to include spiritual healing through a tribal medicine man or sweat lodge ceremonies, services that are designed to promote healing through the Indian family's culture. Under the **reasonable efforts** standard of ASFA it might be sufficient to simply refer a parent to such services. If the parent does not avail themselves of such services, the social worker has fulfilled their obligation. Such is never the case under the more rigorous **active efforts** standard of ICWA. The worker must remain actively involved to ensure the provision of culturally appropriate services and the Indian parent's involvement in those services.

ASFA also provides that services need not be provided to parents in certain circumstances. Services need not be provided if a court of competent jurisdiction has determined that:

- 1) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse and sexual abuse);
- 2) the parent has-
 - A) committed murder...
 - B) committed voluntary manslaughter...
 - C) aided or abetted, attempted conspired, or solicited such a murder or such a voluntary manslaughter; or
 - D) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or
 - E) the parental rights of the parent to a sibling have been terminated involuntarily.⁷

Although ASFA may allow services not to be provided to a parent under the above-enumerated circumstances (and the state continues to receive federal funding), it does not require it. It is highly unlikely that if services were not provided to the parent of an Indian child, especially from the beginning of a case, the **active efforts** requirement of ICWA could be met. It is, therefore, essential that in a case involving an Indian child, appropriate services be provided to the parent, even if that parent would appear to fall into one of the above categories.

Practically speaking, if a parent disappears, no services can be provided. The worker must, however, continue to search for the missing parent using such resources as a parent locator service, or continued contact with family or friends of the parent.

Likewise, if a parent is incarcerated, jail or prison regulations may prohibit the state worker from directly providing services within the facility. In such cases the worker should determine what services are available to the parent while they are incarcerated and continually urge the parent to participate in such services. It is also possible that the parent might have a right to some culturally appropriate services, such as the assistance of a tribal medicine man, even while incarcerated. This possibility should be explored by the worker.

3. Permanency Hearings

In order to prevent children from languishing in the limbo of foster care, ASFA requires that a permanency hearing be held within 12 months of the date a child enters foster care. That date will be the earlier of: 1) the date of a judicial finding that the child has been the subject of child abuse or neglect, or 2) 60 days after the child was removed from the home.⁸ ICWA contains no equivalent provision, nor is there anything in ICWA which would preclude the holding of such a hearing.

At that hearing it will be determined whether and when the child will be returned to the parent. If this is not possible, one of three options is available: (1) TPR presumably followed by adoption of the child; (2) legal guardianship, or (3) in cases where the State agency has documented to the State court a compelling reason that none of these options are viable, the permanent plan can be "another planned permanent living arrangement".⁹ If the permanent plan is either adoption

or guardianship, the State, guardian ad litem or other party will be ordered to file a motion to terminate the parent-child relationship or a motion to appoint permanent guardian within ten (10) days of the permanency planning hearing, and the initial TPR/guardianship hearing will be set within thirty (30) days of the permanency planning hearing.¹⁰

As may be gathered from the full name of ASFA (Adoptions and Safe Family Act), the major emphasis under the Act is termination of parental rights and adoption whenever a child cannot be safely returned to his/her parents within the fairly short time frames provided under AFSA. However, at a permanency hearing involving an Indian child, there are other considerations. First, if at the time of the permanency hearing, the State cannot show that it has met the higher burden of making **active** efforts to reunify the family of the Indian child, a TPR petition is never appropriate. Secondly, since there is no time limitation on the provision of reunification services under ICWA., if the parent has made progress, even if minimal, the State would have to be able to demonstrate to the Court, beyond a reasonable doubt, that even with further **active** efforts to reunify the family, the Indian child would be unable to be returned safely to the parent(s) within a reasonable period of time.¹¹ There is no requirement in ICWA that a parent be given an indefinite period of time to cure the circumstances which caused the child to be placed in foster care in the first place, but ICWA does place a burden on the State to actively make every possible effort to avoid a TPR petition, even if it means an Indian child remains in out-of-home placement longer than the ASFA ideal.

ASFA also requires the permanency hearing to be held within 30 days after a court has decided that reunification services are not required because:

1) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse and sexual abuse);

2) the parent has-

A) committed murder...

B) committed voluntary manslaughter...

C) aided or abetted, attempted conspired, or solicited such a murder or such a voluntary manslaughter; or

D) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

E) the parental rights of the parent to a sibling have been terminated involuntarily.¹²

The petitioner (usually the State) cannot simply stop providing services to reunite the family. A motion must be filed setting forth the reasons why the State wishes to terminate reasonable efforts, and the motion must be granted by the court.

As discussed above, ICWA makes no provision for the cessation of the **active** provision of services designed to reunify the family. As a result, a permanency hearing held within this 30-day time frame, or an early determination by a court that services are not required because a parent falls within one of the

provisions of §101, would violate the spirit of ICWA and the specific ICWA requirements of **active** efforts. It may well be that even under the **active** efforts requirement of ICWA, a parent who falls into one of the above categories will never be able to have the Indian child returned to them, but this must be determined on a case-by-case basis, not merely because the parent falls into one of the enumerated categories.

4. Termination of Parental Rights

In addition to the possibility of the termination of parental rights which must be explored before the permanency hearing, ASFA goes further and mandates the filing of a TPR petition and recruitment of an adoptive family in certain circumstances. Once a child has been in foster care for 15 of the most recent 22 months, ASFA requires the State to file a TPR petition. It also requires the State, guardian ad litem or other party to file a TPR petition if a court has determined that the child has been abandoned (as defined by state law) or if the parent has committed murder of another child of the same parent; committed voluntary manslaughter of another child of the parent; aided or abetted, conspired, or solicited to such murder or voluntary manslaughter, or committed a felony assault that has resulted in serious bodily harm to the child or to another child of the parent.¹³ ASFA does, however, provide exceptions to the above requirement in circumstances where 1) at the option of the State, the child is being cared for by a relative; 2) there is a documented compelling reason for determining that filing such a petition would not be in the best interests of the child, or 3) the State has not provided to the family of the child, consistent with the time period in the State plan, such services as the State deems necessary for the safe return of the child to the child's home.¹⁴

Many, if not most, of the cases which are controlled by ICWA will fall within these exceptions. Within the Native American culture, termination of parental rights is the least favored option, particularly where the adoption would remove the Indian child from his/her Native American heritage. This is reflected in the requirements of ICWA that if an Indian child is removed from his/her home and placed in foster care, the child should be placed, in order of preference with: 1) a member of the Indian child's extended family; 2) a foster home licensed, approved, or specified by the Indian child's tribe; 3) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or 4) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.¹⁵ If these placement preferences have been followed, especially placement with a member of the Indian child's extended family, the child would fall under the exceptions to the TPR requirement.¹⁶ This would also follow the kinship care provisions of ASFA which at least encourage a State to look at kinship placement possibilities.¹⁷

Further, ICWA provides that the definition of "extended family member" shall be defined by the law or custom of the Indian child's tribe, or in the absence of such law or custom, shall be a person who has reached the age of eighteen

and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.¹⁸ Since ASFA contains no definition of "relative", the ICWA definition controls, even over more limited definitions in state law. A TPR should remain a last resort in a case involving an Indian child. Guardianship is usually preferred over TPR and adoption in a case involving an Indian child. However, placement of an Indian child with an extended family member on a long term basis, as required by ICWA, even if no adoption or guardianship is desirable, would certainly fall under the "compelling reason" for another planned permanent living arrangement provisions of ASFA.¹⁹

One final aspect of ASFA which should be resisted in an ICWA case is the provision which encourages placement of children into pre-adoptive families without waiting for termination of parental rights.²⁰ There have been too many cases where an Indian child has been placed with a prospective non-Indian adoptive family prior to the child being freed for adoption, only to have the placement rescinded, sometimes after more than a year, because ICWA was not followed and the State cannot meet its burden for termination.

V. Sample Pre/Post Test

1. See e.g. A.R.S. §8-823(D); ARS §8-824.
2. A.R.S. § 8-824.
3. P.L. 105-89, § 302; Title IV B of the Social Security Act, §§ 475(5)(C) and (F), as amended.
4. 25 U.S.C. § 1922.
5. 25 U.S.C. §1912(d); Guidelines, § D.2.
6. P.L. 105-89, §101; 42 U.S.C. §671(a)(15).
7. P.L. 105-89, § 101 (a); 42 U.S.C. § 671(a)(15)(D).
8. P.L. 105-89, § 302; 42 U.S.C. §675(5)(C).
9. P.L. 105-89, §302(4); 42 U.S.C. §675(5)(C).
10. A.R.S. § 8-862.
11. 25 U.S.C. §1912 (e) and (f).
12. P.L. 105-89, §101 (a); 42 U.S.C. §671(a)(15)(D); P.L. 105-89 § 101; 42 U.S.C. §671(a)(15)(E)(i).
13. P.L. 105-89 § 103(a)(3); 42 U.S.C. § 675 (5)(E).
14. P.L. 105-89 §103 (a)(3); 42 U.S.C. § 675 (5)(E).
15. 25 U.S.C. § 1915 (b).
16. P.L. 105-89 §103; 42 U.S.C. §675 (5)(E).
17. P.L. 105-89 §303; 42 U.S.C. §675(5)(C).
18. 25 U.S.C. § 1903 (2).
19. P.L. 105-89 §302; 42 U.S.C. § 675(5)(C)
20. P.L. 105-89 §201(i)(2)(F). 42 U.S.C. §673(b)(i)(F)

PRE-TEST

1. What do the following initials stand for?

A. ICWA_____

B. ASFA_____

2. Which of the following is a federal law? Put a check beside your choice.

A. ASFA _____

B. ICWA_____

C. OSHA_____

3. If a federal law conflicts with a state law, which one controls?

A. The state law_____

B. The federal law_____

C. It depends on the judge_____

4. Which law was enacted first?

A. ASFA_____

B. ICWA_____

5. ICWA was enacted to:

A. Give Indian parents preferential treatment_____

B. Recognize the importance of Indian children_____

6. ASFA was enacted to:

A. Encourage states to prevent children from remaining in foster care for long periods of time_____

B. Encourage states to establish time frames during which a parent must remedy the problems that caused their child/children to be in foster care._____

C. All of the above_____

7. If a judge does not follow the requirements of ICWA, the social worker does not have to follow the judge's orders.

A. True_____

B. False_____

8. Tribal courts must follow the requirements of ICWA and ASFA.

A. True. Tribal courts must follow both_____

B. False. Tribal courts only have to follow ICWA_____

C. False. Neither ICWA or ASFA apply to tribal courts._____

9. A judge can always make temporary orders to protect a child, even if those orders would violate ICWA.

A. True_____

B. False_____

10. ASFA allows an Indian child to be placed in a non-Indian home.

A. True_____

B. False_____

Author's note to test questions

It has always been the author's belief that test questions, in and of themselves, should be a part of the learning experience. As a result, some of the questions may be a bit tricky. It is also possible that, depending on the student's thought process, there may be more than one right answer to a question, or at least *no absolutely wrong answer*. It is hoped, therefore, that the instructor will take the opportunity to discuss the questions and the answers with the class, as opposed to simply grading the questions and handing them back.

THE INTERPLAY BETWEEN THE INDIAN CHILD WELFARE ACT AND THE

ADOPTION AND SAFE FAMILIES ACT

FINAL EXAMINATION

1. Both ICWA and ASFA require a preliminary hearing to determine custody of the child pending a formal hearing on the issue of dependency.

A. True_____

B. False_____

2. ASFA requires that any preliminary hearing be held within 10 to 20 days after a child is taken into custody.

A. True_____

B. False_____

3. When any child with Indian blood is taken into state foster care, the amount of time the tribe must be given before any hearing can be held is:

A. 10 days_____

B. 20 days_____

C. More information is needed to answer this question._____

4. Which of the following is a funding statute?

A. ICWA_____

B. ASFA_____

C. All of the above_____

5. The provisions of ASFA can also be found in state law.

A. True_____

B. False_____

C. Sometimes_____

6. If a tribe becomes aware that one of its children has been taken into foster care, it has the right to ask for how much time before a hearing can be held?

A. 10 days_____

B. 20 days_____

C. As much time as it thinks it needs to prepare_____

7. Once a tribe is properly notified by a telephone call from the state social worker that an Indian child has been taken into custody, the preliminary hearing required by ASFA can proceed within 10 days.

A. True_____

B. False_____

8. If a state court insists on going forward with a preliminary hearing before the tribe has received proper notice, the proper procedure is for the tribal social worker not to participate, so as not to compromise the tribe's rights.

A. True_____

B. False_____

9. A preliminary protective conference held without proper notice to the tribe would serve no purpose, and therefore the tribal social worker should not attend.

A. True_____

B. False_____

10. ASFA requires the state to make reasonable efforts to reunite a family.

A. True_____

B. False_____

11. The level of effort that a state is required to employ to reunite a family is the same in both ASFA and ICWA, just expressed in different terms.

A. True_____

B. False_____

12. A child could be an Indian child under ICWA and not an Indian child under ASFA.

A. True_____

B. False_____

13. The services which would be appropriate for a family under ICWA would not be allowed under ASFA.

A. True_____

B. False_____

14. Both ASFA and ICWA require culturally appropriate services be furnished to a family.

A. True_____

B. False_____

15. ASFA requires that if a parent has murdered a sibling of the child in foster care, the state shall not provide reunification services to that parent.

A. True_____

B. False_____

16. Under ICWA, it is never appropriate to stop reunification services to a family.

A. True_____

B. False_____

17. The ASFA requirement that a permanency hearing be held within 12 months of the date a child enters foster care violates ICWA.

A. True_____

B. False_____

18. Long term foster care for a child is never appropriate under either ICWA or ASFA.

A. True_____

B. False_____

19. If a child cannot be returned to his/her parents within 12 months of coming into care, termination of parental rights is required under both ASFA and ICWA.

A. True_____

B. False_____

20. When a parent has had the rights to another child terminated involuntarily, ASFA allows the state to automatically decline to furnish reunification services to that parent.

A. True_____

B. False_____

21. If the state declines to furnish reunification services to the parent in question 20 above, ICWA requires the tribe to go to court to force the state to furnish culturally appropriate services to the parent.

A. True_____

B. False_____

22. The placement preferences for an Indian child under ICWA are consistent with the requirements of ASFA.

A. True_____

B. False_____

23. The ASFA definitions of "relative" conflict with the definition of "relative" in ICWA.

A. True_____

B. False_____

24. Placement of children into prospective adoptive homes would be appropriate under both ICWA and ASFA, as long as the home is a licensed foster home.

A. True_____

B. False_____

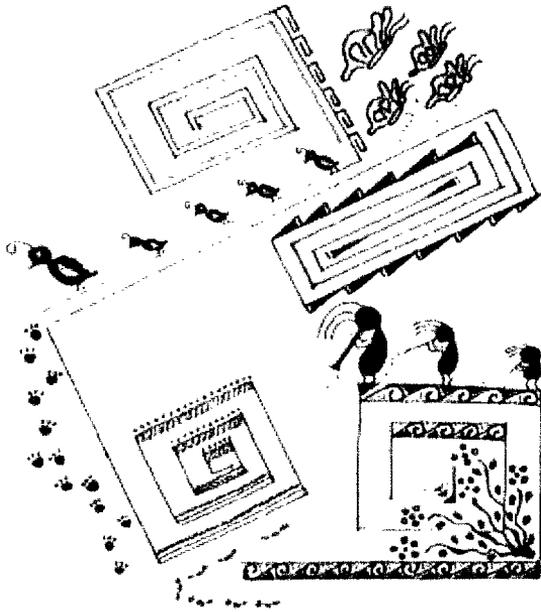
25. If a provision of ASFA conflicts with a provision of ICWA, which one controls?

A. ASFA_____

B. ICWA_____

Why?_____

**COMMUNITY-BASED FAMILY AND CHILDREN SERVICES:
RESOURCES, SERVICES, CHALLENGES, AND IMPLICATIONS FOR
COMMUNITY PRACTICE WITH AMERICAN INDIANS**



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INTRODUCTION

With the passage of the 1975 Indian Self-Determination Act, tribal governments have taken over the administration of many of the federally funded programs serving their communities. As a result, tribal communities are being challenged as never before to develop the necessary programs and service delivery systems that can effectively provide for the social, economic and educational well being of their tribal members. This is no easy task given 200 years of legislative and administrative attempts to eliminate tribal communities and assimilate American Indian families into mainstream society.

In today's world of Indian self-determination, human service workers have to adapt to major changes in their approach to working with tribal communities, families, and children. Workers, at all organizational levels, are being challenged to pull away from old stereotypes and problem-oriented practices that have dictated the way outside agencies and organizations have historically dealt with tribal communities. This new approach focuses on a strengths-based, empowerment approach where tribal communities are viewed as the asset through which effective family and children services are being developed.

Workers are finding that only by ridding themselves of the negative and problem-oriented notions and attitudes is it possible to envision the true potential of American Indian communities. If human services workers want tribal community members to respond positively to the challenges and opportunities before them, then workers must empower them to use their strengths and assets to move beyond the disparaging social and economic conditions they face daily and see the realistic reasons for hope. Human services workers in today's practice environment must be prepared to effectively use community resources to focus on the strengths, skills and assets of American Indian people and their communities. Primary to this approach is the need for social work practice that goes beyond direct treatment interventions and addresses the need for prevention efforts through the development of social capital¹ within tribal communities. This approach is based on the premise that a) tribal communities are not the problem, they are the solution, b) community members must take ownership of their problems rather than rely solely on outside professional intervention, c) significant tribal development takes place only when community members are committed to investing themselves and their resources, and d) tribal human service agencies must effectively incorporate the community's formal and informal networks in the provision of both treatment and prevention services.

¹Social capital refers to the "community's connectedness" of tribal members (as individuals, groups and associations) in the identification and alleviation of community concerns. Increasing evidence shows that communities with higher levels of social capital are likely to have higher education achievement, better performing governmental institutions, faster economic growth, and less crime and violence. (Community Foundation Silicon Valley 2001)

This module utilizes a strength-based approach to help workers empower tribal communities. It presents four sessions that underline and affect the funding, nature, and focus of family and children practice with American Indian communities. In presenting these sessions, the desire is to frame and give context to a discussion about past, current, and future practice and policy options for the design, scope, and improvement of community-based practice. Session I focuses on how traditional Indian culture and community have historically provided stability and permanence for children and discusses important federal policies that have influenced funding and the delivery of services to American communities. Session II examines how traditional Indian culture addressed the protective needs of their children, what led to the deterioration of the traditional Indian community, and the philosophy behind the current family and children service system in Indian communities. Important legislative and funding streams that have influenced tribes' ability to provide services to families and children are also examined. Session III discusses tribal development of integrated services, gaps in service, and challenges for developing integrated, community-based family and children services within Indian communities. Finally, Session IV moves beyond the traditional problem-centered approach to planning and focuses on a long range, future-centered planning approach for community-based family and children services.

LEARNING OBJECTIVES

To provide participants with:

A knowledge of the ways in which traditional Indian community has historically provided stability and permanence for children.

An understanding of important federal policies that have influenced the funding and delivery of services to tribal communities.

An understanding of the evolution of community-based family and children programs and services within tribal communities.

An awareness of tribal issues and concerns regarding the planning, administration, and delivery of family and children services.

A knowledge of current organizational and planning challenges and efforts by tribal communities to strengthen their family and children service delivery systems.

An awareness of the guiding principles and planning process for designing an integrated, community-based family and children services system.

LEARNING OUTCOMES

Upon completion of this module, participants will be able to:

Articulate the ways in which traditional Indian community has historically provided stability and permanence for children.

Identify important federal policies that have influenced the funding and delivery of services to tribal communities.

Discuss the evolution of community-based family and children programs and services within tribal communities.

Articulate tribal issues and concerns regarding the planning, administration, and delivery of family and children services.

Identify current organizational and planning challenges and efforts by tribal communities to strengthen their family and children service delivery systems.

Identify and discuss the guiding principles and planning process for designing an integrated, community-based family and children services system.

SESSION I- A Community Approach to Family and Children Practice with American Indians

Background

Any discussion of the current administration of family and children services for American Indian communities requires an understanding of the historical context in which the United States government has dealt with American Indians. It should also be noted that maintaining a sense of community has been and continues to be vital to the culture and existence of American Indian tribes. Historically, many Indian tribes were relatively small in number and physically, spiritually, and culturally bound together by strong community support networks. Daily living was maintained and facilitated by a group decision-making process where the opinions of all tribal members were considered according to traditional tribal practices and customs (Edwards & Edwards, 1998). Today, American Indians, especially those living on reservations, similarly identify themselves within their tribal community and traditional cultural values. For many non-Indians, this "community first" approach is difficult to comprehend. While this does not necessarily imply that the family and individual are not important to American Indians, it does, however, promote the idea that individuals are valued and identify in the context of their relationship to the larger tribal community. Therefore, as human service workers prepare to practice in tribal communities, they must understand how community is defined and how to apply this definition to American Indians within the context of their underlying values and beliefs (Brown & Gunderson, 2001).

Further, in order for a human service worker to understand and be successful in helping those within a tribal community, he or she must have a thorough grasp of the tribe's history, politics, economics, and educational and religious institutions that impact funding and service delivery. Workers who are able to understand these policies, as well as the importance of tribal sovereignty in the survival of tribal communities, can play important roles in utilizing a strength-based approach to empower tribal communities through the reinforcement of tribal self-determination and the development of strong community-based family and children services.

State of the Field

Prior to the 1920s, social services for American Indians were based almost exclusively on a trust responsibility with the federal government. This "Federal Trust Responsibility" originated from treaties, acts of Congress, and presidential directives that recognized and respected Indian tribes as sovereign entities. As part of the trust responsibility, the United States government implemented policies and legislation that greatly impacted tribal communities. Among the most culturally destructive was the policy of "assimilation." The United States desired to "colonize" American Indians, thereby disrupting virtually every aspect of community life and culture in the name of assimilation. Among the most devastating aspects of assimilation were the removal of American Indian children from their families and communities and the placement of tens of thousands of children into far-off boarding schools. Such laws and policies were based on public beliefs that assimilation of American Indians into the dominant Euro-American culture was the preferred means of raising Indian children, and that tribes were not able to adequately protect their children (Cross, Earle, & Simmons, 2000). The impact of boarding schools was the erosion of native language, religion, beliefs, customs, and social norms--the foundation of the American Indian world-view and identity (George, 1997). The objective of boarding schools, therefore, became the control and civilization of Indian families and children into the dominant society. The assimilation process was further promoted by transferring responsibility for the provision of family and children services from tribal communities to that of the Bureau of Indian Affairs (BIA) (Pandey et al., 1999).

It wasn't until the 1930s that federal policy began to recognize tribal self-determination and promote tribal empowerment, thereby creating opportunities for tribes to retain a degree of sovereignty while overcoming some of the arbitrary restraints on sovereignty inflicted over the previous 150 years (Utter, 1993). Beginning in 1928, the federal government commissioned a report (better known as the Meriam Report) to examine the social and economic conditions on reservations. This document, entitled *The Problem of Indian Administration*, reached three basic conclusions: 1) that American Indian communities were receiving poor services, especially in the areas of health and education, from the federal government and service providers charged with meeting these needs; 2) that states had a better record working with American Indian communities than

did the federal government; and 3) that American Indian communities were being excluded in the management of their own affairs (Deloria, 1974; Utter, 1993). Consequently, six years later, the Indian Reorganization Act of 1934 was passed. This Act allowed tribal governments the opportunity to negotiate directly with federal, state, and local governments regarding services and funding. While this Act also reduced, somewhat, the power of the BIA, it still lacked adequate mechanisms to assure tribal independence from bureaucratic control (Utter, 1993). Similarly, the Johnson-O'Malley Act was also passed by Congress in the same year to promote federal and state cooperation in the provision of services and funding to American Indian communities, particularly in the area of education. The Act, designed to further diminish tribal self-determination and the federal trust responsibility, aimed to involve states more aggressively in Indian affairs and was related to the Meriam Report's view that states were more effective providers of services to American Indian communities.

Public Law 280 (PL-280) was one of a number of laws passed in the early 1950s that laid the groundwork for placing American Indians under state law (Deloria & Lytle, 1984). This federal law enabled states to assume civil and criminal jurisdiction over American Indian tribal reservations and lands in Alaska (added in 1958), California, Minnesota, Nebraska, Oregon, and Wisconsin. Additionally, nine states (Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, Utah, and Washington) assumed jurisdiction later by simply changing their own laws². It should be noted that before its passage, tribes had shared jurisdiction with the federal government, thus maintaining some aspect of autonomy over their own people. PL-280 jeopardized autonomy by ending tribal jurisdiction for all crimes. While not all tribes and states were affected by this law, its effects included increased Indian participation in state-administered services. Although the motivation behind the law was, in part, to make Indian people eligible for state-administered services, such as public assistance and child welfare services, the law also "further eroded tribal authority and capacity to protect [their] children" (Cross et al., 2000, p. 51). PL-280 was finally amended in 1968 to allow tribes the opportunity to reclaim their lost civil and criminal jurisdiction through a process known as "retrocession." The 1968 amendment also allowed states to transfer their jurisdictional power back to the Indian tribes (Colton, 2001).

The civil rights movement of the 1960s furthered the self-determination process and increased federal funding for tribal family and children services. In 1968, President Johnson also proposed a new "goal" for American Indian programs. Johnson's Great Society Programs sought to make the plight of American Indians an integral part of "the expanding human concern of the times" (Deloria & Lytle, 1984). As a result, the Indian Civil Rights Act of 1968 (ICRA) prohibited states from assuming jurisdiction over Indian Country under Public Law 280 without first obtaining tribal consent (Deloria & Lytle, 1984). During this time, tribal communities were also allowed to apply for and receive direct funding

² One must look to the individual laws of these states to know what jurisdiction was actually assumed.

from a variety of governmental agencies.

The 1970s brought about a dramatic increase in the number of federal programs and funds available to tribal communities. For example, the passage of the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638, also known as "638") dramatically increased tribes' authority to plan for and administer their own programs (Brown, Hicks, & Jorgensen, 2002). The Act authorized the BIA and Indian Health Services (IHS) to contract with and make grants directly to Indian tribal governments for federal services, much like it does with state and local governments (Deloria & Lytle, 1984). Title I (the self-determination portion of the Act) authorized the subcontracting of federal services to tribal organizations, provided discretionary grant and contract authority to tribes, provided for tribal government participation in federal programs that enable civil service employees to work for tribal organizations, and allowed the Secretary of the Interior to waive federal contracting laws and regulations that were not appropriate for tribal contracts. As a result, many tribes were allowed to use BIA and IHS funding to develop their own child and family services. Title II (the Indian Education portion of the Act) extended tribal control over the education of Indian children on reservations, although responsibility was shared among the tribe, the BIA, mission schools, and the public school system (Deloria & Lytle, 1984).

Then in 1978, a monumental event occurred that greatly impacted the delivery of services to American Indian communities. While the Indian Child Welfare Act of 1978 (ICWA) is probably one of the most recognizable legislative policies that affects American Indian families and children, it is also one of the least understood. Prior to ICWA, Congress found that out-of-home placement rates of American Indian children ranged from five to nineteen times that of the general population (Byler, 1977). By passing ICWA, Congress sought to protect Indian families, tribes, and culture by limiting states' powers over Indian children and by encouraging respect for tribal authority regarding the placement of an Indian child (Pevar, 1992). Subchapter I of ICWA established specific procedures that state child welfare agencies and courts must follow in handling Indian children in state custody. Subchapter II of ICWA made available grants to Indian tribes and tribal organizations to establish and operate child and family service programs.

During the 1990s, the federal government continued to support the development of tribal self-governance projects. These projects (better known as compacts) provided financial assistance to Indian tribes (from the BIA and IHS) to enable them to establish programs, functions, services, and activities. For example, the Tribal Self-Governance Amendments of 1997 established a permanent Self-Governance Program. The amendments also stipulated that the Secretary of the Department of Health and Human Services (HHS) negotiate demonstration self-governance compacts with tribes for the operation of non-IHS programs within HHS (National Indian Health Board, 1998). Today, more than ever, tribal governments continue to have greater control over their community-

based programs and services and are working to strengthen their governmental infrastructure, establish effective and meaningful behavioral and social welfare service systems, and obtain economic self-sufficiency.

SESSION II- The Evolution of Family and Children Programs and Services Within Tribal Communities

Background

United States federal policy states that the purpose of family and children services is to “improve the conditions of children and their families and to improve or provide substitutes for functions that parents have difficulty performing” (U.S. House of Representatives, 1998, p. 1). Family and children services cover a wide range of activities, including child protection, family support and preservation, and out-of-home care. Beginning in the early 1900s, the federal government has played a key role in family and children services. While the idea behind “formal” child welfare services to protect and safeguard children is a relatively new development, providing the necessary protection for children to safeguard their interests for the future generation is as old as community itself. Consequently, the history, philosophy, and ideal behind the current Indian family and children services reach back to the earliest history of Indian peoples. Indian traditional community addressed the protective needs of their children through a “natural system” designed to ensure its (meaning the tribal community’s) future. Here, Indian parenting was not based on some random set of ideas, but encompassed a set of values and norms designed to preserve the integrity of the tribal community (National Indian Child Welfare Association (NICWA), 1995).

American Indian children were therefore protected from abuse and neglect by the very nature of the community. In short, they were not merely children belonging to one individual or couple but to the entire community. Within this “extended family” network, child rearing was shared among many people and various responsibilities were divided among the many members of the community with no single individual bearing sole responsibility for the care, feeding, or discipline of a child. Of particular import was the Indian child’s “clan” and extended family. Here, the clan and extended family networks signified stability and were vital components that ensured permanence for a child in his or her family, even in cases where the Indian child lost one or both biological parents.

State of the Field

Numerous factors contributed to the deterioration of the traditional tribal community. While they vary from tribe to tribe and within various geographical regions, NICWA (1995) suggested that the following four factors appear to have had the most widespread effects on traditional family and children practice in American Indian communities:

- *Alcohol.* The introduction of alcohol into Indian communities has had a devastating effect. Without traditional values and norms to govern its use, it created a set of behaviors and problems not previously encountered. Further, it disrupted and oftentimes destroyed the extended family and clan networks.
- *Reservations.* While tribal members traditionally relied on extended family and other tribal members for sustenance, reservations changed this dynamic by forcing tribal members to rely on outside forces, namely the federal government, for food, shelter, education and health care.
- *Non-Indian spiritual beliefs.* Many Anglo churches set out to displace the traditional belief system. Because child rearing was closely tied to the community's spiritual belief systems, much of the traditional child rearing practice suffered as a result of their children being separated from their parents and placed in boarding schools or substitute care.
- *Federal policies.* As noted in the previous session, many federal policies negatively impacted tribes' ability to care for their families and children. Federal policies from the 1870s to the 1960s encouraged the removal of children from their families and communities to off-reservation boarding schools. Children as young as three and four year old were placed in boarding schools and raised without the benefit of family or tradition, removing the very mechanism by which children learned how to parent.

Therefore, when the deterioration of the traditional family and children service system made it necessary to implement a formal family and children service system, the non-Indian community, through the BIA and state social service systems, was given responsibility for the protection of Indian children (NICWA, 1995).

With respect to developing community-based family and children services, the policy of self-determination laid the groundwork for tribes to organize tribal-specific family and children programs with the goal that they would be staffed by tribal and community members (Redhorse et al., 2000). Here, the philosophy behind that of the "formal" Indian family and children service system, as well as its accompanying range of services, is similar to that of the traditional "natural system" that was previously discussed. Under the formal system, the American Indian tribal community has the responsibility to ensure the culture's future through the provision of services to families and children. Here, American Indian family and children services are formalized into a system of legal "codes" and child protective services that are provided under the auspices of a tribal child welfare agency. Agency workers, oftentimes tribal community members, are

charged with the duty to safeguard the needs and rights of children when the natural system is unable to provide for them (NICWA, 1995).

Each tribe develops its own response to the needs of its families and children once in place, the code is implemented through the tribal court and the child welfare program, which provides a wide range of supportive services, supplemental services, and substitute care for children and their families. While many tribes provide most or all of the programs and/or services themselves, other tribes share various responsibilities with the state(s) or counties around them. NICWA (1995) provided a brief description of the following three broad types of services:

- *Supportive services*. Services considered “supportive” help parents to maintain or improve their ability to parent. Examples include early detection or prevention of abuse and/or neglect, parent training, financial support, and counseling. Services are oftentimes delivered through schools, recreation programs, Head Start, or other tribal, private, or public agencies. Supportive services focus on the family and the well-being of children.
- *Supplemental services*. Services considered “supplemental” are provided when a family needs more than just supportive services to meet the needs of the children and to stay together as a family unit. Examples include homemaker services, day care, some protective services, health and mental health referral or services, and family preservation services. Supplemental services are offered as a last resort to keep the family together as unit.
- *Substitute care*. Services considered “substitute” are utilized when one or both parents are unable to fulfill their child-caring roles. Examples include temporary or permanent substitute care, such as relative (kinship) care, foster care, group, or institutional placement, and adoption. Although the overall goal continues to be family preservation, permanency planning begins to account for the long-term needs of the Indian child and family.

What services tribes and tribal workers can actually provide is often limited by a lack of resources. Currently, tribal governments administer a variety of family and children programs through various funding structures. In general, this array of federal funding sources for tribal programs channeled money to tribal governments through two conduits: 1) direct funding to tribes (self-determination contracts, block grants, and special initiative grants) and, 2) indirect funding, in which funds are channeled to states and “passed through” to tribal governments via tribal/state agreements.

Since 1994, approximately 40 federal programs have been authorized to support community-based family and children services (Brown et al., 2000). The

largest of these programs, which include family support, foster care, and adoption assistance, is authorized under Title IV-E and IV-B of the Social Security Act (SSA). Titles IV-E and IV-B "are intended to operate in consort to help prevent the need for out-of-home placement of children, and in cases where such placement is necessary, to provide protections and permanent placement for the children involved" (U.S. House of Representatives, 1998, p. 2). Title IV-B, subpart 1 of the SSA, is a *federally funded formula grant program that provides states and tribal governments with federal support for a wide variety of family and children services*. The services for which states and tribes may use the Title IV-B funds include pre-placement preventive services to strengthen families and avoid placement of children, services to prevent abuse and neglect, and services related to the provision of foster care and adoption (45 C.F.R., Part 1357, 2000). The law permanently authorizes an annual appropriation of \$325 million and the primary goal of Title IV-B, subpart 1, is to help state public welfare agencies, as well as Indian tribes and territories, improve their family and children services in order to keep families intact (USDHHS, ACF Tribal Resource Directory, 2000). Title IV-B, subpart 1 at 42 U.S.C. § 622, requires that in order to become eligible for payment, states and tribes must develop plans for family and children services in conjunction with the federal government which meet various requirements outlined within the statute. Title IV-B also contains a second subpart (subpart 2) which refers to the Promoting Safe and Stable Families (PSSF) program (formerly entitled Family Preservation and Support Services). The aim of the PSSF program is to promote fund services to prevent the removal of children from their homes, reunify children with their families when possible after removal, and provide services to support adoption when it is not possible for the child to return to his/her home (Cross et al., 2000). Under Title IV-B, subpart 2, tribal funding allotments generally are so small that tribes must combine them with other sources of funding to provide services.

Currently, Title IV-E of the SSA represents the largest federal share of ongoing funding for family and children foster care services. Nationally, 4.5 billion dollars were expended for IV-E foster care. Compare this to the BIA's six million dollar annual child welfare budget and one can understand the desire of tribes to access these funds (Karen Funk, personal communication, March 21, 2001). However, tribes do not have equal access as do states to Title IV-E dollars. Although Title IV-E was intended by Congress to serve all eligible children, there are no Title IV-E provisions for providing funds for children placed by trial courts nor for reimbursements for tribal governments providing foster care and adoption services to children under their jurisdiction. The Title IV-E statutes provide services only for income-eligible children placed by states and public agencies with which states have agreements. Therefore, in order for tribes to administer IV-E, they are required to enter into IV-E agreements with the states in which they are located. Today, only 15 states and 76 tribal governments have IV-E agreements in place (Brown et al., 2000).

On November 19, 1997, an amendment to Title IV-B and Title IV-E of the SSA was signed into law. Because the Adoption and Safe Families Act of 1997

(ASFA) P.L. 105-89 amended both IV-E and IV-B, all of ASFA's requirements are applicable to tribes utilizing these funds. Redhorse et al. (2001) notes that public opinion influenced policy makers to focus on foster care and adoption as preferred options in permanency planning. The original purpose of ASFA was to simplify the foster placement process by instituting a more timely resolution for permanency. ASFA includes incentive funds for states ranging from \$2,000 to \$4,000 for each foster child placed in adoption. It should be noted that ASFA should not be viewed as affecting the application of ICWA. Whereas ICWA has traditionally focused on family preservation, there is no provision in ASFA that indicates intent to modify ICWA. Further, ASFA deals with all children who become involved with the foster care or adoption system, where ICWA is a specific enactment dealing with American Indians exclusively. Furthermore, Simmons and Trope (1999) state that while ASFA changes current law and does not require states to make reasonable efforts to prevent removal of a child from his or her home or to reunify after removal in certain circumstances, ASFA does not prohibit states from making reasonable and/or active efforts involving and Indian child. Thus, active efforts to provide services as required by ICWA to all families of Indian children would not conflict with ASFA.

It should also be noted that the Administration for Children and Families (ACF), located within the Department of Health and Human Services (HHS), is responsible for federal programs that promote the economic and social well being of American Indian communities, families and children. Through its federal partnership, ACF works with state and local governments, community organizations, profit and not for profit organizations, and American Indian tribes to design, administer and promote "families and individuals empowered to increase their own economic independence and productivity" (ACF Tribal Resource Directory, 2000). Some of the funding opportunities for tribes include

- Child support enforcement direct funding is available to federally recognized American Indian tribes and tribal organizations for comprehensive tribal child support enforcement programs);
- Foster care/adoption assistance/independent living formula grants are available to federally recognized tribes and territories to assist with the costs of foster care maintenance, transitioning to independent living, and prevention of unnecessary separation of children from their families;
- Temporary Assistance for Needy Families (TANF) direct funding is available to federally recognized tribes in the lower 48 states and 13 specified Alaskan Native entities to provide time-limited assistance to needy families with children to promote work, responsibility and self-sufficiency; and
- Child welfare service formula grants are available to federally recognized tribes in a state that has a jointly developed child and

family services plan approved to keep families together (see www.acf.dhhs.gov for a complete list of available funding opportunities).

SESSION III – Tribal Development of Integrated, Community-Based Family and Children Services

Background

The Snyder Act of 1921 “institutionalized” the federal provision of social, health, and educational services to tribal communities and mandated that the BIA, as part of its trust responsibility, directly administer all social welfare services on federally recognized Indian reservations. Based on this mandate, few federal funds were given directly to tribal governments for the development and administration of family and children programs.

In 1924, American Indians were granted U.S. (and hence, state) citizenship and, under the rights of the 14th Amendment, became eligible for state services. However, few state-administered family and children services were provided to tribal members due to confusion regarding the federally mandated responsibility of the BIA, the geographic isolation of reservations within the states, and racial discrimination.

Through the influence of the Civil Rights Movement and the “Great Society” programs of the sixties and early seventies, other federal departments in addition to the BIA were provided with funds and the administrative authority to provide programs on reservations. During this period, national policies sought to abolish poverty through the provision of federal funds to all low-income groups (particularly minority groups). In order to attach themselves to this national initiative, American Indians organizations and tribal communities began to identify themselves as domestic minority groups. Tribes and Indian organizations that fell within the guidelines of poverty programs became eligible for a variety of federal and state funds, not as beneficiaries of the federal government’s trust responsibility but as racial minorities and poor communities (Deloria and Lytle 1984). Examples of increased federal funding included: Department of Health and Human Services funding for health and social service programs; Department of Commerce funding for economic development; Department of Housing and Urban Development funding for housing programs; and Department of Labor funding for job training and employment programs (O’Brien 1989).³ Increasingly, tribal communities were themselves provided the opportunity to manage such funds. Also during this period, the federal court issued a mandate requiring states to provide “equitable” services to Indian citizens.

³ A 1991 report by the Congressional Research Service revealed that eleven federal departments funded approximately 198 different programs and services for which American Indian governments could apply (Walke 1991).

As noted, the passage of the Indian Self-Determination and Education Assistance Act of 1975 further increased direct funding to tribal communities and responsibility for the administration of tribal services. The legislation authorized the BIA and Indian Health Service to contract with and make grants directly to tribal governments for the provision of federal services, much like the other federal agencies do with states and local governments. The Act also strengthened tribal autonomy by allowing tribal communities to better tailor their family and children service programs to the specific needs and circumstances of their communities. Later amendments to the Act allowed for greater creativity in restructuring and financing tribal family and children services, so that tribes could serve their diverse populations more effectively and efficiently (Walke, 1991).

State of the Field

Today, various federal agencies fund family and children related programs for reservation-based tribal members. For example, an average-size reservation of 5,000 members receives funding for family and children services from the Department of Interior (which provides categorical funding for General Assistance, emergency assistance, and child welfare program), the Department of Health and Human Services (which funds a wide variety of family welfare, child welfare, child care, child support, and health care services), and the Department of Agriculture (which funds commodity food distribution). Each of these funding entities has different rules regarding use of funds, client eligibility and the types of services provided, as well as different reporting requirements. As tribal governments have labored to accommodate these various funding structures, the common approach has been to treat the different streams of funds as support for individual programs, each with an independent administrative structure. Unfortunately, the creation of individual program units has resulted in the duplication of services, program turf issues, costly administrative structures, and fragmented delivery systems. In sum, the multiplicity of funding sources and programs has given rise to multiple, independently funded programs with little to no interagency collaboration or service coordination, but which all serve the same tribal families.

Concerns about fragmentation and gaps in service, inefficient and expensive duplication of services, the need for improved effectiveness and greater accountability, and the devolution of federal responsibility to more "local" units of government have challenged states, tribes, and community agencies to re-examine the administrative structures and program relationships of their current human service delivery systems. In response to these concerns, there have been numerous discussions and debates about the desirability and feasibility of inter-organizational coordination, or what frequently has been referred to as "service integration." There also have been many efforts to conceptualize, develop, and implement such integration. A typical implementation attempts to pull related service programs together into a unified administrative structure and to persuade administratively independent programs to collaborate on and coordinate the delivery of their services in order to provide

a “seamless system of care” (Alter 1985).⁴ Achieving integration and coordination of social welfare services aimed at families and children within existing service delivery systems has proven to be a major challenge for administrators and practitioners everywhere, let alone in Indian County, which is characterized by even greater system complexity.

Nationally, the family and children services landscape “...continues to be dominated by fragmented, uncoordinated, and bureaucratically driven program strategies” (Orland, Danegger, and Foley 1997, p. 94). The problem has led program practitioners and researchers at all governmental levels to seek alternative approaches to the coordination and integration of family and children services. Studies of existing efforts offer lessons – although they also emphasize that there is no one best way or model, as each successful implementation develops from an individual community’s particular needs and resources. A general consensus, however, is that a core set of guiding principles/value orientations must be present (Knitzer 1997; Nations in Harmony 1999; Orland, Danegger, and Foley 1997). The following six guiding principles present a general philosophical framework for designing an integrated, community-based, family centered service delivery system:

- *Strong emphasis on family.* Services are family-centered and service plans are built around family strengths, a practice that underscores the importance of the family in any decision-making process (as opposed to the view that parents are passive recipients of professional expertise).
- *Focus on prevention-oriented services and supports.* Services are aimed at prevention and early intervention as well as treatment.
- *Coordination of services.* Interagency collaboration, cooperation, and integration of services help eliminate service inefficiencies and family confusion of who is doing what and why.
- *Community-based.* Families receive the most benefit when services are accessible, responsive, and take informal supports into account; when communities take responsibility for services, families’ and childrens’ needs are less likely to be ignored.
- *Cultural competence.* Services are delivered in a way that is respectful of the cultural values and traditions of

⁴A seamless system of care relies on funding and service partnerships between public and private entities to provide an appropriate set of preventive and treatment oriented services, without imposing any undue hardships on clients.

the families served because cultural sensitivity increases the likelihood that service delivery will be effective; a culturally competent system is one that not only addresses beliefs, attitudes, and tolerance, but also provides case workers and program managers with the skills to translate attitudes into action and behavior.

- *Focus on accountability of outcomes.* Service integration efforts are linked to concrete outcomes and positive changes in the lives of families and children; the data focus moves away from the measurement of narrow outputs (e.g., number of families served, children placed, workshops held) to defining and tracking desirable family and children outcomes (e.g., reducing the rate of domestic violence, out of home placements, and families in poverty), so that service providers have a clear sense of whether the services provided are making a difference in the lives of families and children.

Challenges for the Development of Integrated, Community-Based, Family-Centered Services within Tribal Communities

Significant changes in current federal, tribal, and state institutional structures are needed if sustainable, integrated, community-based systems are to be developed within tribal communities. First, tribal leadership must be willing to re-examine and, if necessary, re-structure tribal human services administrative and management systems. Tribal governments must be prepared to plan for and implement new delivery systems (e.g., to combine related program services) and to build tribal capacity that effectively and efficiently meets tribal families' social welfare needs.

Second, federal agencies must replace the system of fragmented, prescriptive, and detailed service mandates under which tribes currently operate with flexible, outcome-based funding policies. They must support new federal/tribal and state/tribal intergovernmental funding arrangements. They also must encourage and assist tribal governments to use existing resources more efficiently (e.g., encourage tribal government to increasingly blend or pool funds as provided in Public Law 102-477⁵ and advocate for the expansion of such programs), integrate data information across family and children services, and coordinate application protocols and eligibility criteria. In sum, federal agencies must help empower tribal communities to allocate resources in ways that are more consistent with their family and children needs.

⁵ The 1992 Indian Employment, Training, and Related Services Demonstration Act (P.L. 102-477) was intended to reduce paperwork and other administrative burdens placed upon tribal governments. Under this legislation, tribal governments may develop one plan to obtain funds from multiple federal agencies for the provision of a range of employment and job training services.

Third, there must be dramatic changes in the training of tribal human service program managers and workers. Organization and structural reforms can be expected to have marginal impact on service arrangement as long as the attitudes and skills of managers, and front-line workers reflect past arrangements. Universities and other institutions that provide training to tribal providers and other human service professionals must revamp their curricula to include training areas such as collaborative management, interagency planning, and inter-professional team development.

Fourth, community-based and academic researchers must focus on these issues and move the body of knowledge about the effectiveness of coordinated service delivery beyond its infancy. The belief that comprehensive, coordinated, community-based approaches have considerable potential to improve the lives of tribal families and children in need of assistance is implicit throughout the current literature. However, the viability and actual pay-offs of developing comprehensive Indian Country social welfare systems remains unproven. "What is not in dispute is the problem. What is in dispute is just how good a solution services integration is" (Knitzer 1997 p. 16). This is especially true for tribal communities. Early research findings and anecdotal evidence are promising, but the overall verdict is still out.⁶ There is a need to create a research base that, at the very least, focuses on key questions, which among others include: What difference does a comprehensive, coordinated, community-based services have on perceived satisfaction and concrete outcomes? Is the investment in service integration cost effective? How does involvement in service coordination and integration efforts affect the service delivery system, service providers, and other decision-makers?

SESSION IV– Moving From a Problem-Centered to a Future-Centered Approach in Planning for Community-Based Family and Children Services

Background

Historically, planning for the development of American Indian social welfare initiatives and programs was something that was done to American Indians. Based on the federal trust relationship (where the United States government is the trustee and tribal communities are the beneficiary), federal Indian policy dictated that the BIA in the Department of Interior and IHS in the Department of Health, Education, and Welfare⁷ were responsible for the development and implementation of all Indian programs and services. Federal staff within these agencies directly managed all program administrative operations on Indian reservations. No efforts were made to develop tribal

⁶ To our knowledge, there is no research that speaks specifically to the benefits of service integration in Indian Country, although the disaggregated structure of many tribal governments strongly suggests that they exist. Studies outside Indian Country indicate benefits (see, for example, Nilsen 2002).

⁷ In 1954 Congress passed Public Law 83-568, transferring the responsibility for American Indian health care from the Department of the Interior's BIA to the Public Health Service within Department of Health, Education and Welfare (today, the Department of Health and Human Services).

governments' capabilities to administer their own programs (i.e., no efforts to increase the capacities of tribal governmental institutions and service infra-structures), and there were no federal investments in long term planning.

Federal planning on behalf of tribal communities was constrained by the federal government's administrative approval process and Congress's annual budget appropriations. These cumbersome political processes, far-removed from the realities of reservation life, created a tendency for federal bureaucrats to limit their search to short-term, quick-fix "solutions" that reflected only the current administration's priorities and Congress's year-to-year willingness to spend money on Indian causes and concerns. The result was a planning that focused on problems and solutions of the day, recommended policies and programs that differed only slightly from existing efforts,⁸ and produced more negative than positive results. The post-WWII, BIA relocation program is one example. Responding to federal concerns that Indian veterans and wartime workers returning to reservations would strain the capacity of existing federally operated services, the BIA created a "job placement program" that encouraged tribal families to move from the reservations to large urban cities by providing transportation, housing, and job-placement assistance. Because federal policymakers viewed Indian reservations not as nations, in which citizens might choose to actively participate as members, but rather, as temporary environments that provided tribal members with time to integrate into the surrounding non-Indian communities, relocation seemed the next logical step.

Unfortunately, relocation frequently involved nothing more than a trade of rural for urban poverty. Many relocated Indians soon made their way back to the reservations where poverty could be ameliorated to some extent by extended family relationships (Ballantine & Ballantine 1993, p. 427).

In this era, without an economic base, little alternative operating capital, and no authority to administer federal programs, tribal governments had few alternatives to depending totally on outside expertise for day-to-day program management *and* for the development of tribal social service program priorities. At best, tribal governments took control of their nations' futures through crisis intervention – reacting as best they could to mitigate the effects of federal policies and initiatives designed to limit the exercise of tribal sovereignty, increase tribal citizens' dependence on state or federally administered programs, and encourage migration to off-reservation communities.

⁸ With such "incremental decision-making," no attempt is made to survey alternatives in order to gain an understanding of which policies might achieve maximum efficiency and effectiveness. Instead, policy initiatives reflect the impact of countless decisions that have been made over a period of years. Besides forgoing the possible benefits of policy innovation, there is a real danger in this approach: a long series of gradual and drawn out decisions can result in a major policy change without consideration of the associated consequences (Bedeian and Zumuto 1991).

The Civil Rights Movement of the 1960s paved the way for tribal leaders and national Indian organizations to demand the rights guaranteed to Indians by their treaties and by their American citizenship. The demands included the need for greater participation in the planning and development of initiatives and programs aimed at tribal communities. In an attempt to quell the growing concerns expressed by tribal leaders and national Indian organizations, the federal government implemented a consultation process that required tribal review of all proposed federal policies and program initiatives prior to federal approval and administrative implementation. Although this process informed tribal governments of proposed actions and allowed for tribal review and comment, it did not require tribal participation in the initial planning of the proposals nor did it require federal administrators to amend their proposals based on tribal input.

State of the Field

Today, largely as a result of the expansion of tribal authority under self-determination and self-governance policies, tribal governments have greater control over the programs and initiatives developed for their citizens and implemented in their nations: contemporary tribal governments are working to strengthen their governmental institutions, establish meaningful social welfare systems, and obtain economic self-sufficiency. Additionally, these changes in federal policy, the ongoing advocacy of national Indian organizations, increased political savvy, and in some cases, improved resource bases, have improved tribal governments' ability to impact the political process regarding annual legislation and appropriations. However, most tribal governments' capacity and ability to plan remains limited.

There are numerous specific challenges. Although tribes participate more fully in the development and management of tribal-level programs, the means by which they gain this control – self-determination contracts, self-governance compacts, and other inter-governmental agreements – do not facilitate planning. The seriousness and breadth of issues that tribal planning must address complicates the process. Tribes must plan to counter the poverty, limited educational and employment opportunities, poor physical infrastructure, lack of family and children services, and geographic isolation and somehow determine which social and economic investments are most likely to ensure the development of sustainable tribal nations.

Ideally, tribal community leaders and program administrators should engage their communities in structured and thoughtful speculation about the future – that is, in long-range political, social, and economic strategic planning. In too many cases, however, tribes revert to the traditional short-term, problem-focused management and planning model employed in the past by the BIA, which is not (and never has been) effective in assisting tribal governments in purposeful, long-range planning.

With respect to family and children social welfare programs, the passage of PRWORA in 1996 triggered a major paradigm shift in the way American society views and thinks of welfare. PRWORA ended welfare as an “entitlement,” placed a strong focus on work, and included incentives aimed at changing recipients’ behavior. These policy changes present new challenges to state and tribal leaders, program managers and workers as they attempt to plan for and implement family and children programs and services that can respond to their citizens’ future welfare needs. In the more difficult planning environment of tribal communities, these challenges are especially acute.

Challenges for the Development of Future-Centered Planning

To plan effectively in today’s rapidly changing world, tribal managers, workers and community members must be equipped with methodologies and techniques for planning that meet their unique family and children situations. The processes must support the development of sustainable community programs through long term planning and avoid the tendency toward quick-fix solutions.

Questions have been raised about the adequacy and relevance of conventional planning and problem-centered processes for social welfare program development. Kretzmann and McKnight (1993) and Chapin (1995) have suggested that the approach typically used in planning is too problem-focused (and pathology-oriented) for the development of effective community-based social welfare services. Instead, they recommend that planning should occur from a “strengths perspective.” Kretzmann and McKnight propose a capacity-focused approach based first upon an understanding a community’s assets, capacities, and abilities, and second on the attempt to connect these strengths in ways that multiply their power and effectiveness. Chapin suggests a planning process that begins with the identification of common community needs and barriers to meeting those needs, rather mere problem identification and analysis. Lippitt (1998) augments these proposals by introducing a whole-systems way of thinking⁹ that replaces the focus on problems with a focus on an exciting future state. He distinguishes the differences between the conventional problem solving approach and the “preferred futuring” approach in the following way:

Problem-Centered

- List problems
- Prioritize problems
- Determine strategic starting point
- Plan actions to solve problems

Future-Centered

- Review how we got here
- List what is and is not working
- Determine the future you want
- Plan actions to achieve preferred future

⁹ “Whole-systems thinking” involves the realization that all community systems are interconnected. The focus is on getting all stakeholders together to participate in deciding upon the future state of their community or organization (Lippitt 1998).

The difference between the deliverables or results is displayed as follows:

<u>Problem-Centered</u>	<u>Future-Centered</u>
<ul style="list-style-type: none">• A list of problems• Key problem identification• A solution• Action plans to achieve a solution	<ul style="list-style-type: none">• A sense of heritage• A realistic assessment• An exciting decision• Actions plans to create future of choice

When following this approach, it is possible for program managers, workers and community members “to decide upon and create the future they feel most passionate about” (Lippitt 1998, p. 7), one that builds on the tribal community’s existing strengths and capabilities and includes notions of sustainability. In other words, it is appropriate in this model for the imagined future to be one where “natural and historic resources are preserved, jobs are available, sprawl is contained, neighborhoods are secure, education is lifelong, transportation and health are accessible, and all citizens have the opportunity to improve their lives” (President’s Council on Sustainable Developments, 1999).

Especially in the face of devolution, which is intended to make local governments more efficient and responsive to the needs of their citizens, it is critical that tribal governments and tribal family and children programs utilize a planning process that incorporates whole-systems thinking. The process should allow family and children program managers, workers and community members to come together, agree on community needs and future outcomes, and choose a strength-based path toward the future.

Philosophically, there are even larger issues involved for American Indian nations. At its core, “tribal sovereignty” incorporates the concept of freedom – it is about American Indians’ ability to actively and consciously participate in creation of their own future. If others decide the future of American Indian communities – by planning for them and developing and implementing programs for them – American Indian tribes and individuals are not really free. Nor have they accepted the full challenges and opportunities of freedom if the future is something that “just happens.” There is a direct relationship between sovereignty, the capability of tribal communities to determine what their future will be, and their success in achieving those ends.¹⁰

¹⁰ Much more could be said on this point, as a growing number cross-country and cross-tribal studies show the importance of sovereignty and freedom to sustained socio-economic development. Thus, sovereignty and freedom are both an end and a means for American Indian nations. See, for example, Cornell and Kalt (1998) and Sen (1999).

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PRETEST/POST TEST

1. Among the most devastating aspects of assimilation were the removal of American Indian children from their families and communities and the placement of tens of thousands of children into far-off _____.
2. T F The _____ of 1921 gave the BIA and IHS the authority to provide social, health, and educational services to reservation communities.
3. T F The passage of the Indian Self-Determination and Education Assistance Act of 1975 allowed many tribes to develop their own child and family services.
4. T F Community-based family and children services refers to state administered services that are accessible and responsive to the tribal members needs.
5. Which is NOT one of the factors mentioned that contributed to the deterioration of the traditional tribal community:
 - a) abuse
 - b) alcohol
 - c) reservations
 - d) non-Indian spiritual beliefs
 - e) federal policies
6. T F Because the Adoption and Safe Families Act of 1997 amended the Indian Child Welfare Act, all of ASFA's requirements supercede those of ICWA.
7. T F In 1924, American Indian Indians were granted U.S. (and hence, state) citizenship and became eligible for state services.
8. Since 1994, approximately _____ federal programs have been authorized to support community-based family and children services.
9. T F Indian parenting encompasses a set of values and norms designed to preserve the integrity of the tribal community.
10. Today's tribal family and children services:
 - a) receive funding from various federal and state agencies.
 - b) have multiple, independently funded programs all serving the same tribal families.
 - c) are being challenged to re-examine their administrative structures and program relationships.
 - d) all of the above.

11. T F Nationally, family and children services are dominated by fragmented, uncoordinated, and bureaucratically driven program strategies.
12. T F Significant changes in current federal, tribal and state institutional structures are needed if sustainable community-based family and children systems are to be developed within tribal communities.
13. In order to ensure the development of sustainable community-based family and children systems:
- a) tribal leadership must remain strong in their position that current tribal programs decrease their use of federal funds.
 - b) tribal administrators must decrease their utilization of Public Law 102-477 and oppose the passage of any similar legislation.
 - c) there must be no more changes in federal policies.
 - d) all of the above.
 - e) none of the above.
14. The post WWII _____ program encouraged families to move from the reservation to urban cities to find employment.
15. T F The passage of PRWORA has presented new challenges to tribal community workers as they attempt to plan for and implement services that can respond to the communities welfare needs.
16. T F The problem-centered approach to planning helps the community to decide upon and create the future they feel most passionate about.
17. Which of the following services does the module suggest tribal family and children programs provide:
- a) substitute care
 - b) supportive services
 - c) supplemental services
 - d) none of the above
 - e) all of the above
18. T F American Indians value and identify themselves in the context of their relationship to the larger tribal community
19. T F Ideally, tribal leaders and program managers should engage their communities in structured speculation about the future.

20. Which of the following is NOT one three basic conclusions reached as a result of the Meriam Report of 1928?
- a) American Indian communities were receiving poor services from the federal government and service providers charged with meeting these needs.
 - b) policies toward American Indian communities should be changed to reflect tribal self-determination.
 - c) states had a better record working with American Indian communities than did the federal government.
 - d) American Indian communities were being excluded in the management of their own affairs.
21. T F Future-centered, short-term planning allows tribes quick fix solutions to major social and economic problems.
22. _____ represents the largest federal share of ongoing funding for family and children foster care services.
23. T F The goal of boarding schools was to control and civilize Indian families and children into the dominant society.
24. There is a direct relationship between tribal _____ and the capability of tribal communities to determine what their future will be.
25. T F Public Law 280 (PL-280) was one of a number of laws passed in the early 1950s that laid the groundwork for placing American Indians under federal law.

CLINICAL PRACTICES WITH AMERICAN INDIAN
CHILDREN AND FAMILIES



Prepared By:
Robert W. Robin, Ph.D.

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VI. Summary

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CLINICAL PRACTICES WITH AMERICAN INDIAN CHILDREN AND FAMILIES

"In the clinical encounter, an individual's ethnicity has significance far greater than uniqueness based on religion, race, national origin or geography."¹¹

"It involves conscious and unconscious processes that fulfill a deep psychological need for security, identity, and a sense of historical continuity."¹²

I. INTRODUCTION

The question may legitimately be raised: **Is it necessary to clinically treat American Indian¹³ children and their families differently from other population groups?** After all, don't the clinical principles and practices that work well for Hispanics, African-Americans, and Caucasians apply to American Indian and Alaska Native people as well?

In fact there is a great body of evidence that demonstrates that each tribal group has its own unique characteristics. When this uniqueness is taken into active consideration, the treatment outcomes tend to be better than if each person was treated exactly the same. Certainly there are some general clinical practices that apply to most everyone. But it is also important to recognize that differences do exist. Our American society is denoted by its diversity. To recognize, embrace, and utilize these differences during the treatment process can contribute to positive treatment outcomes for presenting clients.

Another answer to this question may be found in the high rates of suicide and suicide attempts, homicide, alcoholism, drug abuse, injuries from accidents, child sexual abuse and neglect, poverty, and developmental disabilities found to occur among many American Indians. In many tribal groups, these rates are from 2 to 4 times higher than are reported for the general United States (U.S.) population.¹⁴ As such the challenges that clinicians and other service providers¹⁵ face when treating American Indian children and families are often greater than with other populations.

To meet this challenge, clinicians must be prepared and equipped to recognize and address the unique historical antecedents and sociocultural characteristics of American Indian people. There are indeed several critical factors that must be actively taken into account when making treatment decisions.

¹¹ Pinderhughes, 1984

¹² Katlin, 1982

¹³ The term American Indian is used to include Alaska Natives.

¹⁴ Kettl and Bixler, 1991; DeBruyn et al., 1988

¹⁵ For the purpose of readability, the term "clinician" will be used interchangeably with "service provider" and "caseworker".

This curriculum presents a wide range of topics -- sometimes interrelated -- that pertain to the clinical treatment of American Indian children and their families. Each of these topics is worthy of an entire curriculum of its own. As such the intent here is to provoke thought, recognition, insight, and problem-solving deliberations from the reader. A comprehensive review of each topic is simply not possible within the space limitations of this curriculum.

Most of the presented material has its basis in two primary sources of information: (1) research findings and empirical evidence¹⁶, and (2) good clinical practice exercised in both reservation-based and urban environments. It must be noted, however, that clinical issues are often case-specific and may apply differently in different settings. Furthermore, clinical judgment does not take place in a vacuum but must be considered within a larger context of American Indian culture and society. As such we begin with the larger societal context in which clinical practice takes place.

A Brief Note to the Reader in Recording Answers to Presented Questions

Each section asks questions of the reader. As you read through each section, please record an answer for each question by circling one of the letters. A "correct" answer score sheet is provided at the end of this curriculum unit.

II. SOCIOCULTURAL OVERVIEW

Maintaining Objectivity: Dispensing with Myths, Dismantling Stereotypes

Select either A, B, or C:

American Indian tribal groups are:

- A. Generally as different from each other as African-Americans are from Caucasians
- B. Very similar to each other but with a few differences
- C. The same with only geographic and language variability

The very title of this curriculum is deceptive. Reference is made to "American Indians" but there are over 500 tribes in the continental 48 states with another 200+ tribal populations in Alaska. Each of these tribes is distinct having its own language, traditions, belief constructs, and historical experiences that have impacted its status in the U.S. today. The descriptive word most often used to characterize American Indians in scientific publications is their "heterogeneity" or diversity.

¹⁶ Footnotes referencing journal articles relevant to the subject material are provided throughout the text with a complete bibliography presented at the end of the curriculum.

While there may be commonalities among some tribal groups, the extent of differences among them may also be considerable. Therefore, it is best for the reader/clinician to exercise caution in drawing conclusions about material presented about American Indians, including this curriculum. This caution includes romanticized beliefs that obscure the humanness, warts and all, of the presenting client, or the imposition of a reality for all American Indians regardless of tribal affiliation and background.

For example, answer these two questions, true or false:

1. When working with American Indians, the clinician should avert eye contact.

True _____ False _____

2. American Indians have significantly higher rates of alcoholism than Caucasians.

True _____ False _____

In fact there is considerable variation among tribal people and it is the wise clinician that avoids making prior assumptions before meeting with clients. Maintaining objectivity and allowing for individual case variation will greatly facilitate appropriate clinical intervention, where needed. The reader is advised to follow this course of action when reviewing the rest of this curriculum: avoid making premature assumptions. A great number of mistakes in judgment can be avoided when following this advice.

Recognizing and Utilizing Tribal Strengths

When performing clinical work, we tend to place primary focus on psychopathology or what is wrong with the presenting client. After all, if all were well and good, we would have few clients and might have to look for new lines of work. Most of the theoretical foundations that underlie psychology and psychiatry have their basis in pathology. Clinicians are taught in this mode and often carry out their practices with these underpinnings.

While there is sufficient evidence of psychopathology and dysfunction among many American Indian families and societies, it is also important to recognize and utilize tribal strengths in clinical practice. Can you name three examples of tribal strengths that can be used therapeutically with American Indian children and their families?

1. _____

2. _____

3. _____

At their core, American Indian people are survivors. They first survived deliberate, systematic U.S. Government efforts to annihilate them through genocide¹⁷, then attempts to convert them to Christianity with simultaneous destruction of their ancestral traditions and rituals, and finally, policies and related actions to assimilate them into the general American population. Though their numbers diminished to seriously low levels, today there are approximately _____ American Indians in the United States.

American Indians continue to be among the most economically disadvantaged population groups in America with an estimated three-fourths of them living below the poverty line¹⁸, but there remains an inner strength and vibrancy. Survival may come with a price but it often accompanied by tremendous fortitude and spirit. Clinicians most effective in bringing out the best in their American Indian clientele are able to tap into the **positive aspects of survival and perseverance**. Much of this pertains to a longstanding American Indian heritage that continues to be expressed today.

Even in large cities where many American Indian people reside far away from their ancestral lands,¹⁹ traditional ceremonies, rituals, beliefs, and customs are actively practiced. **These traditional practices remain a deep and abiding source of strength and identity** amidst a larger society reflective of accelerated and continuous change. For those whom have “lost their way”, the linkages to the past may not be too far away with the help of other tribal members who continue to practice their ancient traditions.

The proactive resourcefulness of the clinician in first, being aware of this linkage between the past, present, and future; second, having the skills to communicate effectively with the client on this basis; and third, being able to facilitate in some way a connection between the client and his or her larger tribal identity – often goes a long way in promoting sustainability [read “stability”] in tumultuous times. Learning from tribal elders, encouragement to attend sweat lodges or to participate in ritual acts of purification, may lead to healing. The clinician does not need to be an expert in these domains but to be aware of the relevance of these realities or potential realities to their clients and be able to gently encourage connectedness.²⁰ For those whom are completely disenfranchised, the path to inner peace is a steep one.

Taking the Right Path: Traditional or Modern? Which is best for bringing about positive mental health?

¹⁷ Well documented in the literature and U.S. Government records.

¹⁸ Blum, 1992; May, 1992, 1987; Robin, 1989

¹⁹ Approximately two-thirds of American Indians reside in cities, not on reservations (ref., U.S. Census).

²⁰ For some Indian people, taking part in traditional activities is not considered to be a viable option. Christian teachings have often equated ancient tribal practices with sinfulness or Satan. In these cases, it may be best for the clinician to initially refrain from encouraging client participation in traditional events, thereby not unwittingly adding undue stress and discomfort to the client.

Circle either True or False for the question:

Those individuals that practice Indian traditions and reject the modern Anglo life lead healthier lives than those who have given up their traditions and embraced a modern lifestyle.

True

False

At the turn of the 20th century, American Indian families and tribal leaders were faced with a difficult choice. Was it best to continue to live a traditional Indian life or to do away with the old ways? In most cases, this was a forced choice. Indian children were forcibly taken away from their biological parents and placed hundreds if not thousands of miles away in boarding schools, foster and adoptive homes, or missionary placements. There they were forced to wear Anglo clothes and punished if they spoke their native languages. They were frequently maintained in these foreign environments for many years with little or no contact with their family members. Christian conversion practices were encouraged and carried out. Then these “children” were returned home, often unfamiliar with their native languages, culture, traditions, or religious societies.²¹

Sometimes Indian people resisted these U.S. Government policies and practices of intended acculturation and assimilation. Their resistance was expressed both passively and aggressively. Nevertheless, the U.S. Government had the military might on its side and eventually its power over tribal people was evident for all to see. This was expressed in most spheres of Indian life including the formation of U.S.-style tribal governments and enforcement agencies that greatly altered the ancient traditional systems that had maintained cohesiveness and social order. Money was appropriated to the “new” modern-day tribal leaders and toward the building of Western institutions such as schools, churches, police stations and jails. Money and advancement was thus often equated with a person’s willingness to embrace and practice a modern lifestyle. This often created intense resentment and factionalism among tribal members, perhaps best illustrated by value-laden terms used to depict the different factions, such as “hostiles” and “friendlies”.

At a time of accelerated and unwieldy change, Indian parents were often faced with an extreme and divergent choice. They could adopt Christianity, discontinue their traditional religion and associated rituals, and encourage Western education for their children to “get ahead”, or they could continue to resist and continue their traditional practices with the likelihood of punishments and ostracism.

Even today, although nearly every American Indian person has “bought into” a modern lifestyle in many respects – such as children attending school, gas purchased for transportation – the debate and intense societal factionalism

²¹ One of the best accounts of this process is described in the book by Unger, *The Destruction of the American Indian Family*.

continues on. This debate has extended to both Indian and non-Indian scholars and academics who write about the mental health of American Indian people. The question is frequently asked: What makes for a healthier person: One who practices a traditional or modern lifestyle?

The earlier writers placed major positive emphasis on the value of carrying out one's traditional practices. Some of this focus was important to counterbalance the decades-old U.S. Government and missionary policies and practices intended to destroy Indian culture and traditions and replace them with Anglo and Christian ways of life. Tremendous advocacy for traditional ways was required to reconstruct traditional practices that had largely been discontinued or gone underground. The adoption of modern ways and related inactivity of traditional practices were thought to be associated with increased psychopathology. The logic behind this reasoning was plain to see. As modern life encroached further into American Indian life, the prevalence of alcoholism, suicide, homicide, and other disorders increased substantially.

There has, however, recently been a slight shift in emphasis in postulating what makes for an individual's healthier life. Which of the following two statements are true?

What is most important is for the individual to have (circle one):

- A. Embraced a modern *or* traditional lifestyle
- B. Embraced *both* a traditional and modern lifestyle

At present, there is little empirical evidence²² to support either of the above positions. But many of "today's" theorists are suggesting that the most critical factor in bringing about positive mental health status is for the individual to have "a stake" in something – whether it be modern or traditional.²³ Furthermore, some scholars emphasize the value of biculturalism; that is, of being able to effect a healthy balance of both traditional and modern ways. Adopting only a traditional lifestyle, it is thought, is not only impossible in today's world, but may reflect negativity and a poor adjustment to today's realities.

Every clinician working in Indian Country will be exposed, if not confronted with various positions on acculturation and traditionality. Many of the views on this subject are expressed strongly and passionately. It is not important for the clinician to make a choice between extremes. Today that choice appears to be a false one. The two worlds can co-exist -- the choice does not have to be one or the other. However, even the embrace of one of these lifestyles is preferable to the absence of a "stake" in life with resulting alienation.

²² Empirical evidence = scientific, that is, based on tangible data.

²³ Ferguson, 1976

Identity and Self-Concept Formation: The Richness of Interdependence and Process

Therapeutic intervention is not value free. Therapists working with clients either consciously or subliminally introduce their own values and beliefs by the selection of questions they choose to ask, the way the questions are posed, and even the omission of specific questions. It is, therefore, relevant for the clinician to be aware of the values s/he brings to the therapeutic session, and to become familiar with at least some of the worldview and value constructs that characterize many American Indian societies.

Nowhere does this ability to truly appreciate the value constructs of American Indian culture and society loom so large as when Indian children are being worked with therapeutically to enhance self-identity and self-competency. The clinician's ability to "see through others' eyes" becomes especially important when one considers that most practitioners have been educated and trained using principles developed by Eric Erickson and other Western theorists. These theoretical orientations generally place major emphasis on the individual within the context of nuclear or small extended family systems. Yet American Indian children's early developmental and modeling experiences have often been shaped and influenced by a contrasting set of values and emphases.

Awareness of the mores of American Indian child rearing and other sociocultural elements will, at the very least, help to prevent the clinician from introducing discordant or combative elements that may weaken the child's ability to bond and form meaningful attachments. At best, the clinician may be able to integrate some of these aspects into the therapeutic session. There is often available to American Indian children and families a richness of societal interrelationships, interchange, and interdependence that is rarely found in the dominant society. The creative clinician can often integrate these learned processes into therapeutic session.

Following are some of the common elements and processes that underlie the development of positive self-identity and self-competency in many American Indian communities.

Emphasis on:

- V. Listening and respect rather than achievement
- VI. Perseverance and strength rather than personal gain or wealth
- VII. Mentoring under adult or elder guidance
- VIII. Observing the lessons of nature
- IX. Sharing, giveaways

Where "Indianess" and tribal identity were once powerful positive identifiers, many of the previous generations of American Indian children developed negative associations with their Indian heritage. Part of this negative association was the outcome of military defeat by the U.S. Government, restriction of

physical movement, and elimination of freedoms including the ability to practice traditional Indian religions. Christian missionaries often contributed further to unfavorable Indian identities by demonizing and forbidding traditional practices while attempting to replace these with their own ceremonies and rituals. American Indian converts to Christianity were often encouraged to destroy their own traditional artifacts. Unknown to most people, such practices and encouragement have continued to this day.

Some modern-day critics make statements such as, "Let's no longer focus on the grievances of the past. We are now in a new era and it is best to approach presenting problems in a modern way." Or, "Those abuses have already been written about and we're tired about hearing about these. It's time to look toward the future." What these critics fail to recognize is that the developmental transgressions that were imposed on the older generations of American Indian people continue to influence children developmentally today. This continuum of influence and effect between past, present, and future does not cease to exist simply because of the exhortations of modern-day critics.

Many of today's younger generations of American Indian children still suffer the consequences of these historical antecedents. Certainly the previous self-contained nature of American Indian societies where social order was maintained in traditional communal ways and potential ostracism from the village was a strong deterrent for maladaptive behavior – has been undeniably altered forever.

A substantial number of American Indian tribes have worked long and diligently to reestablish tribal traditions based on ancient practices. As a result, many Indian children today have been exposed to traditional beliefs, ceremonies, and rituals and a re-formation of tribal identities has been forged.

The clinician can contribute to the positive development of Indian children's competencies and stability by first, recognizing the linkages between a child's self-identity and the larger identity of his/her tribal society. Therapeutic focus can then be directed toward examining the relationship of the child to his/her tribal community and heritage. Family members to whom the child has formed emotional attachments and those who serve as positive role models can be involved in the treatment process.

Treatment modalities that incorporate storytelling, sharing, and Talking Circles may serve to promote individual and group expression, thereby permitting opportunities for conflict resolution and clarity of purpose. Traditional concepts of, and lessons in attaining balance, inner peace, and an inner connectedness with other aspects of life may help to mitigate or alleviate emotional turmoil and stress. Innovation, an "inner eye", and a willingness to explore dimensions reflective of tribal culture and orientation are required to bring out the clients' greatest potential and facilitate the best prospects for treatment outcomes.

It is, however, always important to keep in mind that each tribe has its own sociocultural distinctiveness. This tribal uniqueness and variation will have a direct bearing on the manner by which the mental, spiritual, social, and physical health needs of tribal members and clients should be addressed.

III. ASSESSMENT, EVALUATION, AND DIAGNOSTICS

Determining an appropriate course of treatment and intervention requires the ability to perform quality assessments and evaluations. At first the attending clinician may not fully understand the presenting client and associated problem areas. But by listening well and asking the right questions and taking care not to operate on preconceived assumptions, errors in judgment may be avoided and excellent decision-making may proceed.

Following are two fundamental areas that pertain to the conduct of assessments and evaluations for American Indian people.

A. Attitude and Process

1. **Be humble.** Don't leap to conclusions prematurely. Recognize that you will have gaps of knowledge and seek to fill these by posing astute questions.
2. **Be process oriented.** While there are genuine emergency situations that require immediate action, most clinical undertakings are works in progress. Don't be in too much of a hurry to bring your casework to a final solution. Rather focus on establishing positive, respectful relationships, connecting with your clients and family members, working with them to become part of the solution.
3. **Avoid making judgments.** Perform your assessments objectively without bias. You will otherwise come to conclusions based on your own underlying personal morality or philosophy – making judgments that may not be shared by or relevant to your clients' welfare.
4. **Maintain a positive approach.** People respond best to encouragement and motivational enhancement. This may seem like a "Polyanna"-like, unrealistic world when confronted with family violence, abuse, and chaos and abusive family members. But attaining a positive, "half-full" level of consciousness is still attainable, even amidst extremely difficult child welfare cases. If this is the clinician's chosen profession, maintaining a realistic but positive outlook will not only be beneficial in limiting or preventing

burnout, but likely lead to obtaining more effective treatment outcomes.

5. **Promote self-empowerment.** As per #2, attempt to “bring in” collective members of the family into the decision-making process. This can certainly be a challenging process in situations where dysfunction seems to be the order of the day. But each person has the potential to make improvements in his or her life, and if the clinician is able to encourage relevant parties to assume some personal responsibility, the future for the child can be greatly enhanced.

6. **Acquire information from multiple sources.** It is sometimes said that there are as many realities as there are human beings. Each person has his or her own version of events. When viewed favorably, this can result in the skillful interviewing clinician obtaining different, helpful perceptions from multiple sources. A full perspective may be gained offering greater versatility in arriving at decisions and related courses of action. Therefore, be sure to interview not only the child, but family, friends, and other service providers.

7. **Ask for insights and perspective from local providers and Indian caseworkers.** It is best for professionals unfamiliar with American Indian culture and society to acknowledge their limitations of knowledge and to seek appropriate guidance. Not knowing is not a weakness but failing to recognize a lack of knowledge will constitute a detriment to the client’s treatment. In particular, local American Indian caseworkers and paraprofessionals as well as family members will have an intricate understanding of the social and cultural underpinnings of their people. They will often have a knowledge base of families that goes back for generations. It is the wise clinician indeed that utilizes this source of knowledge as well as taking active note of attendant recommendations.

B. Use of Standardized Assessment Instruments

Answer the following question:

Standardized assessment instruments -- such as depression scales for children and adults, the Minnesota Multiphasic Personality Inventory (MMPI), Thematic Apperception Test (TAT), Michigan Alcohol Screening Test (MAST), and the Weschler Intelligence Scale (WISC) -- are not valid for use with American Indian populations.

True ___ False ___ True and False ___ Neither True or False ___

Researchers have often criticized the use of Western-based tests and questionnaires with American Indian people.²⁴ They note that test scores are largely based on the norms of non-Indian populations. As such the test results may be biased and misrepresent American Indian people. A case in point is the use of biased IQ tests with Indian children.²⁵ Yet recent studies demonstrate mixed results with some tests appearing to have legitimacy when administered to Indian people and others that are clearly invalid.²⁶ Regardless of these considerations, Western-derived assessments continue to be administered by clinicians to American Indian clients, who then make related recommendations for treatment or other interventions based on the results.

Why are clinicians still administering standardized assessments to American Indians when the validity of this practice is in question? Why not develop tests specifically for American Indian people and use these? There are three basic answers to these questions.

First, clinicians are often unknowledgeable or unconcerned about the validity of testing instruments in cross-cultural settings. They simply administer these tests and questionnaires without question.

Second, that there are only a few available standardized assessment instruments developed for American Indian populations. Clinicians, however, often like to apply diagnostic and other instruments to assess their clients' status. They therefore use what is available, often without consideration as to how valid the test might be.

Third, creating a standardized assessment instrument requires a lengthy and expensive process. Because there are over 500 distinct American Indian tribes, it is unlikely that one test or questionnaire can be developed and prove to be valid across so many tribal groups. Similar limitations apply for Hispanic, Caucasian, and African-American population groups – each group having considerable diversity.²⁷ Therefore, most test developers have directed their efforts toward establishing standardized scores that will be applied to all populations regardless of cross-cultural validity. Most often American Indians are not adequately represented in these samples.

Because of the above limitations, clinicians should use test instruments and interpret results with caution. By becoming familiar with past validation studies, misinterpretation may be reduced. Clinicians should interpret test results as possible indicators rather than forming definite conclusions.

Going Beyond Psychiatric Diagnoses

²⁴ Shore et al., 1987; Manson et al., 1985; Manson and Shore, 1981.

²⁵ Rhoades,

²⁶ Ref., Robin et al., currently submitted; Robin et al., in preparation

²⁷ For example, Hispanics in the U.S. comprise a broad spectrum of nationalities and cultures including Haitians, Puerto Ricans, Cubans, Mexicans, Spaniards, and Central and South Americans.

Answer yes or no:

DSM-IV psychiatric diagnoses are not valid when applied to indigenous people such as Native Americans?

Yes _____ No _____

Although the clinical field in the United States²⁸ is largely dependent on the DSM diagnostic classification system,²⁹ there are some that question the validity of this system when applied to minority populations and in cross-cultural settings. The criticisms are many. These include the inappropriate application of Western, deductive and reductionist thinking to non-Western people, a failure to consider the operation of specific cultural-bound syndromes or behaviors occurring within a specific cultural context, and an unfortunate, primary emphasis on psychopathology at the exclusion of considerations of wellness. A further criticism is directed to the clinician's neglect of powerful historical antecedents that may have contributed to the prevalence of "psychiatric disorders" in the midst of contemporary society. Thus attention may be focused exclusively on the individual, ignoring his or her connectedness to the individual's larger tribal society and historical origins. Such an approach may disingenuously work to sever the client's relationship from a collective pool of positive human resources.

Despite these criticisms, DSM diagnoses have become an everyday part of clinical treatment. Decisions for treatment including the use of medication and application of insurance payments are often tied to diagnosed psychiatric disorders. Even much of the latest research on American Indians has been directed toward validation studies of the DSM psychiatric diagnostic system.³⁰ Therefore, a principal question may be: "How can the clinician work with the DSM classification system and still provide relevant clinical services to his or her clients?" The answer does not require an "either/or" approach, a complete rejection or acceptance of the ubiquitous DSM diagnostic system. Rather the answer lies within the margins of these two extremes. Some suggestions:

- Never lose sight of the client as a human being with everyday life variations. Focus first on the way s/he lives his/her life behaviorally and spiritually. The client's behaviors may later be compiled into a classification system yielding DSM diagnoses, but it is important first to understand the *life* of the client.
- Consider the meaning of the client's life vis a vis his or her family and tribal community. With American Indian people in particular, there is often a complex interrelationship among and within tribal clans, religious societies, and phrateries going back hundreds of years. Much of an individual's status and purpose in life is connected to past and current tribal relationships. The

²⁸ The International community uses a different, but similar diagnostic classification system for psychiatric disorders called the ICD.

²⁹ American Psychiatric Association, 1994.

³⁰ Christensen, 2001; Manson et al., 1987.

client may not even be aware of the existence or nature of these relationships, but they often exert an impact nevertheless. This may be expressed in how other tribal and family members interact with or define the client. The client may benefit from an exploration of his/her traditional standing, role, and responsibilities within his/her family and tribe.

- Be aware of syndromes that may be culturally-bound to avoid making false diagnoses and inappropriate treatment recommendations. For instance, belief in witchcraft does not on its own constitute psychosis but may reflect traditional belief constructs including bereavement.³¹ DSM reported symptoms of psychosis and depression often denote normative, tribal expressions that occur within a specific sociocultural context.³² Antisocial personality disorder is often overdiagnosed, in part due to a set of environmental conditions to which American Indians, in particular, are overly exposed such as racial bias by law enforcement and poor educational opportunities.
- Don't adopt an "apologetic" or romanticized approach when the client has obvious difficulties in functioning. Should the client have problems in forming close relationships, with alcohol and drug addiction, or exhibiting violent acts against others – an understanding of his or her ancient historical tribal antecedents will likely prove insufficient in improving this person's current unsatisfactory status.

IV. TREATMENT CONDITIONS AND CLINICAL INTERVENTION

This section of the curriculum attempts to address a broad range of treatment conditions and related issues that clinicians may encounter when working in Indian Country. Due to space limitations, it is not possible to address these conditions comprehensively. However, some of the more salient aspects are presented and discussed. The intent is to provide the caseworker with guidance and suggestions as to how to clinically intervene, but it must be recognised that each situation is case-specific.

Attachment vs. Connection: A Developmental Consideration

When making decisions about a child's home placement and mode of therapy, it behooves the clinician to take the time to evaluate the nature of the child's relationship with his/her parents/caretakers. The questions should be asked:

To whom is the child attached? To whom is the child connected?

Please take a moment and describe the difference between *attachment* and *connection*.

³¹ Beiser, 1985

³² Somervell et al., 1993; Manson et al., 1985.

Studies have demonstrated that children often form strong bonds or attachments with their parents despite the destructive quality of this relationship. In fact as many as 50% of abused and neglected children were found to be “securely attached” to their maltreating parent.³³ Other children have a “connection” to their parents but in a manner that is bi-directional (parent toward child) or devoid of nurturing.

Making this distinction between attachment and connection is often critical in making recommendations about a child’s future placement and visitation status. Clinicians often equate a parent’s *compliance* with a program as developmental progress when in fact there may not be a meaningful, nurturing relationship between the parent and child but only a connection. On the other hand, the clinician may tend to overlook the implications of a strongly established attachment between parent and child because of the abusive nature of the relationship. The manner by which therapeutic intervention proceeds on behalf of the child may depend, in large part, on the attached-connected nature of the child-parent relationship.

American Indian children often form and benefit from reciprocal and sustained relationships with multiple caretakers because of the interconnected nature of Indian kinship and society. The clinician should support the continuation of these relationships.

Alcoholism

Circle one of the following answers:

Alcoholism is a major problem for:

- A. Every American Indian tribal group
- B. Most American Indians
- C. Many American Indians

A commonly portrayed public image of the American Indian is ‘drunk’.³⁴ Unfortunately this image can lead to [inaccurate] stereotyping and clinical bias. The partaking of a beer by an individual of American Indian descent may lead to an observer’s unfounded conclusion that the drinker has an alcohol problem. It is, however, unlikely that a similar conclusion would be drawn for most or all Caucasians after witnessing one Caucasian drink a beer or be seen in a bar.

No doubt there are many American Indians who have had and continue to have major difficulties with alcohol. Reported rates of alcohol-related morbidity and

³³ Arrendo & Edwards, 2000; Perry, 2000).

³⁴ Levy & Kunitz, 1974

mortality among various tribal groups attest to this fact. But one must be careful in drawing conclusions for all American Indian people. For example, we know that several tribes have extremely low rates of alcoholism, even lower than rates found among nearby non-Indian populations or for the general U.S. population.³⁵ Others have moderate rates that are more comparable with the national average.

What does a clinician do with a child living in an alcoholic family environment? This is perhaps the most formidable obstacle confronting the clinician when working with American Indian children and their families. We know that children residing in homes where there is heavy drinking are at risk for all sorts of problems: child sexual abuse and child neglect, suicide attempts, depression, school failure, conduct and other disorders.³⁶

Briefly describe the first four actions that you would take – in order of priority – when confronted with a problem child residing in a home where alcoholism by the parents or caretakers is unmistakably present.

Step #1: _____

Step #2: _____

Step #3: _____

Step #4: _____

First and foremost, the clinician must lookout for the safety of the child. This requires that an objective assessment be made to determine the composition of the family residents, extensiveness of drinking within the home environment and by whom, and the likely impact this is having on the child. Children whose immediate safety is in jeopardy should be removed from their homes and placed preferably with extended family members capable of providing safe and stable environments.

It is important for the clinician to exercise good, objective judgment when assessing the extensiveness of the parents'/caretakers' alcoholism and its consequences on the safety and well-being of the child. Alcoholism commands a broad spectrum and many stages. In some cases the alcoholic parent may be able to control his or her drinking sufficiently well to look after the child. S/he may restrict drinking to the evening hours after all are asleep. While there may be some inherent danger with a caretaker who is sufficiently drunk so as to be unable to respond most effectively to an unanticipated crisis late at night (i.e., fire), the risk may be sufficiently minimal to warrant the child remaining in the home environment. In this instance, the parent should still be encouraged to seek and receive treatment and the situation closely monitored. But the mere presence of alcoholic caretakers in the home does not, by itself, warrant removal of the child.

³⁵ Christian et al., 1989

³⁶ McShane, 1988; Beiser & Attneave, 1982

Second, consideration should be directed toward the willingness of the parents and/or caretakers to acknowledge having problems with alcohol and to make some positive changes in their lives. In many instances, the parents may be willing to proactively address their drinking problems if encouraged and offered treatment opportunities. There are indeed many cases where the child of an alcoholic home did not have to be placed elsewhere because of the skillful intervention work by a clinician. But much depends on current status of the child's safety in determining whether the parents(s)' treatment can occur on an outpatient basis with the parent(s) continuing as caretaker, or whether more intensive inpatient treatment is required, perhaps resulting in removal of the child from the home.

Third, should the child's safety be in jeopardy and no stable extended family members be found to serve as caretakers, non-familial members of the child's tribe should be contacted to serve as foster parents until the parental situation can be resolved. Some tribes have foster care programs in place that are prepared for such out-of-home placement contingencies. Others do not. If the child's tribe does not have such a foster care program, another nearby tribal program may be considered. Deliberations and related decisions should be made in close collaboration with the child's tribal welfare and social service workers and in strict accordance with the tribe's Children's Code. This approach toward out-of-home placement is clearly laid out in the Indian Child Welfare Act (ICWA) of 1978 and deserves unwavering support by all clinicians working with American Indian children and families.³⁷

Finally, the clinician should routinely monitor the child's home situation to provide consistent encouragement to the parents/caretakers to receive treatment for their alcoholism, and to monitor their responsiveness (e.g., have they entered or completed a treatment program?).

Child Abuse and Neglect

Circle one of the answers to the question:

Are American Indian children more likely to be abused or neglected than non-Indian children?

Yes No

It is well recognized that individuals that have been abused and neglected as children often develop serious lifetime problems regardless of their ethnicity. These people are at increased risk for depressive and anxiety disorders, substance abuse problems, suicide attempts and completed suicides, and stress when compared to those who have no such abuse history as children.

³⁷ The ICWA is addressed comprehensively in another section of the curricula and is therefore only briefly mentioned here.

Several studies have investigated the extensiveness of child abuse and neglect across American Indian communities.³⁸ While rates of child abuse for some tribal groups have been reported as low or no greater than reported for other ethnicities³⁹, the more recent and better conducted studies present a significantly higher prevalence of child abuse among American Indian children than their non-Indian counterparts.⁴⁰ These findings often come as a surprise to many people. According to American Indian traditions and teachings, there is rarely anything as precious as a child. The expression – *the future is our children* – is commonly voiced by elders and leaders.

When the incidence of Indian child sexual abuse first began to receive public recognition, it was thought that the majority of these abuses occurred within the boarding school environment. Many such instances have been documented and the early destructive elements of the boarding schools exposed in autobiographic accounts by Indian authors. However, more recent research and clinical anecdotal evidence indicate that much child sexual abuse occurs within the child's own home, perpetuated by either immediate or extended family members or friends. Often times the abuse occurs when the child is young, repeatedly, and over an extended period of time. Sometimes there are multiple perpetrators. The previously protective environment of the home has become – for many Indian children – a place for which there seems to be no escape from abuse.

Most of the families where child abuse takes place are highly dysfunctional and substance abuse is a common and underlying element, increasing children's susceptibility to abuse and neglect. Furthermore, there are indications that much child sexual abuse is intergenerational; that is, the parents and/or siblings may have also encountered child sexual abuse in the past.⁴¹ This is a frightening prospect because the discovery of one case of child sexual abuse may indicate that younger children or future generations may also be at increased risk to be sexually abused.

Therefore, when working with American Indian children and their families, the clinician must be aware that presenting problem symptoms (e.g., work, school, violence, interpersonal relationships) for both adults and children may have their origins in past histories of child abuse. If so, it will be necessary for the clinician to carefully address these issues therapeutically, with the objective to try and prevent or stop a potential cycle of abuse occurring with younger and future generations. As such the clinician should consider the possibility of child abuse when performing initial clinical assessments and evaluations.

³⁸ Robin et al., 1997; DeBruyn et al., 1992; Luhan et al., 1989.

³⁹ White, 1981; Wishlacaz et al., 1978.

⁴⁰ Robin et al., 1997; Roosa et al., 1995; DeBruyn et al., 1992; Blum et al., 1992; Luhan et al., 1989; Piasecki et al., 1989; Fischler, 1985.

⁴¹ Robin et al., in preparation

Child abuse – particularly child sexual abuse – is one of the most difficult areas for a clinician to address. Child abuse often results in greatly inflicted trauma and also carries with it criminal implications. Rarely are the perpetrators willing to acknowledge personal responsibility, and great pressure is often brought to bear on those that have been abused. American Indians' close familial and interpersonal relationships only add to the degree of difficulty in preventing repercussions from the disclosure of abusive situations.

Further adding to the degree of complexity is the likelihood that many abused children still manage to form close attachments to those that have abused them. Therefore, simple removal of the child from the home environment is insufficient as a solution. In the case of sexually abused children who have become adults and still reside in their home reservation communities, they are often confronted with the chance physical appearance of, or encounter with their former perpetrators. This presents a scenario for sustained and repeated trauma – generally incapable of resolution in those instances where the previous incident(s) of abuse has never been revealed or therapeutically addressed.

Because of the inherent difficulties that one must face in attending to issues of child abuse, the clinician should consider attending specialized training. Ultimately, this problem must be addressed not only on individual and family levels, but on a community-wide basis. Protection of Indian children is likely best realized through the active involvement and participation of the entire community. There are highly regarded community programs that have been established over the years in Indian Country.⁴² The reader is encouraged to investigate these and consider playing a role in developing similar efforts in the locations where s/he lives and works.

Other Trauma History

Multiple traumatic events frequently affect American Indian families, including mortality from motor vehicle and other accidents⁴³, intimate violence⁴⁴ and other types of physical assault including rape, and suicide attempts and completed suicides.⁴⁵ Other traumatic events such as forced relocation, child abuse, and forced removal of children from their families are discussed in other sections of this curriculum. Frequently, American Indian children have witnessed the violent deaths of relatives and close friends from chronic medical conditions, drug overdoses, suicides, and homicides.⁴⁶ For American Indian people, the rates for these conditions greatly exceed the prevalence of trauma occurring among the general U.S. population.⁴⁷ Early death is more common among American Indians

⁴² "Mending the Sacred Hoop", Deluth, Minnesota; Alkali Lake, .

⁴³ May, 1992; Indian Health Service, 1989

⁴⁴ Robin et al. ; Chester et al.,

⁴⁵ Manson et al., 1989

⁴⁶ Nelson et al., 1992; Lujan et al., 1989; Levy and Kunitz, 1987

⁴⁷ Robin et al., 1996

than occurs with other ethnic groups, and many of the leading causes of death are “lifestyle-related” diseases and events, such as suicide, accidents, and alcoholism.⁴⁸

Few studies of American Indians have empirically investigated the prevalence of traumatic events and associations with posttraumatic stress disorder (PTSD). But the research that has been conducted provides some revealing findings.

In one study, 81% of 247 tribal members reported experiencing at least one lifetime traumatic event.⁴⁹ Individuals with a history of multiple traumatic events had a significant risk of developing PTSD. Twice as many women reported physical assault as the most upsetting event as compared to men, and developed PTSD as a result. Childhood sexual abuse was also a predictor of PTSD among women. *War combat was the most significant predictor of PTSD among men.* In both this study and a larger one carried out with Vietnam Veterans,⁵⁰ it became evident that many American Indian men were assigned the most dangerous roles in the military including performing reconnaissance behind enemy lines. As Indians these soldiers were perceived as “scouts” regardless of the nature of their previous backgrounds, no doubt influenced by television stereotypes; their dangerous wartime assignments were made accordingly.

While PTSD has often been over-diagnosed, these two well-conceived and rigorously conducted studies demonstrate well both the widespread prevalence of traumatic events among American Indians and the development of PTSD. Children raised in family environments where an adult has been traumatized and is in need of treatment are not unaffected by this presence. Psychiatric disorders other than PTSD are often associated with trauma including depression, anxiety, and substance use disorders. In these situations, intense stress and tension in the household is likely. Yet because traumatic events are so commonplace in the community, many affected individuals or those related to them view these conditions as “normal” and may not seek to identify therapeutic resources to address them.

Because of the prevalence of traumatic events and its major impact on the well being of individuals and families, the clinician should be sensitive that the presenting client may have such a history – even if s/he is presenting for another problem or difficulty. Skillful questioning may be useful in uncovering other aspects of a person’s life that may need some attention. However, this should only be done in a manner that does not trigger painful PTSD reactions such as flashbacks or startled reflexes. It may take many weeks or months before the client begins to inform the clinician about his or her traumatic history. Because avoidance in acknowledging or confronting a traumatic past is often part and parcel to the PTSD condition, it is best to proceed carefully and in a non-

⁴⁸ Dinges and Joos, 1993

⁴⁹ Robin et al., 1997

⁵⁰ Manson et al., 1996

threatening way. Sometimes even the client may be unaware of how past traumatic events may have adversely affected him/her. Caution is the word here – healing can take time.

Out-of-Home Placement

Other sections of this curriculum have discussed at some length the history and common occurrence of Indian children's forced placement outside the home environment. Most of the literature has stressed the traumatic and adverse effects out-of-home placement has had on American Indian children, families, and communities, and on future generations. Indeed, much of this 'negative' emphasis is contained within this curriculum.

It may, however, be appropriate to provide some balance to this equation. That is, at least for some of the more recent generations, placement in boarding schools or foster homes was due to deleterious conditions in the child's home environment. That is, parental abuse and neglect of children in the form of violence and sexual assault, severe alcoholism and drug abuse, and ensuing chaos and disruption – sometimes led to an end result of removing the child from this harmful environment. In such cases, childhood out-of-home placement may not be responsible for the expression of later experienced adult disorders but can be seen as a proactive, mitigating response to an intolerable, damaging home situation. It is often difficult to unravel the relative effects of placements versus earlier psychosocial factors.⁵¹ Again, it is important for the caseworker to avoid making premature judgments. A carefully obtained childhood and family history and learning about the context of the client's placement outside the home may prove illuminating and offer clues for providing effective treatment.

Developmental Disabilities & Learning Disorders

What is the most common physical ailment that leads to significant mental health and developmental difficulties for American Indian children?

Circle one of the answers provided below.

- A. Otitis Media
- B. Fetal Alcohol Effect
- C. Fetal Alcohol Syndrome
- D. Brain damage due to inhalant use
- E. Head trauma due to physical abuse
- F. Poor nutrition related to cerebral growth

As many as 75% of American Indian children have experienced otitis media, an ear condition that affects hearing and can have subsequent language and educational deficits. Some of the consequences of this condition include delayed auditory processing, specific cognitive and psycholinguistic disabilities, and central processing disturbances. School failure and poor emotional health are

⁵¹ Robin et al., 1999

often related to the development disabilities and learning disorders⁵² triggered by physically-based ailments such as otitis media, Fetal Alcohol Syndrome and Effect, and inhalant use. For the disabled, many chronic conditions fall into the "unknown" categories, contributing to elevated stressful situations.⁵³ Neurosensory disorders have been reported to be 4 to 13 times higher in American Indians than non-Indian population groups.⁵⁴

Physical ailments such as otitis media often go undiagnosed. This may be due to clinicians' unfamiliarity with physical ailments that may be associated with developmental and learning difficulties. But sometimes American Indian families underutilize available health care systems because of underlying cultural beliefs. For example, in some Indian societies, cerebral palsy and epilepsy are thought caused by witchcraft.

Undiagnosed physical ailments can be problematic, especially because these conditions usually occur during critical developmental periods where there are major transitions such as entering school for the first time. Furthermore, these conditions are often reversible if intervention occurs early. It is, therefore, incumbent upon the clinician to facilitate complete physical examinations for American Indian children presenting with conduct disorder or delinquency, learning or developmental problems, or other difficulties. In many instances, developmental disabilities can be alleviated or deleterious effects significantly reduced with early intervention.

Other factors such as language can contribute as well to poor learning and delayed development for Indian children. According to Blanchard (19???:124), "Indian children's facility in the English language is among the poorest of any group in the United States even for those who grow up in a home where English is spoken as their first or only language." Most Indian children's homes do not have longstanding traditions that emphasize the reading of books and mastery of English. They often do not benefit from early mature language acquisition from their parents. Rather their parents and other older generations operated under a different living arrangement from the historic past.

Various early Bureau of Indian Affairs and Indian Health Service reports have cited 38% of Indian children to be "handicapped" and 75% to fall in the "retarded" range.⁵⁵ These reports underscore not only the widespread nature of Indian children's developmental and learning difficulties but the failure of assessors to properly evaluate these children. For example, IQ test instruments are generally biased toward verbal rather than professional skills. Yet verbal scores are tied to language proficiency. This results in Indian children often performing at a

⁵² OTA, 1990; McShane, 1988

⁵³ Joe, 1982.

⁵⁴ McShane, 1987

⁵⁵ Yates, 1987; McShane, 1988

disadvantage both on the tests used to assess their abilities as well as actual school performance.⁵⁶ Conversely, Indian children have been found to demonstrate unusual ability to memorize visual patterns and detail, spatial concepts, and graphic metaphors. Unfortunately these skills count for little in the Anglo school system with its primary emphasis on remembering or processing verbal content.⁵⁷

Early learning at an early age is integral to the development of a child's self identify and sense of competency. There is often a direct relationship between a child's successful early development and his or her later mental and emotional health. The clinician can exert a considerable positive effect by: (a) being aware of the potential conditions that can impair learning and development, (b) recognizing that symptoms of psychopathology may be related to poor development possibly due to physical ailments, and (c) ensuring that timely, accurate and comprehensive assessments and evaluations take these factors into active account.

Stress and the Antecedents of Psychopathology in Childhood and Adolescence

We all know that the condition of adolescence presents its own unique stressors independent of the adolescent's particular ethnicity or community. It is largely during this crucial period of physical and emotional development that self-identity issues and one's relationship to the external world come to the forefront. Nevertheless, it is well known that there is a significant relationship between stressful events and the development of later behavioral and emotional problems.⁵⁸ **Life stress factors have been shown to be associated with rates of depression and alcohol and drug disorders.**⁵⁹ The ability of the child or adolescent to alter sources of stress to regulate or control the negative emotions associated with stressful circumstances is important to his or her future well-being. Yet children and youth are most vulnerable to stressful conditions by their relative youthful powerless to control their environmental and family situations.

The formation of a distinct, positive self-identity and a highly developed [internal] sense of self will go a long way in preparing the child or adolescent to contend with the expected difficulties in life to come. But with many American Indian children, the enactment of positive self-identity was compromised by their early separation from their families and tribal communities. As a result of the removal of Indian children,⁶⁰ entire generations missed living their formative childhood and adolescent years in their biological and ancestral homes. When they finally

⁵⁶ Rhoades, .

⁵⁷ Yates, 1987

⁵⁸ Compas et al, 1988.

⁵⁹ King and Thayer, 1993.

⁶⁰ Sometimes Indian children were 'voluntarily' placed outside their homes due to severe economic hardship, their parents wanting them to have more material possessions than the parents themselves could provide.

were able to return home, they had missed out on critical periods of their personal development. This extended period of history helped to separate them from themselves, beginning a 'deficit' chain reaction with the emergence of their children and then future generations. A crucial link in development had been lost for many, and picking up the pieces has become an inordinately difficult task. The reverberations of this rippling-pond effect continue to be felt to this day. It is simply not possible to underestimate the devastating effect that often occurs when an Indian child is placed outside of his or her culture and society.

This author has known several clients in their 20s, 30s, and 40s that were, at an early age, 'voluntarily' adopted by Christian families at great geographic distance from their home tribal communities. In most instances, these Indian children were greatly cherished and prized by their adoptive parents and the larger Christian communities in which they were placed. But in nearly each situation, the adopted 'child' ended up returning to his/her tribal community as a young adult. This child reported not "fitting in" to the adopted environment, feeling great contrast in skin color to their largely Caucasian counterparts and not knowing how to deal with the obviousness of their difference and Indian heritage. Regrettably, upon most of these children's return, they also did not fit in with their tribal societies. This schism or separation of many years during a most critical developmental period of their lives proved extremely hard to bridge.

The consequences of this disruption in individual developmental identity are many and affect American Indian people greatly as compared to other ethnic groups.⁶¹ Traditional tribal systems of support and societal cohesiveness were often replaced with a larger societal disruption. Instrumental family members that were relocated to far away areas were no longer present to fulfill important traditional roles such as instructing the child in traditional ways, providing positive role-models as parents, or as uncles acting as disciplinarians.

With the disruption of American Indian societies came a shift in their [previously] self-sufficient nature. This was replaced with dependence on the U.S. Government for one's most basic survival needs such as housing, food, and health. The deleterious effects of this change in self-sufficiency and dependence as vanquished nations were many, but two aspects stand out as contributing greatly to increased stress and psychopathology.

- The child's self-identity changed from one of self-competence and self-determination to powerlessness and despair.
- Poverty, economic hardship, and social deprivation are powerful sources of stress. [Note: American Indian people are among the most economically disadvantaged ethnic groups in the country.] A family's inability to care properly for itself often leads to adverse reactions and unhelpful attempts to cope including the misuse of alcohol and other drugs, violence and other

⁶¹ LaFromboise and Low, 1989.

self-destructive behaviors. Once this cycle begins, it is extremely difficult to turn things around toward a more positive direction. The child or adolescent is in the very middle of this disruption and suffers accordingly. When s/he becomes an adult, this cycle of dysfunctionality is likely to continue.

So what can the clinician or caseworker do to help provide a counterbalance to this situation? How can the stress that presents itself during childhood and adolescence be alleviated and positive ways of coping be developed and attained?

Working with Natural Support Systems and Tribal Caregivers

First, it is important for the clinician to recognize the interconnectedness between the individual and his or her tribal society. In most tribal communities where Indian child welfare issues have been raised and the ICWA has been implemented, tribal societal development in promoting positive tribal identity for both young people and adults is quite evident. This 'force' and consciousness has been instrumental in revitalizing longstanding concepts of self-empowerment and self-determination. The clinician should be aware of these often-to-be found underlying elements and encourage clientele to make their own reconnects with their tribal heritage and traditions, where appropriate.⁶² Lending support to this connective process with a larger tribal identity can help facilitate an anchored individual self-identity.

Tribal people have for a long time been actively engaged in this re-constructive process that often requires re-negotiation during a period of accelerated and dramatic change. By listening carefully and gaining a greater understanding of the client's current internal and external status, the clinician can assist in the client's navigation amidst a sea of confusion, conflict, and presented polarities. The options and choices are not always so clear to see, especially by a youngster confronted with considerable stress and difficulty within his or her own home.

The clinician must also be prepared, through expert questioning, to decipher the extent and intensity of stressful life events that the client has experienced. The illness and/or death of friends and close family members, changes in living conditions or residence, traumatic events involving violence and abuse – all constitute stressors that may contribute to school misconduct, depression, suicidal behavior, and other major problems. Often children and adolescents experience two or more stressful life events within a short period of time, adding exponentially to increased risks.

Additionally, the clinician should make good use of social supports from the client's friends and family members and tribal programs. There is only so much the clinician can do on his or her own with the client. By establishing a viable and

⁶²There will also be individual variations. This includes some clients who indicate overtly state their reluctance or unwillingness to consider participation in tribal traditions. It is important for the clinician not to impose his or her [hidden] agenda on to the client.

longstanding connection with the tribal community, the clinician may be able to enlist the support of a broad range of human resources, and facilitate greater meaning to the client's life. This is often far preferable to the conduct of only one-on-one sessions between the therapist and the client in a 'traditional' office setting.

Finally, the clinician should be prepared to lend considerable effort and support to the development of tribal clinicians and caseworkers. In the past, the vast majority of clinicians were non-Indian. These individuals were at first ignorant of the tribal societies in which they worked. Staff turnover was quite frequent. At times it seemed like just when the non-Indian caseworker was being "brought up to snuff", s/he moved to another place, taking this recently acquired knowledge and expertise with him/her.

Over the last 20 years, greater emphasis has been placed on making higher educational opportunities available for American Indian students. As such more and more American Indians have been returning to their home communities as caseworkers with the hope of making extended, positive contributions to their people. They still must come into contact with non-Indian clinicians and non-tribal agencies that may be unfamiliar with tribal people. And they still must learn to navigate complex and significant institutional differences, such as what they have learned through the Western educational system and predominant, longstanding tribal sociocultural values and dynamics that help to shape and impact their fellow tribal members.

This act of reconciling disparate sociocultural elements – having a foot in two worlds at the same time – has often been written about.⁶³ While this will affect tribal caseworkers – especially if they are young – more intensely than the non-Indian caseworker, we must all be willing to recognize the landscape and be supportive of each other in addressing it. This requires an ability to understand the operation of many worldviews at once, and developing creative and innovative ways to transverse the distance that exists between and within these worlds. This requires respect, patience, learning, vision, persistence, and commitment. This requires the caseworker to understand that s/he is not a beacon of light unto him/herself but part of an interconnected whole. By acting in this manner, the clinician can make meaningful contributions that go to the heart of a connective healing.

V. USE OF PSYCHIATRIC MEDICATIONS⁶⁴

Please answer True or False to the following questions:

- | | | | |
|----|--|------|-------|
| A. | Attention Deficit Disorder should be treated with medications. | True | False |
| B. | Depressed children should be treated with medications. | True | False |

⁶³ Helen Sekaquaptewa, Me and Mine; ___ Bird, Yes is Better than No."

⁶⁴ This section was composed by Dr. Arych Levenson, a child psychiatrist residing in Southeast Alaska and working with a Native health consortium, and edited by R. Robin. The information included within is basic and represents the authors' points of view, and may not reflect the opinions of other clinicians.

Medications are commonly used to treat a wide range of psychiatric or mental health disorders. One only has to watch advertisements on television to witness how widespread medications are presented as viable treatments for a wide range of problem areas including depression, stress, and anxiety. It sometimes seems that pills for emotional difficulties are being taken as often as aspirin. Indeed, antidepressants are one of the most commonly prescribed medications in the world.

Most caseworkers have clients that have been prescribed psychiatric medications but know little about the properties of these medications. Even more infrequent is dialogue between the caseworker and the prescribing physician about the reason(s) the psychiatric medications were first prescribed. Despite gaps in knowledge, many clinicians have formed strong opinions and biases both for and against the use of psychiatric medications. Yet clinically formed judgments in the absence of a well-grounded knowledge base will contribute little to the well being of clients.

This section is intended to provide the clinician with a basic understanding of the characteristics of, and manner by which psychiatric medications are used with clients. Primary emphasis is placed on the use of medications with children and within a larger context of assessment, evaluation, and psychosocial elements. As we shall see, a client's treatment should be comprised of more than a medical prescription.

A. Myths and stigma of psychiatric medications

Psychiatric conditions and their treatments are often not well understood by people. As a result, there are often attached stigmas or prejudices regarding mental health conditions and treatment. For example, common myths include the belief that if someone is depressed, "s/he can just snap out of it" or "s/he is lazy or weak." Or if someone uses psychiatric medicine, "s/he must be crazy" or "is dangerous." Some think that psychiatric medications are no different than "drugs" in general. As a result, family members often are highly critical of parents who agree to have their child put on medications.

In fact, none of these myths are true. Depression is not a weakness. In fact, people who are not "crazy" or uncontrollable often need medicines. Individuals with psychiatric conditions are no more violent than people without these conditions.

The use of psychiatric medications also does not negate the possibility of using traditional healing practices in treatment. While traditional perspectives on illness⁶⁵ differ vastly from that of the Western disease perspective of illness,⁶⁶ the

⁶⁵ For example, belief that illness is due to a diseased object having intruded into the body, loss of the soul, possession, sorcery.

⁶⁶ RedHorse, J.

two can often be used at the same time or even integrated. Traditional healers have used potent herbs to supplement traditional practices and Western treatments typically include psychosocial supportive measures that are often present in tribal cultures.

B. Some realities about medication use

In reading through this section, seriously consider your own role as a clinician or caseworker caring for a client. In some instances, the application of psychiatric medications may greatly alleviate your client's emotional suffering and lessen the time period when significant therapeutic and lifestyle improvements can begin to take place.

On the other hand, the physician may prescribe medications too quickly without the benefit of a thorough, comprehensive evaluation or in isolation of other forms of therapy. Client sessions with physicians are often brief and communication between the two parties limited. This may make the client less inclined to check in with the physician should medical side effects occur or the client contemplate discontinuing the medications. These, and other common limitations in the doctor-patient relationship make it even more critical that the clinician/caseworker "steps up to the plate" by (1) becoming more aware of the properties, complexities, and issues pertaining to psychiatric medication, and (2) serving as an advocate for the client by establishing dialogue, when appropriate, with the prescribing physician.

C. Why would a physician use psychiatric medications?

The physician is generally looking to provide medication for either a symptom or disorder. A symptom is an individual problem, such as a problem with sleep, bedwetting, anxiety, tantrums, or sadness. Groups of symptoms are often grouped in common categories, called disorders. Thus, the psychiatric disorder named "Major Depression" includes such symptoms as pervasively feeling sadness, changes in sleep patterns, feeling tired, feeling hopeless, and not enjoying things as much as usual.

When considering whether to prescribe medicines, there are four (4) main issues to think about, regardless of the child's symptoms, diagnosis, or problems.

1. Is the problem interfering with the child's functioning, such as interfering with his or her ability to make friends, do well in school, feel confident enough to participate in important activities?
2. Is the problem longstanding and refractory enough to other interventions to warrant the use of medicines? For example, if a child is terribly sad because s/he lost a parent three (3) weeks ago, medicines may not be used but might be considered later if the same child was just as sad 12 months later.

3. Does the problem interfere with the child's well being, for example, his/her sense of self, enjoyment in the world? Does the child feel miserable all the time?
4. Is the problem due to something within the child (internal) or due to something in his or her environment (external)? For example, is the child being abused, witnessing domestic violence, being picked on in school, or being placed in many different foster homes?

D. How does a physician decide whether or not to use psychiatric medications?

Before determining whether to prescribe medications, a comprehensive evaluation should be performed. This evaluation should investigate aspects that pertain to the child's:

Behavior, mood, and thoughts.

- A. Behavior. The way the child acts and can be seen by others. For example, is the child running around a lot even when s/he is supposed to be sitting still? Does the child run into the street without looking both ways? If so, the child may be showing hyperactive behaviors. It is when the behaviors are so severe and long-standing to create problems for the child that the physician may consider using medicines.
- B. Mood. Mood reflects how the child feels inside. For example, if the child always appears sad, cries a lot, or talks about death, then s/he may be depressed. The clinician pays particular attention to a child's mood if it seems to be very strong and doesn't change for a long period of time. Or if the mood is very strong and constantly changes for no apparent reason. Now everyone has many different feelings such as happiness, sadness, frustration, anger, fear, and self esteem. Such feelings are influenced by the experiences that we have and the thoughts that go along with these experiences. Consideration for prescribing medication usually occurs only when such feelings are so severe and long-standing that significant problems begin to emerge.
- C. Thoughts. These are the ideas that the child has about their experiences, themselves, and the people in their lives. Sometimes children can have problems with their thinking that make their thoughts confused. Or they may have thoughts that are so filled with imagination that it gets in the way of their being able to function in their lives.

History and/or environment.

- A. How are the child's behavior, mood, or thoughts influenced by current or past trauma? For example, while medications may still be useful to treat severe symptoms in a child who is currently being abused, there are a number of other, more important and acutely needed interventions that would take short-term precedence over medication use.
- B. How is the child's behavior, mood, or thoughts influenced by events occurring in the child's environment? For example, childhood symptoms that stem from multiple foster care placements, family discord, and parental alcoholism will not be adequately addressed through the use of medications. A well-integrated, holistic approach and related interventions are required whether or not the child's symptoms warrant medication use.

E. How will I know if the child's physician has conducted a thorough evaluation or is just putting him/her on medicines because it's the "easiest" solution to the problem?

Psychiatric medications can often be a useful part of the treatment plan for a child with a behavior, mood, or other mental health problem. But, it should **almost never** be the only treatment used, and may not even be the most appropriate treatment option. Medications should never be used without a thorough evaluation that includes:

1. interviews with both the child (if possible) and either the parents or a custodial guardian who has extensive knowledge about the child.
2. information from or about problem symptoms and diagnosis,
3. the social situation, family, and tribal relationships,
4. any prior abuse or trauma,
5. possible illicit drug or alcohol use,
6. normative behavioral patterns for children within the tribal group,
7. mental health symptoms in other family members,
8. the child's development,
9. physical health,
10. school and friends,
11. the health aide, counselor, or youth worker who is familiar with the child,
12. the school including teachers and counselors, educational testing, speech and language evaluations,
13. laboratory studies that include blood tests.

A comprehensive assessment is necessary because many problems can contribute to, or even mimic a mental health condition. For example, a child with difficulty learning, who is stigmatized by the teacher and other students, may seem depressed or anxious about school. The depressed or anxious symptoms

could be made worse if the teacher fails to understand the child's particular learning style or the operative cultural norms regarding school. In such a situation, merely using a psychiatric medication would not be appropriate. A case-specific school intervention would appear to be most appropriate. Another example would be a child growing up in an abusive home that appears very depressed. The use of an antidepressant, without interventions that address the actual occurrence of child abuse, would constitute terrible negligence or an abuse of its own.

In general, psychiatric medications should not be prescribed outside the context of psychotherapy or counseling. Treatment can often include other forms of therapy such as school interventions if the child is having learning difficulties, strategies to help the child learn social skills, or parenting sessions with the custodial adults. For example, while the appropriate treatment for an acutely depressed nine year old boy may include an antidepressant medication, treatment might also include arranging for the child to become involved with a healthy uncle who can increase the child's self esteem by teaching him traditional activities, working with the school to modify the child's educational plan by tailoring it to his strengths, or helping the custodial grandparents learn effective and culturally appropriate parenting skills.

What should one do if the physician's assessment is insufficient in its examination of non-medical aspects that may be contributing to the child's symptoms or diagnosis?

F. What is the role of the tribal caseworker/therapist? --

To help bridge the gap between the "world" of the physician prescriber and the child and his or her family.

Tribal peoples often approach the world differently than Western-oriented physicians. This difference in orientation can lead to difficulties around a psychopharmacology assessment. Tribal people are often more process oriented (e.g., focusing on *how* things occur) as compared to a more Western content approach (focusing on *what* occurred). Often times the intensity of an experience is viewed as more important (tribal) than the longevity (physician). Thus, the family and physician may have a difficult time communicating with one another. For example, the physician may want very concrete information (e.g., an account of the child's symptoms, a description of the child's behavior) that may lead the family to feel "interrogated" by the physician questioner. Additionally, the physician's lack of emphasis on a short-term but intense experience may lead the family to think that their concerns have been discounted. Finally, the physician may unwittingly discredit the family's more holistic traditional

perspective about health and wellness, leading to frustration on both sides of the therapeutic relationship.

It is important that the adults in a child's life take active part in the medication evaluation and treatment process. This includes getting a detailed understanding of the potential side effects (undesired) that the medications can have and knowledge about what to do if the child does experience these side effects. Families need to be encouraged to feel free to ask their child's physician about side effects and receive answers in language that they can understand. If the physician is unable or won't take the time to explain his reasoning about medications to families, then the tribal counselor can act as an intermediary. If this is not successful, then it may be appropriate to change physicians to someone who will be able to meet the family's needs.

In sum, it's important that the child's family or advocate be prepared to educate the physician on those non-medical factors that may be contributing to the child's condition. While the physician may not have the time to sufficiently contend with *non-medical contributory factors*, s/he should at the very least be willing to consider the effects of these factors on the child's behavior, mood, and thoughts before making decisions on medical care. Advocacy by the caseworker in concert with the wishes of responsible family members will go far in getting the attention and cooperation of the attendant physician.

Questions that families and child advocates should ask the physician regarding medications.

The American Academy of Child and Adolescent Psychiatry publishes a list of questions that families or their advocates should ask the child's physician to gain a better understanding of psychiatric medications.⁶⁷ These include:

1. What is the name of the medication; is it known by other names? Most medications have two or more names. The first is the "generic" name assigned to it; the other is the brand name that is typically used in marketing. While one medication will only have one generic name, it may have many brand names as each manufacturer may call it something different to distinguish it from a similar product produced by another manufacturer.
2. What is known about the medication's helpfulness with other children who have a similar condition to my child?
3. How will the medication help the child? How long before improvement will be seen? When will it work?
4. What are the side effects that commonly occur with this medication?

⁶⁷ Adapted from Facts for families treatment series # 51.

5. Are there any rare or serious side effects?
6. What is the recommended dosage? How often will the medication need to be taken?
7. Do any laboratory tests need to be conducted?
8. How often will progress be checked *and* by whom?
9. Are there medications, foods, or activities that that need to be avoided while the child is on the medication?
10. How long will the child need to be on the medication? How will the decision be made to stop the medication?
11. Who does the family contact if a problem arises?

While it is true that all medications (even aspirin and Tylenol) potentially have side effects, a good medication evaluation and treatment follow-up will pay careful attention to this. The use of medication should be used only if the benefit outweighs any side effects. Most common side effects dissipate or disappear during the first few weeks of medication use. Additionally, careful monitoring of doses should minimize side effects (such as sedation that can interfere with memory or learning). A child should never be turned into a “zombie” by the use of medications. In fact, children who are appropriately on medications often learn *better* than they did prior to using medications.

Thus, an important piece of a good medication evaluation is a careful monitoring of the potential side effects by the: (a) physician, (b) patient (if old enough), (c) patient’s guardians, and (d) other adults important in the patient’s life. Through careful monitoring by various parties, the prescribing clinician can work to *minimize* undesired side effects and *maximize* the benefits of the medication, making adjustments where needed. Should this not be possible, then the medication will likely need to be discontinued.

G. How do psychiatric medications work?

One of the reasons that some people develop mental health conditions is because their brain is not working right. This can result in severe feelings of depression, problems with concentration, mood swings, anxiety, or other conditions. It is important to recognize that severe stress, trauma, or medical problems can interfere with the normal functioning of the brain. Ensuing problems such as depression are not, however, the client’s fault. Indeed, it is very important for the clinician and family members to let the child know that s/he is not blamed for having these problems *and* that the prescription of medications is an appropriate way to address them.

Psychiatric medications are chemical and help the brain function appropriately – for example working on areas of the brain that are involved in mood, attention, or impulse control. The human brain consists of billions of nerve cells that transmit messages to one another via chemicals called neurotransmitters. Depending on the area of the brain in which the nerve pathways lie and the type of neurotransmitters involved, the nerve transmission may be involved in the movement of one's eye, the acquisition of a memory, the ability to focus one's attention, or the experience of one's mood. When certain nerve pathways are not functioning appropriately in certain areas of the brain, an individual can experience psychiatric symptoms (e.g., impulsivity, depression, problems with attention, hyperactivity). Psychiatric medications are used to alter the chemical transmission to rectify the problem and thus treat the targeted symptom.

H. Medication Compliance

The following statement may seem obvious, but is often overlooked by the physician, caseworker, and client:

“For a prescribed medication to be most effective, it must be taken as prescribed by the physician.”

The reality is that many people – both adults and children – do not take their medications on a regular basis. There are many reasons for this lack of consistency. Life events and schedules sometimes change day-to-day or week-to-week. In the midst of these changes, patients often forget to take their medications. Or taking medications may be new to the client; a regular pattern of pill-taking behavior may never have been practiced. Sometimes dose and timing instructions by the physician may be unclear, particularly when medications are to be taken gradually at first, increasing in dosage and in number of pills taken over time. Or the client may be going through considerable emotional difficulty, interfering with his or her memory as to when the medications should be taken. Finally, the client may apply his or her own peculiar or unique logical rules regarding the medications, such as taking a double or triple dose when a day or two passes without them, or deciding on his/her own to discontinue the medications without consulting first with the physician. Yet altering the course or amounts of prescribed medications can often present unanticipated physical or emotional difficulties for the client.

The complexity of pill-taking behavior – not just for emotional difficulties but for basic physical problems as well – should not be underestimated. It does little good to go through a thorough and comprehensive evaluation process and then to prescribe appropriate medication – only for the medication not to be taken as directed. If a family has a difficult time maintaining regimented schedules, then it may be best for the physician to prescribe once daily – or once weekly – medication options, if at all possible.

Certainly it would be best for the physician to ask the client and his/her family specific questions before making a prescription, or for the caseworker to act as

an intermediary or interpreter. Some basic questions to ask the client and parents/guardians are: Do you know why this medication is being prescribed? Do you know what these medications are supposed to do? Have you ever taken any medications in the past? If so, were you able to take them on a regular basis? When did you usually take these pills? Did you take them in concert with another activity, such as at breakfast, after brushing your teeth, in the evening at dinner or before going to bed? Would you be willing to give the physician or caseworker a call should you experience any difficulties when taking these medications? Do you know that should you experience any difficulties, that the dose and frequency of the medications can be adjusted and that, in many instances, this eliminates the problem?

Following are some commonly asked questions about psychiatric medications.

Answer yes or no:

1. Aren't psychiatric medications just "drugs", that is, no different than street drugs?

Yes _____ No _____

2. If my teenager takes psychiatric medications, will it make it more likely that s/he will become an alcoholic or drug addict?

Yes _____ No _____

It is important to recognize that psychiatric conditions are similar to medical problems, such as diabetes or high blood pressure. And like many medical conditions, medications can be a very important part of the treatment plan. Taking appropriately prescribed psychiatric medications is very different to taking a street drug.

When an adolescent is starting on medications, it is useful to emphasize the difference between psychiatric medications and drugs. Psychiatric medications are used to treat a *medical condition*. Street drugs are used to "get high" or to escape from an unpleasant situation. Psychiatric medications aren't *mind altering* like street drugs. For example, cocaine will pick up someone's mood almost immediately, making him or her feel happy or "high". In contrast an antidepressant often takes weeks to work, and while it may relieve the individual's depression (severe sadness), it is not a "happy pill" or mind altering. While alcohol and street drugs change one's perceptions of reality – for example, making unpleasant situations seem funny or scary situations unimportant or peaceful situations frightening – psychiatric medications work on an entirely different basis. For example, even if one is on an antidepressant, an unpleasant situation will still feel unpleasant, a scary situation will still seem scary, etc.

Will putting my child on medications turn him/her into a zombie?

Yes _____ No _____

4. *Won't being on psychiatric medications make it hard for my child to learn?*

Yes _____ No _____

It is important to explain to child clients and their families that medications do not control a person's behavior. Rather the medications can give the child client the ability to control his or her own behavior or to lessen the [previously] overwhelming internal mood swings that made him or lose control of his/her behavior. However, if the child wants to misbehave on the medication, then s/he will be able to do so. Nor will the medication change the child's perception of reality, if indeed the child is perceiving reality correctly. For example, if the child is angry and wants to destroy Mom's favorite bracelet, then s/he will do so. What the medication may do, however, is help the child not feel so angry so that a desire to break the bracelet will be reduced.

I. Common conditions for which psychiatric medications may be prescribed⁶⁸

Note: Initially presented names of medications are generic; brand names follow in parentheses ().

Attention Deficit Hyperactivity Disorder (ADHD)

Many people wonder if physicians medicate active children because the parents or guardians just can't handle normal children's behavior. For example, teachers may want some of their students to be on medicines because it makes their job easier. Indeed, adult requests to have children placed on medications can be impulsive or made out of desperation. However, an appropriately made evaluation by the physician should be able to determine whether or not medication usage is in the child's best interest.

Children with ADHD have short attention spans, are often restless, very active, impulsive, and often easily frustrated and upset. While studies have not yet fully elucidated the causes of this condition, evidence does indicate that neurobiological factors are involved. Studies indicate that areas of the brain that inhibit certain behaviors, such as impulsivity or hyperactivity, show abnormal nerve transmission which can be ameliorated by the use of medications.⁶⁹

The most common medications used in ADHD are the psychostimulants, with Ritalin (a methylphenidate preparation) being the most well known. Other stimulants include Dextroamphetamine (Dexedrine) and an

⁶⁸ A wonderful reference for parents is the companion volumes put out by The American Academy of Child and Adolescent Psychiatry titled, *Your Child: What Every Parent Needs to Know*, and *Your Adolescent: What Every Parent Needs to Know* (HarperCollins, 1998).

Amphetamine/Dextroamphetamine preparation (Adderall), Pomoline (Cylert) and Concerta (a long acting form of Methylphenidate), among others. None are known to be better than others, with main differences involving length or action, side effects, and other issues that are used by physicians to determine which medication may be best for which patient.

When used properly in children and adults with ADHD, these medications can provide dramatic improvements in the recipient's attention, organization, and to a lesser degree, problems of impulsivity and hyperactivity. Studies have also indicated that adolescents with ADHD who take these medications are *less* likely to abuse alcohol and drugs than children with ADHD who do not take medication.⁷⁰ It is important to realize however, that these medications are considered controlled substances; that is, this type of medication can be abused. ADHD medications often have a market value when sold illegally. Though individuals that illicitly take this kind of medication do not tend to develop tolerance (i.e., requiring more and more of the drug to get the desired effect), when misused s/he can become 'high'.

Individuals with ADHD who take the medication at prescribed doses generally report that it allows them think clearer, sustain attention better, be less distractible, and feel more motivated to work on mentally difficult tasks. Some of the more common undesired side effects of the medication can include feeling tiredness or irritability, insomnia, loss of appetite, stomach upset, and headaches.

Another class of medications used in individuals with ADHD is the alpha agonists, of which Clonidine and Guanfenasin (Catapres and Tenex) are the most frequently prescribed. These medications are most effective in individuals with ADHD whose more problematic symptoms are impulsivity and/or hyperactivity; the alpha agonists have somewhat of a lesser effect on problems of attention. These medications are not typically abused. Common side effects include feeling tired.

Depression

There are many reasons why children, teenagers, and adults can be depressed. Frustration, disappointment, heartache, and just 'feeling down' are common human experiences. However, sometimes these feelings can become pervasive and be accompanied by problems with sleep, changes in appetite, feelings of helplessness and/or hopelessness, and changes in ability to function as well as in the past. Whether or not these changes are due to -- things going on in the person's life (e.g., reaction to family disruption), loss (e.g., death of loved one), prior experience of abuse and trauma, or other factors -- when someone becomes seriously depressed for an extended period of time, medications can be of benefit. When considering the use of medication for depression, it is important

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to try and determine what is happening internally within the child and those aspects that pertain to his or her history and external environmental factors. Many people in American Indian communities may suffer from what Eduardo Duran calls a *soul wound* that adversely affects many peoples' inner psyche, soul, and dreams on the deepest levels.⁷¹ This wound is the result of historical violence through war, exploitation, shattering of worldview, disease, physical separation from community via boarding schools and adoption, and loss of cultural identity. These historical antecedents have created intergenerationally transmitted community and social problems (such as loss of concept of family, domestic violence, alcoholism) and intrapsychic problems (such as internalized self hatred and loss of belief that one can produce a desired result). While such problems are not "biological" in origin, when severe depression sets in, biological changes can occur in the brain. Antidepressants can play a useful part of the treatment for individuals suffering from depression. But the clinician should work toward the development of a treatment plan to include other interventions including traditional, family, and community involvement and participation.

Again, antidepressant medications are not mind-altering drugs. They are not 'happy pills'. They don't cause people to become 'addicted' and people who take them are not "weak". Depressed individuals have a true medical condition. In fact if antidepressants are given to people who do *not* have the medical condition of depression, the person will not feel 'happier'. Studies show that antidepressant medications readjust the brain chemical changes that accompany the depressed symptoms noted above. People who take antidepressant medications often feel less need to use potentially destructive mind-altering substances such as alcohol and street drugs to self-medicate, that is, to keep the bad feelings associated with depression at a distance. *As presented earlier, the use of these medications is most effective when used in conjunction with psychosocial therapy.*

Antidepressants are often grouped by the chemical actions that they cause. The most well known antidepressant medications are called the *Selective Serotonergic Reuptake Inhibitors* (i.e., called that because they work on the brain nerve pathways that deal with the neurotransmitter Serotonin) and include Fluoxetine (Prozac), Sertraline (Zoloft), Paroxetine (Paxil), Citalopram (Celexa), and Fluvoxamine (Luvox). As a class, these medications can have side effects including stomach upset, diarrhea, difficulty with sleep, tiredness, jitteriness, headache, and excessive sweating. Other antidepressants commonly used include Bupropion (Wellbutrin), Nefazodone (Serzone), Venlafaxine (Effexor), and (Remeron). Other antidepressant medications such as Tricyclics (Imipramine, Tofranil; Desipramine, Norpramin) and Nortriptyline (Pamelor), are not commonly used today because these tend to have more side effects than the other antidepressants medications.

Anxiety Disorders: Generalized Anxiety, Traumatic Stress, Obsessions, and Compulsions

Antidepressants are often very useful for use in treating anxiety conditions as well. Individuals often live lives filled with significant stresses and difficulties that may leave them anxious, overwhelmed, and/or having difficulty handling activities or tasks that they could otherwise successfully negotiate. For some people, intense and/or prolonged stressors and trauma may result in depression, for others, anxiety. In some cases, both depression and anxiety occur.

In situations of extreme trauma, the victim may experience flashbacks, nightmares and other symptoms that make day-to-day functioning extremely difficult. S/he may constantly and unexpectedly find herself/himself re-living past traumatic experiences, getting caught in a terrible cycle. In communities where such traumas are common, intergenerational Posttraumatic Stress Disorder (PTSD) can result – the traumas becoming woven into the fabric of the family's life and passed onto future generations. In this scenario, normal developmental tasks are often replaced with loss, depression, fear, hatred, and chaos – conditions that may then be imparted to children and future generations. These experiences may create biologic changes in some individuals. In such instances, medications can be a useful part of a more comprehensive treatment plan.

The antidepressants mentioned above are often useful agents in helping reduce trauma and and/or other anxiety related symptoms. Occasionally sedative medications can be useful but the safest, most effective, and commonly used are in a medication class known as benzodiazepans. Benzodiazepan are easily abused, can result in addiction, and should be used with extreme caution for anyone who has a history of alcohol or drug addiction. Specific agents in this class include Alprazolam (Xanax), Lorazepam (Ativan), and Diazepam (Valium), to name a few. The one anti-anxiety agent that tends not to be abused is Buspirone (BuSpar) that unfortunately tends to be less effective than the other medications mentioned above.

Psychosis

At times children and adolescents can present with a loss of reality often accompanied by confused speech or behavior, hallucinations, and/or strange beliefs called delusions. When individuals exhibit these phenomena, they are said to be *psychotic*.⁷² Psychotic children and teens are often easily agitated, do poorly in many important domains of their life (e.g., school, peer relationships), and can become involved with alcohol and other drugs. In some instances, the misuse of alcohol and drugs can cause mental health conditions that include psychosis.

⁷² Sometimes psychosis is misdiagnosed. This occurs most often when the clinician is unaware of, or unknowledgeable about cross-cultural factors that may lead to the expression of psychotic-like symptoms. For example, many cultural traditional activities such as the Sun Dance require trance-like behavior and separation from the vestiges of the secular world. The reader is directed to the reference section for more examples of invalid diagnoses of psychosis among American Indian people (Shen, 1986; Peltz et al., 1981; Matchett, 1972).

Antipsychotic medications can be extremely useful in helping the child return to a more rational state. While use of the older antipsychotic medications (Haloperidol - Haldol, Thiothixene – Navane, and Chlorpromazine, Thorazine; to name a few) commonly resulted in difficult side effects (e.g., severe sleepiness, body stiffness or rigidity, the 'shakes'), the newer forms of this class of medications are safer and more easily tolerated. The newer medications, called *Atypical Antipsychotics*, include Olanzapine (Zyprexa) and Risperidone (Risperdal), are often used for many other conditions because of their very favorable safety profile. While some people feel sedated on these medications, another unfortunate side effect is that many people tend to gain weight with their use. As always, it is very important to discuss any side effects the child may experience with the prescribing clinician, so that these can be minimized.

Bipolar Disorder

Sometimes prepubertal kids and teens have periods of depression that include a lot of anger, irritability, and agitation. At times these periods are cyclical and may even include times when the child is highly energized – perhaps even appearing on drugs when s/he is not. If present, this may represent a condition call Bipolar Disorder, though more commonly known as Manic-Depression. While many of the medications mentioned above can be useful in this condition, there are medications known as *Mood Stabilizers* that are commonly used. These include Lithium (Eskalith, Lithobid) which include potential side effects such as nausea, sedation, weight gain, tremor, acne, increased urination, and thirst; Carbamazepine (Tegretol) which include side effects including sedation, nausea, and very rarely a more serious blood disorder; and Valproic Acid (Depakote) which also include stomach upset, sedation, and weight gain as side effects. These medications require careful monitoring by the prescribing doctor, who will most likely be ordering episodic blood draws to determine how much medication is in the child's bloodstream.

Disruptive Behavioral Disorders/Conduct Disorder

Some children exhibit various forms of disruptive behaviors such as aggression, destruction of property, and stealing. There are generally many reasons for these behaviors including mental health conditions such as depression, reaction to abuse and other trauma, alcohol and other drug use, or various events occurring in the child's life. Many of the above-cited medications can be used appropriately **providing the underlying factors that may have contributed to this condition are being satisfactorily addressed**. It is, however, naïve for a clinician to think that by merely giving a medication, the child's problems can be controlled or a long-term solution effected.

Enuresis

This medical term refers to when a child urinates in inappropriate places. Typically by age five or six, most children no longer urinate in their bed at night or in their pants during the day. The most common cause of enuresis is biological – due either to the child's underdeveloped neurological system, or having a smaller than average bladder. Enuresis can also occur in children who have emotional

problems or have experienced trauma. Most children will develop and grow out of this condition, regardless of whether treatment occurs. While some medications have been shown to be useful for Enuresis, these should be used *only* after non-medication treatments have failed. The two most commonly used medications include the antidepressant Imipramine, Tofranil (side effects are usually minimal at the doses used for enuresis but can include sedation), and a nose spray, Desmopressin Acetate (DDAVP), usually very well tolerated by kids and teens.

SUMMARY

Formidable obstacles await the clinician that intends to work with American Indians and the communities in which they live. Not the least of these obstacles is the complexity of institutional systems that the clinician must navigate in making treatment opportunities available to Indian clients. There is often a labyrinth of jurisdictional issues across state, tribal, and federal lines to be addressed. In addition, service provider resources are increasingly in short supply.

Compartmentalizing in attending to the needs of clientele is often impossible. It is difficult to treat the client on a one to one traditional therapeutic office basis. Social, historical, cultural, psychological, spiritual, and economic factors transect across a continuum of time: past, present, and future – are inseparable. Confidentiality and privacy are difficult to attain in Indian societies because of their interrelated nature, particularly challenging for reservation-based communities. Added to the mix are clients' often unfavorable past experiences with caseworkers. Before you, as a caseworker, have arrived on the scene, adversarial footsteps have preceded you.

How does the clinician maintain perspective, objectivity, insight, and balance when confronted with these challenges? A key element is to look within and attain a sound, internal sense of self. If you are an experienced clinician ask yourself, "Why was it that I first embarked upon this path as a healer?" For the beginning clinician, ask yourself, "Why was it that I decided to embark upon this path of a healer?" Inherent within this query are two basic realizations:

- That clinical practice is akin to the act of healing. Regrettably, the distractions and complexities cited above can obscure this reality, sometimes creating sufficient *noise* for the clinician to lose his or her way.
- That you have made a choice in electing to assume this clinical role. Before beginning this journey, it is wise to examine the impetus, the motivation behind your choice of vocation. For the experienced clinician, re-examination at periodic intervals of one's intent in choosing this professional path can be instructive and prevent burnout.

Above all, it behooves the caseworker not to lose sight of your role as one who serves, and the incredible richness and meaning that often accompanies your interaction with, and contributions to Indian people. Once trust is earned, very good things can happen.

VI. ANSWERS TO QUESTIONS

1. American Indian tribal groups are:
 - A. Generally as different from each other as African-Americans are from Caucasians
 - B. Very similar to each other but with a few differences
 - C. The same with only geographic and language variability

2. When working with American Indians, the clinician should avert eye contact.

True _____ False _____

3. American Indians have significantly higher rates of alcoholism than Caucasians.

True _____ False _____

4. Name three examples of tribal strengths that can be used therapeutically with American Indian children and their families?
 - A. _____
 - B. _____
 - C. _____

5. Circle either True or False for the question:

Those individuals who practice Indian traditions and reject the modern Anglo life lead healthier lives than individuals who have given up their traditions and embraced a modern lifestyle.

True False

6. What is most important is for the individual to have (circle one):
 - A. Embraced a modern *or* traditional lifestyle

B. Embraced *both* a traditional and modern lifestyle

7. *To whom is the child attached? To whom is the child connected?*
Please take a moment and describe the difference between *attachment* and *connection*.

8. Circle one of the following answers:

Alcoholism is a major problem for:

- A. Every American Indian tribal group
- B. Most American Indians
- C. Many American Indians

9. Briefly describe the first four actions that you would take – in order of priority – when confronted with a problem child residing in a home where alcoholism by the parents or caretakers is unmistakably present.

Step #1: _____

Step #2: _____

Step #3: _____

Step #4: _____

10. Are American Indian children more likely to be abused or neglected than non-Indian children?

Yes _____ No _____

11. What is the most common physical ailment that leads to significant mental health and developmental difficulties for American Indian children?

Circle one of the answers provided below.

- A. Otitis Media
- B. Fetal Alcohol Effect
- C. Fetal Alcohol Syndrome
- D. Brain damage due to inhalant use
- E. Head trauma due to physical abuse
- F. Poor nutrition related to cerebral growth

12. Please answer True or False to the following questions:
- A. Attention Deficit Disorder should be treated with medications. True False
 - B. Depressed children should be treated with medications. True False
 - C. Anxious children should be treated with medications. True False

13. What should one do if the physician's assessment is insufficient in its examination of non-medical aspects that may be contributing to the child's symptoms or diagnosis?

14. Answer yes or no:

Aren't psychiatric medications just "drugs", that is, no different than street drugs?

Yes _____ No _____

15. If my teenager takes psychiatric medications, will it make it more likely that s/he will become an alcoholic or drug addict?

Yes _____ No _____

16. Will putting my child on medications turning him/her into a zombie?

Yes _____ No _____

17. Won't being on psychiatric medications make it hard for my child to learn?

Yes _____ No _____

18. Answer the following question:

Standardized assessment instruments -- such as depression scales for children and adults, the Minnesota Multiphasic Personality Inventory (MMPI), Thematic Apperception Test (TAT), Michigan Alcohol Screening Test (MAST), and the Weschler Intelligence Scale (WISC) -- are not valid for use with American Indian populations.

True False True and False Neither True or False

19. Answer yes or no:

DSM-IV psychiatric diagnoses are not valid when applied to indigenous people such as Native Americans?

Yes _____

No _____

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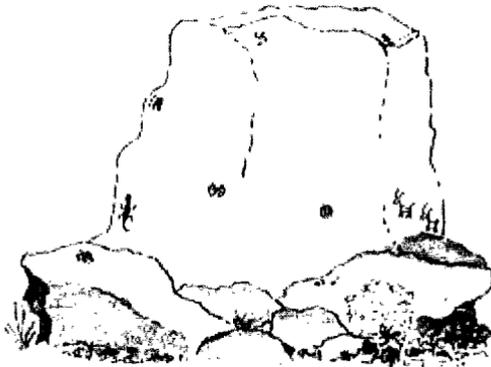
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COURT RELATED CHILD WELFARE PRACTICE



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LEARNING OBJECTIVES – COURT RELATED C.W. PRACTICE

To provide participants with:

Knowledge of the ways in which traditional Indian communities have historically healed conflict between members

Understanding of important federal policies that have influenced the development of tribal courts.

Understanding of the evolution of tribal courts to their present form.

An awareness of tribal issues and concerns regarding court related child welfare practice with American Indian families and children.

An awareness of the guiding principles and processes for court related child welfare practice

Upon completion of this module, participants will be able to:

Articulate the ways in which traditional Indian community has historically provided for healing conflict between their members

Identify important federal laws, court decisions and policies that have influenced the evolution of tribal courts.

Articulate tribal issues and concerns regarding court related child welfare practice with American Indian families and children.

Identify and discuss the guiding principles and processes for court related child welfare practice

Court Related Child Welfare Practice

INTRODUCTION

The continued existence of the American Indian (Hereinafter Tribes or Indians) is largely dependent upon the ability of the family, inclusive of the extended family to care for the children. Every family has its own unique cultural identity and this identity can only be communicated through the family. The family must be the one to provide positive teaching to the child and define the roles and responsibilities of the child. When a child is removed from the family by child welfare services for care or protection the ultimate and primary objective must be reunification of the family. Removal of a child necessarily involves the court system. When a case is brought to the court it is usually because the family has not been able to remedy the situation necessitating removal of the child. The court then becomes an integral part of the reunification process for the family. Ultimately, it is the court that must hold all the individuals accountable while at the same time protecting the rights of all the parties before the court.

This material is designed for caseworkers who work with Indian families in cases of child abuse and neglect and specifically with cases submitted to the court. The information presented includes more of process rather than of substantive law. A knowledge base of substantive law is definitely important, but beyond the scope of this paper. A case can be handled by any number of courts and the rules and procedures will differ from one court to the next. The rules differ from state to state and although within a state the courts will function under the same rules the court procedures vary in the different counties throughout the state. Tribal courts are also as unique and individualistic as are the Tribes throughout the country and each will have its own rules and procedures.

Historical information is presented because history is essential to understand the existence of American Indians and the unique relationship that exists between the Tribes and the United States. Cultural disorientation, a person's sense of powerlessness, loss of self esteem arise in large measure from our national attitudes as reflected in long-established federal policy and from arbitrary acts of government.¹ Early federal Indian policies have vacillated between efforts to "civilize" and assimilate the Indian to efforts to save and protect the Indian. The status of the Tribes and the individual conceptions of the Indians themselves is not a recent development; it has a long deep seeded history that must be understood in order to effectively work with Indian families.

HISTORY OF TRIBES (INDIANS)

When the explorers arrived in the world now known as the United States they encountered tribes of indigenous people. From the earliest days of this encounter the question has been; what is the authority of the Tribes and if they have any authority how do we deal with it. In the beginning the British Crown dealt with the Tribes formally as foreign sovereign nations. But as the colonies grew and began encroaching upon Indian lands the Crown assumed a position of protector of the Tribes. During the colonist's revolt from Britain nearly all of the

Tribes allied themselves with the British.ⁱⁱ After the colonist won their independence from England they immediately claimed ownership of all Indian lands west of the Appalachians by right of conquest. The new nation however found itself with the same problem of non-Indian aggression and threatened Indian retaliation. Continued encroachment by non-Indians would certainly result in new Indian wars that the new nation was not in a position to fight. Indian affairs were therefore placed in the hands of the central government. While the government was determining its Indian policy, it continued to deal with the tribes by treaty. Treaties were agreements between sovereign nations that granted special peace, alliance, trade, and land rights to the newcomers. Indian tribes used treaties to confirm and retain rights such as the sovereign right of self-government, fishing and hunting rights and jurisdictional rights over their lands. Treaties did not, as is commonly assumed, grant special rights to Indians. The Indians ceded certain rights to the United States government and the rights they never gave away are reserved.

When the United States constitution was written, it specifically recognized the sovereignty of Indian tribes. Article 1, section 8, clause 3, of the constitution declares that "The Congress shall have the power to regulate Commerce with foreign nations and among the several states, *and with the Indian tribes*" [Italics added].ⁱⁱⁱ The constitution specified that there were three governmental entities within the United States with forms of sovereignty – Indian tribes, state governments, and the federal government. In essence Indian tribes have inherent sovereignty which is not derived from any other government, but rather from the people themselves. Tribal sovereignty existed before the U.S. constitution and not as a result of the constitution.

The Supreme Court of the United States reaffirmed this legal and political standing of Indian nations in a set of three court decisions known as the Marshall Trilogy. These cases *Johnson v. McIntosh*^{iv} (1823); *Cherokee Nation v. Georgia*^v (1831); and *Worcester v. Georgia*^{vi} (1832) are the cornerstones of Indian sovereignty in the U.S. political system. In *Johnson v. McIntosh* the Supreme Court concluded that tribal sovereignty, although impaired by European colonization, cannot be dismissed. Supreme Court Chief Justice John Marshall stated, "In the establishment of these relations [between Europeans and Indians], the rights of the original inhabitants, were in no instance, entirely disregarded. They were admitted to be the rightful occupants of the soil, with the legal as well as just claim to retain possession of it and to use it according to their own discretion". *Cherokee Nation v. Georgia* ruled that Indian tribes were "a distinct political society, separated from others, capable of managing [their] own affairs and governing [themselves]". In *Worcester v. Georgia* Chief Justice Marshall concluded that the Cherokee Nation is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force.^{vii}

However even though the above rulings reinforced the sovereignty of Tribes, forced removal of the Indians was still accomplished. The journeys were often imposed with extreme hardship and suffering. All but a few Tribes east of

the Mississippi were removed from their traditional lands and forced on to reservations. It was believed that if Indians were confined to one particular geographical setting they could become “civilized” and assimilate into the non-Indian society.^{viii} Most however fought to maintain their culture and traditions and today continue to exist as distinct political societies.

In 1889, the Commissioner of Indian Affairs, Thomas Morgan made recommendations for what was to become the boarding school era for Indians. During the boarding school era, Indian children were forcibly removed from their homes to be placed in government boarding schools or in Christian mission schools. The idea behind this removal and assimilation policy was to integrate the Indians by severing them from their culture. In boarding schools children were frequently beaten severely with whips, rods, and fists, chained and shackled, bound hand and foot and locked in closets, basements, and bathrooms.^{ix} The result was learned physical and sexual abuse which was previously unknown among the Indians who traditionally had treated children with great respect.^x During this time many Indian children grew up without models for healthy families or health relationships. Generations of Indian also grew up with little knowledge of being Indian.

HISTORY OF TRIBAL COURTS

In 1880 a Lakota Indian named Crow Dog killed another Lakota named Spotted Tail. Using traditional methods of resolving disputes the Lakota required Crow Dog to provide restitution to Spotted Tail’s family. The federal territorial courts did not agree with the restitution and prosecuted Crow Dog for murder. On appeal, the United States Supreme Court held that the federal court did not have jurisdiction to prosecute Crow Dog because that right had been reserved by the Tribe in a treaty between the Lakota and the United States.^{xi} The federal government not being one to easily accept defeat responded by enacting the Major Crimes Act.^{xii}

The Major Crimes Act enacted in 1885, established the authority of federal courts to prosecute Indians who commit certain major crimes in Indian country. Seven crimes were originally covered but through a series of amendments the legislation now includes fourteen major crimes.^{xiii} Less serious crimes and dispute resolution among the Indians were handled by Courts of Indian Offenses. Courts of Indian Offenses are operated by the Bureau of Indian Affairs using the Code of Federal Regulations (CFR) and become known as CFR courts. Neither the CFR court nor the codes they administered were conducive for Indians as they were set up as federal educational and disciplinary instrumentalities in furtherance of “civilizing the Indians”.^{xiv} Accordingly, certain religious dances and customary practices, as well as plural marriages, were outlawed.^{xv}

It wasn’t until 1934 that the Tribes were allowed to set up their own justice systems and to enforce tribal laws enacted by Tribes. This came about as a result of the enactment of the Indian Reorganization Act of 1934 (IRA).^{xvi} The IRA sought to protect the land base of the Tribes, and permitted Tribes to set up

legal structures to aid in self government. The IRA was a major deviation from previous federal policies of assimilation.^{xvii} Under IRA, Tribes were allowed to decide whether to accept the application of the IRA. Some Tribes rejected IRA fearing additional federal control. Other Tribes also chose not to enact their own laws and continue to operate under the CFR courts.^{xviii} Most of these Tribes are located in the state of Oklahoma.

Tribal courts are operated by Tribes under a system of laws that the Tribe has enacted which often differ from the laws and procedures in federal and state courts. Tribal courts vary greatly in their development and size. The largest tribal court system is probably the Navajo Nation. It is a fulltime operating court serving a population of approximately 200,000 and an area a little bigger than the state of West Virginia. In contrast, there are some tribal courts that operate on a part-time basis with a docket of less than 100 cases a year. Although tribal courts operate according to tribal law a majority of these courts are modeled after the state and federal court systems.^{xix}

Generally, Tribal Courts have broad authority to hear civil matters, including divorces, child custody disputes, probate matters as well as complaints for protective orders for protection from harassment and protection from abuse. In certain cases where both parties are members of the Tribe and both parties live on the reservation, it is the tribal court that hears the dispute. Tribal courts also hear criminal matters that are not reserved to federal jurisdiction under the Major Crimes Act. Before a tribal court assumes jurisdiction of a criminal case there are a number of variables that must be examined.

Tribal court orders are honored by other courts under the doctrine of comity or full faith and credit.^{xx} Comity "is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other."^{xxi} At times there are questions about whether a court order from another jurisdiction should be honored. This is due to courts being unfamiliar with each others procedures and therefore cautious about honoring another court's order. As a general policy, "[c]omity should be withheld only when its acceptance would be contrary or prejudicial to the interest of the nation called upon to give it effect."^{xxii} Most tribal courts extend the same comity to state courts. This becomes important because tribal members do not always reside within the reservation boundaries but may choose to have the tribal court hear their case.

Tribal court judges are generally appointed by the Tribe's governing body to serve a certain term. Other Tribes require elections for the position of judge. Still others are appointed but the judge must retain his position through election. Many tribal judges are trained attorneys but not always. Some tribal judges are not attorneys but are respected members of the Tribe. These individuals are probably most knowledgeable of the customs and traditions of the tribe and may be best able to apply that knowledge and experience in their court rooms. The qualifications for tribal court judge will be determined by the Tribe. Some Tribes require judges to be members of the tribe or to speak the language of the Tribe. Most tribal courts allow both attorneys and non attorneys to practice in tribal

court. Each tribal court will have its own method of admitting persons to practice in their courts.

TRADITIONAL METHODS OF CONFLICT RESOLUTION

Before the establishment of tribal courts, Tribes had their own forms of dispute resolution. Traditionally, in many Tribes if a person needed to be corrected, he was talked to and often ceremonies were performed to restore a sense of balance. In some Tribes these traditional concepts are still utilized in communities to the extent they are beneficial for the individual as well as the community. Today, some of these traditional forms of dispute resolution are emerging in tribal courts. Non-tribal courts are taking an interest in the Tribes' alternative forms of dispute resolution.

Peacemaking is a traditional concept which was formally adopted by the Navajo Nation as an alternative to the adversarial system found in most court rooms. Peacemaking uses traditional and cultural concepts and principles emphasizing respect and consensus among the parties. A peacemaker is selected by the court who acts as a mediator to settle disputes. Participation in the peacemaker court is voluntary and attorneys are not allowed to practice in peacemaker courts.^{xxiii}

A sentencing circle is another traditional community-directed process, conducted in partnership with the criminal justice system to develop consensus on an appropriate sentencing plan that addresses the concerns of all interested parties. Within the circle, people can speak from the heart in a shared search for understanding of the event, and together identify the steps necessary to assist in healing all affected parties and prevent future crimes. Because communities vary in health and in their capacity to deal constructively with conflict, representatives of the formal justice system must participate in circles to ensure fair treatment of both victims and offenders.^{xxiv}

INITIATING CHILD WELFARE PROCEEDINGS

As tribal courts have evolved the court has taken a more active role in cases of child abuse and neglect. When child abuse or neglect cases are brought to the court, critical decisions are made by the court. Courts, tribal and state, no longer "rubber stamp" decisions made by child welfare agencies and instead evaluate and scrutinize these decisions while focusing on appropriate plans for the child and the family. The primary responsibility of the court is to insure that the child is protected from further harm and that child welfare agencies are providing the necessary services to reunify or maintain the family.

Every proceeding will usually begin with a referral to a child welfare agency alleging abuse or neglect of a child. Investigation of the referral is then initiated by an investigator usually a caseworker from the child welfare agency. Deciding whether to take a case to court is initially made by the caseworker conducting the investigation. The decision to seek court intervention should not be easily made. The relationship between a parent and child is paramount and should not be easily interrupted. The caseworker must keep in mind that court

intervention will have beneficial as well as negative aspects. Court proceedings even in civil cases in juvenile court will be adversarial in nature and can result in further disruption of family relationships. However when a child needs to be protected from abuse or neglect then the benefits of court intervention and the disruption of the family must be carefully balanced. Two questions that need to be asked in deciding whether to initiate court proceedings are:

- 1) Is the child in clear danger of significant harm?
- 2) Can the child's safety be maintained by providing help to the family without court intervention?

If the child's safety can be maintained in the home with the family without initiating court proceedings then this is the preferred option. It is a well accepted principle that a child continues to be attached to his or her caregiver even if the child's caregiver has been abusive.^{xxv} Some tribal codes also require that services to prevent further abuse or neglect of the child be offered to the family before court intervention is sought. If the family refuses or does not comply with services then court intervention may be initiated. Under the Indian Child Welfare Act (ICWA) the party initiating the petition must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the break up of the Indian family and that those efforts have proven unsuccessful.^{xxvi} Under the Adoption and Safe Families Act of 1997 (ASFA)^{xxvii} reasonable efforts to prevent removal of a child from the home are required except under certain aggravating circumstances. A court must make a finding that such circumstances exist before the agency is excused from making reasonable efforts.

Generally, Tribes have taken the position that AFSA does not affect the application of the ICWA. AFSA was enacted after the ICWA but makes no specific reference to the ICWA. Additionally, it is a standard rule of statutory construction that specific legislative enactments take precedence over general statutory enactments. The ICWA is specific legislation enacted for a specific group of children while AFSA was enacted for all children.

If the child's safety can not be maintained or if the family does not want or fails to participate in recommended services then court intervention is required. The court becomes actively involved in the ongoing child welfare process and begins to make ongoing decisions regarding the care, custody and control of the child. In effect, the court is shaping and governing the lives and future of the family. As a result courts are requesting more specific information regarding cases so that it can effectively fulfill its responsibility. The court depends primarily on the caseworker to provide the necessary information but may also seek input from a wide range of other non legal professions. The decisions of the court are only as good as the information that is presented to them. If the information is not presented the court is not able to make an informed decision. The caseworker and the court must effectively work with one another in order attain the best possible result for the child and family

CASEWORKER PREPARATION

Court proceedings are commenced with the filing of a petition usually called a dependency petition. The petition contains the essential allegations of abuse or neglect of the child and how the parents participated in the abuse or neglect. A petition must state for the court how the facts in this case meet the law and therefore should be considered by the court. The petition will not include all the known facts in the case. If necessary, these additional facts will be presented at the adjudicatory hearing or trial of the case. Other essential information included in the petition is the facts setting forth the personal and subject matter jurisdiction of the court. A court can not assert jurisdiction in a case if it does not have authority over the person or the subject matter of the case.

The petition is usually drafted by the agency's attorney based on information provided by the caseworker.^{xxviii} Factual information in the investigative report will help the attorney draft the dependency petition. An attorney can only work from the facts provided in the caseworker's documentation of the investigation. A report may be reviewed by the attorney assigned to draft the petition and returned to the caseworker for revisions. The attorney is not second guessing the caseworker's decision but needs additional information or facts in order to apply the facts to the law. The information is usually known to the caseworker but has not been documented in the report.

The caseworker's investigative report should not be a repeat of what is stated in the referral. Investigative reports state the factual findings of the caseworker following investigation of the referral. Statements such as: "a referral was received that dad sexually abused child and the police are investigating" by itself is not enough to form the basis of a dependency petition. A better statement would be: "I took the child for a medical examination and the following was revealed... It is the doctor's opinion that the child was sexually abused" followed by a description of the doctor's findings. How much information to include in the investigative report should be determined by the agency in consultation with the agency attorney.

When describing the reasons the child is taken into custody, don't make conclusive statements. For example, don't state the "the mother was intoxicated". Instead describe what you saw, heard, and smelled: A clear statement would be "I found the mother with blood shot eyes, unable to stand without swaying from side to side. She slurred her speech when she talked and when she spoke to me I smelled alcohol on her breath". If you are describing the condition of a home, don't write things like "the house was a mess" or "the home was not safe for children". Instead, describe the house. For example: "The house was extremely cold. In the kitchen I found garbage all over the floor. Pots and pans with dried food were in the sink and on the stove. Cockroaches were crawling on the pots, pans and garbage. Knives were lying on the table within reach of the children". Describe the scene so that the person reading the report can actually see or imagine what you are describing. Use appropriate language. Slang, jargon, and words with unfamiliar meanings should be avoided.

Caseworkers must also remember that child welfare services and the investigation of referrals should not be used to facilitate the work of the police. Both the police and caseworker investigations are very important but do not necessarily complement one another. Often, the police and the caseworker will have the same objective of protecting the child. However, the caseworker must remember that they are not agents of the police. The purpose of the police investigation is usually punitive which is very different from the overall purpose of child welfare services. Child welfare services are designed to protect the child and where appropriate assist the family toward family reunification. Child welfare services should not be used as a mechanism to punish the family. Therefore statements in the report that “the police said the child needs to be removed from the home” in and by itself is not enough to form the basis of a petition. If the child does need to be removed from the home for his or her protection the caseworker must reach that conclusion independent and apart from the conclusion of the police. A child should not be taken into custody to isolate the child from the parents so that the child will be an effective witness at the criminal trial of the parents. Child welfare services should advocate for the family and work with the police and prosecutor to develop a criminal case so the child will not have to testify against the parents. Whenever possible avoid using the child as a witness against the parents. If child welfare services are successful, the child will be reunified with the parents. When a child testifies against his parents the family will have to overcome additional obstacles to obtain successful reunification.

NOTICE OF PROCEEDINGS

The parents have the right to be notified of all hearings involving their children unless the court determines otherwise. In some Tribes this right extends not only to parents but also to relatives or other individuals who may be caring for the child. Locating a parent can sometimes be difficult especially in Indian country as many Tribes do not have accessible public data. Most courts will require that sufficient efforts be made to locate a parent. The best information on where to find the parents usually comes from the family or the communities of the individual. Tribal enrollment offices are sometimes helpful in identifying the extended family of parents. Enrollment offices will require proper authorization before they will provide this information.

In state court dependency proceedings legal notice to the parents or Indian custodian is defined by the ICWA. Under ICWA, notice to the parent or Indian custodian of the pending proceedings must be provided by registered mail with return receipt requested. If the identity or location of the parent or Indian custodian cannot be determined, notice shall be given to the Secretary of the Interior in like manner.^{xxix} When it is believed the parent is in Indian country the state caseworker must work with tribal caseworkers to locate a parent. Most Tribes require non tribal programs and individuals to obtain permission from the Tribe before being allowed to enter and perform work within the geographical boundaries of the Tribe. Intergovernmental agreements between Tribes and the state are helpful in such situations because they define the process for gaining

such approvals. The Tribe may also agree to do courtesy work for the state if the work is within the Tribe's jurisdiction. Each situation will have to be evaluated by the Tribe in collaboration with the state.

PRETRIAL

It is important for the caseworker to be familiar with the legal proceedings as the caseworker may need to explain the court process to the family. The caseworker however cannot provide legal advice to the family. If the family has questions about their rights the family should be referred to legal assistance or other resources. Some Tribes have legal services offices to provide assistance to tribal members. If there are no such resources within the Tribal community, the caseworker should inform the family to present their questions to the court at the time of the hearing. Under the ICWA, an indigent parent or Indian custodian has a right to court appointed counsel in any removal, placement, or termination proceeding in state court.^{xxx} The caseworker should direct the parent to the court for information regarding court appointed attorneys.

The first court appearance will usually take place soon after a petition is filed. The first hearing is called many names but is usually called a preliminary hearing or a temporary custody hearing. In a state court proceeding regarding Indian children, no hearing may be held sooner than 10 days after receipt of written notice by the parent or Indian custodian and the Tribe or the Secretary of the Interior.^{xxxii} Upon request the Indian parent, custodian, or tribe shall be granted up to 20 additional days to prepare for the hearing. This ICWA requirement conflicts with the Arizona state law as well as ASFA. Under Arizona law a hearing must be held within 5 to 7 days of removal.^{xxxiii} How this conflict is resolved will have to be evaluated on a case by case basis by the Tribes with the state.

In Pima County in Arizona the juvenile court has on going meetings with parties regularly appearing before the court including the Tohono O'odham Nation (Nation). The Nation's interest in participating in these meetings is to develop procedures providing for the best interest of O'odham children while protecting the rights afforded the Nation under the ICWA and complying with applicable laws. The Pima County juvenile court and the state caseworkers make an effort to identify early in the process whether the child is an O'odham child and provides that information to the Nation before legal notice is even sent to the Nation. The Nation, upon receiving the information determines if the child is enrolled or eligible for enrollment. The Nation may choose to participate in the initial hearing or decline to participate. Often the Nation does not participate in the initial hearing because it has not determined if the child is an enrolled member of the Nation or eligible to be enrolled. It is important that the Tribes be provided with as much identifying information as possible including the names and dates of birth of the parents and names and dates of birth of grandparents. With such information the Tribe will be able to conduct a thorough research to determine whether the child is enrolled or eligible to be enrolled with the Tribe. If the Nation is able to verify enrollment or eligibility the Nation will usually appear

at the initial hearing and depending on the facts of the case may waive legal notice.

The initial hearing in state court is usually to determine the child's need for placement or if the child is already placed out of home to remain out of the home pending adjudication of the case. The court will also determine if proper notice and service has been provided to all parties. If service has not been made the petitioner will usually take this opportunity to serve parties with the petition.

Pursuant to ASFA the court must determine at this hearing whether the responsible agency, usually the petitioner, made reasonable efforts to preserve the family.^{xxxiii} Pursuant to ICWA, the state court must find that active efforts to provide remedial and rehabilitative programs designed to prevent the breakup of the Indian family were provided and these services were unsuccessful. This finding must be made by clear and convincing evidence which is a higher standard than what is required in state court.^{xxxiv} In tribal court the court will usually make the same determinations based on different standards. The objective of the initial hearing will be defined in the rules and procedures of the tribal court.

The court (tribal and state) will try to resolve as many issues as it can at this first hearing. This will also be the first opportunity for the parents to admit or deny the allegations made in the petition. To admit the allegations means the parents or one of the parents agrees with the allegations of abuse or neglect made in the petition. To deny the allegations means one or both of the parents disagree with the allegations of abuse or neglect made in the petition. If the parents admit the allegations in the petition, which usually never happens at this first hearing, the case can proceed directly to the disposition hearing. If the parents deny the allegations the court may set further pretrial hearings or set for an adjudication hearing. Some courts also allow parents to plead no contest to the allegations made in the petition. This means the parents neither admit nor deny the allegations. This plea is often used when parents are also facing criminal charges resulting from the alleged abuse or neglect.

ADJUDICATORY HEARING

If the parents deny the allegations or no agreements are reached regarding the allegations made in the petition an adjudicatory hearing or trial will be scheduled. At this hearing the court must decide whether the child has been abused or neglected based on evidence presented at the hearing. The party initiating the proceedings, (the petitioner); usually CPS, must present enough evidence to convince the court that the abuse or neglect alleged in the petition did in fact occur. This is called the burden of proof and the petitioner bears the burden. Generally, there are three (3) standards of proof or burdens of proof:

Beyond a reasonable doubt: requires that the evidence point to only one conclusion. It leaves no reasonable doubt about that conclusion. The facts must be proven fully, entirely convinced, satisfied to a moral certainty. This standard is the highest burden and is primarily used in criminal proceedings.

Clear and Convincing Evidence: requires reasonable certainty of the truth of the ultimate fact in controversy. Clear and convincing proof will be shown where the truth of the facts asserted is highly probable.

Preponderance of the Evidence: requires evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it. Evidence which as a whole shows that the fact sought to be proved is more probable than not.

As a general rule the standard of proof in civil cases is clear and convincing or preponderance of the evidence. In Arizona the standard of proof in child dependency cases is preponderance of the evidence except in the case of an Indian child, and then the allegations in the petition must be proved by clear and convincing evidence in accordance with the ICWA. The higher burden under the ICWA is an effort to prevent unwarranted removal of Indian children from their families by non-Indian public and private agencies. In addition the petitioner must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the break up of the Indian family and that those effort have proven unsuccessful. The petitioner must also include testimony by a qualified expert witness that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. Continued removal of the child must also continue to meet these ICWA standards.

The ICWA does not define qualified expert witness. However Congress made clear that the phrase “qualified expert witness” is meant to apply to expertise beyond the normal social worker qualifications^{xxxv} The Bureau of Indian Affairs (BIA) also provides the following guidelines for a qualified expert witness:

- i) a member of the Indian child’s tribe who is recognized by the tribal community as knowledgeable in tribal customs and as they pertain to family organization and child rearing practices;
- ii) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child’s tribe; or
- iii) a professional person having substantial education and experience in the area of his or her specialty.^{xxxvi}

Before testimony the party offering the expert’s testimony must prove to the satisfaction of the court that the subject matter requires expert testimony and that this particular witness is sufficiently qualified to provide expert testimony. The expert witness can then offer his or her opinion about the safety of the child if returned to the parents and whether active efforts have been made to reunify the child.

In tribal court the standard of proof for adjudication of child abuse and neglect cases will be defined in the court rules of procedure. Tribal court rules are not always codified but the court will have established practices and procedures. Generally, tribal courts also require a preponderance of the evidence or clear and convincing evidence for adjudication.

RULES OF EVIDENCE

Evidence is information that is formally presented at a hearing for the purpose of establishing or proving the facts of the case. The rules of evidence are in place to control the information introduced into the court hearing. The information presented to the court at the hearing is the bases upon which the court makes decisions. Some types of evidence are not allowed into court hearings because they are less reliable or are prejudicial. Some types of evidence fall into this category but are allowed if they meet special evidentiary rules. The court decides what evidence will be considered and what evidence will not be allowed. No consistent rules are followed by all the states or tribal courts.

Evidence is generally defined into the following categories:

Direct evidence is evidence which is based on personal knowledge or observation; generally testimony by an eyewitness to an event. The statement of a neighbor that he saw the father beat the child with a belt is direct evidence. Direct evidence is the best evidence because it is most reliable as the witness is testifying regarding first hand knowledge.

Real or demonstrative evidence usually takes the form of documents such as photographs or x-rays. It is a thing rather than testimony. With real or demonstrative evidence a foundation must first be established regarding the relevance and authenticity of the object. This is generally done through testimony by the person who has control over the object. For example, if the police took pictures of a child's injuries, the police officer who took the pictures must be called to authenticate the photos and the court will determine if the pictures are relevant and therefore admissible.

Circumstantial evidence is often used when no direct or real evidence is available. It is indirect evidence from which inferences can be drawn. This could include testimony from a teacher who sees a child coming to school dirty and hungry. From this evidence the court can infer that the child is not properly cared for at home. Additional facts will be necessary before the court can conclusively determine that the child is being neglected at home. This type of evidence is the least persuasive type of evidence but is useful in child abuse cases where the abuse usually never occurs out in public.

Hearsay evidence is testimony by a witness about not what he knows but what others have told him or what he has heard others say. They are statements made out of court, offered to prove that the statement made was true. Hearsay evidence is generally not admitted because it is highly unreliable as the witness is repeating a statement made by someone else.

There are a number of exceptions to the hearsay rule and in child welfare cases are more likely to be admitted into evidence. The following are among the hearsay exceptions most commonly admitted in civil cases of child abuse and neglect:

Admission by party opponent: When a person, accused of some type of wrongful conduct makes an out of court admission to doing the wrongful act it may be testified to by another under an exception to the hearsay rule. The person making the admission however must be a party to the action, such as the parent. For example, a parent accused of beating his or her child might state to the caseworker “Yes I did hit her but I just got frustrated. I won’t do it again”. The parent may deny later that he/she made the statement but the caseworker will be permitted to relay to the court the statement of the parent. The reason for this exception is that an admission is considered reliable hearsay since an alleged wrongdoer would not make such a damaging statement if it were not true.

Excited Utterances: An out of court statement made spontaneously under extreme emotional excitement is also admissible as an exception to the hearsay rule. Excited utterance is viewed as trustworthy because the speaker’s excitement is thought to prevent him or her from reflecting long enough to fabricate a story. For example, in a child abuse case, courts will usually look at the length of time between the startling event and a child’s statement when deciding whether it is an excited utterance. However, the time lapse alone is not determinative; it is just one factor among many that the court can consider.

Even if the evidence falls into the categories described above the evidence will not be admitted if it is not relevant and material. Relevancy is the tendency of the evidence in question to establish a material proposition. Materiality is the relationship between the proposition for which the evidence is offered and the issues in the case. If the evidence is offered to prove a proposition not a matter in issue in the case, the evidence is immaterial and will generally not be admitted. In a civil proceeding alleging the parents abused or neglected their child, evidence that 10 years ago the mom was convicted of shoplifting is generally not going to be admitted unless it is established to the satisfaction of the court that the shoplifting conviction has a direct connection to the current civil proceeding.

The most convincing and best evidence is direct evidence and should always be included in reports or reported to the attorney presenting the case. Less reliable evidence such as hearsay should be avoided when ever possible. The caseworker should always present the known facts to the attorney and it is the attorney's responsibility to distinguish the facts into the classes of evidence.

TESTIFYING IN COURT

It can not be overstated that the caseworker must to be prepared for court. A scheduled court hearing should never be continued for the reason that the caseworker is not prepared. Court hearings are scheduled for the benefit of the child and family as well as to provide information to the Court. When hearings are not held when they are scheduled the additional time may create increased anxiety for the child because of the uncertainty of what is happening. In addition, the longer a child languishes in the system the more difficult it will be to place the child in a permanent situation.

The caseworker is usually the primary witness at the adjudicatory hearing. The impression given to the court throughout the proceedings is crucial. The caseworker should dress professionally and conservatively and conduct him/her self in a *businesslike and efficient manner*. Always show respect for the court. Do not congregate with others to joke and laugh; appreciate the importance of the court proceedings and take them seriously. If the agency has an attorney; make arrangements to meet with the attorney who will be presenting the case. Do not wait until the last minute to try to contact the attorney. More than likely the attorney will also want to meet with the caseworker to clarify facts in the petition and prepare testimony.

There are several stages of questioning and the caseworker must be aware of the stages in order to effectively prepare to testify. At all stages of questioning the caseworker must always be truthful in their testimony. If at anytime the caseworker does not understand a question the caseworker can inform the court he or she does not understand the question. The court will usually direct the person asking the question to rephrase the question. Do not guess at what the question means because the witness is then more likely to guess at an answer. If it is discovered that the witness is guessing at an answer the rest of the testimony may be questioned.

The caseworker must always remember to answer the question asked and only the question that is asked. Frequently the caseworker will ramble without answering the question fearing that the truthful answer will not be positively received by the court. For example, the question may be "How many times did you met with the parents?" Instead of truthfully answering the question that the caseworker met with the parents on only one occasion the caseworker will ramble on about why he or she could not meet with the parent. The witnesses' credibility is more likely to be questioned if the court or the other attorneys in the case suspect that the witness is rambling to avoid answering the question. The caseworker's credibility will likely be strengthened if the answer is truthful even if it is not the best answer. These are the types of issues or

weaknesses in the case that need to be discussed with the attorney before hand so that they attorney will be prepared to effectively deal with the weaknesses of the case as they come up throughout the proceedings.

Questioning of the witnesses will usually occur in several stages. The first stage is direct examination of the witness. The attorney who is calling the witness to support his or her case will call and question the witness. In child dependency cases the caseworker is usually called by the agency attorney for direct examination. Direct examination questioning is generally open-ended, allowing the witness to fully explain the answer to support the position. In child dependency cases leading questions suggesting an answer are usually allowed on direct examination.

Following direct examination the caseworker will be subject to cross-examination by the opposing attorney. Generally, this will be the attorney representing the parents. Cross-examination is designed to impeach the witness and expose any weaknesses in the testimony provided in direct examination. Leading questions are also allowed on cross-examination and the questions are usually closed ended requiring a yes or no answer. If a question requires more than a yes or no answer the caseworker may ask the court if the answer can be explained. The attorney conducting the cross-examination will also ask questions that will cast doubt on the thoroughness of an investigation, the witness' interpretation of the facts, and perhaps whether the witness' judgment and actions were clouded by his or her feelings about the parents. If the caseworker has been careful and professional, he or she should be confident that the case has been handled properly. Other attorneys in the case will also be allowed to cross-examine the witness. In child dependency hearings there are usually more than 2 parties in the case and each party will likely have an attorney and each attorney will be allowed to cross-examine the witness.

Following cross-examination the attorney calling the witness will be allowed to redirect. This just means that the attorney who conducted the direct examination will be allowed to ask additional questions. This is usually only used if there is a need to restore the credibility of the witness. Redirect questions are also limited to those issues raised on cross-examination. If the witness did not get to explain an issue raised on cross-examination the answer could be explained in redirect examination. It is during this stage of questioning that the attorney calling the witness will be able to ask the caseworker to clarify why there was only one home visit with the parents. Again, these are issues to discuss with the attorney before the hearing so that the best course of action will be determined.

The last stage of questioning and one not often used is recross. Recross is a second examination by the opposing attorney regarding issues raised in redirect examination.

Throughout the witnesses' testimony attorneys not conducting the examination may object to a question that is asked or to the admission of certain evidence. An objection is the attorneys' opinion that the question or the evidence is not proper for the court's consideration and should not be admitted. An

attorney does not raise an objection just because he or she does not like the question or because the evidence might be detrimental to their case. The attorney raising the objection must be able to state to the court the reason the question or the evidence violates the rules of evidence. When an attorney raises an objection to a question the witnesses must not answer the question or stop his or her answer until the court has made a ruling regarding the objection. The court will generally rule on the objection immediately. The court may sustain or overrule an objection. When the court overrules an objection this means that the court determines the question does not violate the rules of evidence and the witness must answer the question. If the objection is sustained the court agrees that the question should not be allowed into the hearing and the witness is prevented from answering the question.

Following questioning of witnesses and the presentation of evidence the court will make *findings of facts* or may request that the parties submit proposed finding of facts. The court may also take the case under advisement which means the court will take some time to go over the case and the evidence before making a decision. If the court determines based on the facts presented, that no abuse or neglect has occurred the court will dismiss the petition and the case is dismissed which means the case is over. If the court finds the petitioner has presented evidence that satisfies the required standard of proof the court will find that the allegations made in the petition are true and will adjudicate the child a dependent child. The court will assume jurisdiction of the case and the child is declared a ward of the court. The court will set the case for a disposition hearing to hear recommendations as to what should be done to assist or treat the family and to protect the child.

Disposition hearing

If the court determines that the child is a dependent child the case will proceed to the disposition. At this stage the court will hear recommendations from the agency regarding treatment, counseling or other services that are necessary to assist the family with reunification. The court will also want to know what services will be provided for the child. The disposition of the case is largely dependent on the caseworker's report and recommendations for an appropriate case plan. The case plan should identify the action required of the parties and a *timeline of when the action is to be completed*. A disposition report should always present and fully explore all feasible dispositional options for the court's consideration. Witnesses may be presented and cross-examined at the disposition hearing.

The disposition plan may recommend the child continue to reside with the parents under certain conditions and with agency supervision. The court will continue to have authority over the family and insure that the terms of supervision are being met. If the family is following the disposition plan and is cooperating with the agency, the child will continue to remain in the home. The agency will usually be left with the discretion to remove the child at any time the child is in danger.

If the agency and the parents agree on appropriate plan of treatment the court usually accepts the caseworker's case plan and recommendations and compels the parents through court order to participate with the services recommended. If the parties do not agree on the treatment plan the court will decide what is in the best interest of the child and compel the parents to participate with required services.

Review Hearing

Virtually every state and tribal court will require periodic reviews of the child's case at least every 6 months. More complex and difficult cases may require more frequent reviews. The purpose of the review hearing is to provide information to the court regarding the progress of the case. The court will want to know whether the parents are assessing the services ordered at the disposition hearing and the progress of the parents in these services. Following the examination of witnesses and the presentation of evidence the court will determine whether continued court supervision of the family is necessary. If continued supervision is necessary the court reviews the previously approved disposition plan and determines if it continues to be an appropriate plan and if the child is receiving necessary services. Target dates are established to insure the case does not fall into limbo. Review hearings will continue to be held so long as the child remains under the supervision of the court. AFSA requires review hearings at least every six (6) months.

Permanency Planning

If a case remains in the court system for more than a year a permanency planning hearing may be held. The objective of a permanency planning hearing is to determine an appropriate long term plan for the child if the family can not or will not address the barriers that prevent reunification of the family. At this hearing the court will determine if the permanent plan recommended by the caseworker is appropriate for the child. Under Arizona law this hearing is to be held 12 months from the time the child was initially removed.^{xxxvii} Under ASFA this hearing should take place within 12 months from the time the child was placed in foster care^{xxxviii}. At this hearing, the court will determine whether and when a child will be returned home, placed for adoption, remain in long term foster care, referred for legal guardianship, or if a termination of parental rights petition should be filed. The court may also order alternative planned permanent living arrangements for the child. If the court decides on something other than a permanent plan for the child the court must explain its decision. ASFA states that the court must document a compelling reason when it determines that it would not be in the best interest of the child to implement a permanent plan.^{xxxix} One acceptable compelling reason may be is that the Tribe is culturally opposed to the concept of termination of parental rights and has offered a safe plan for the child in a home approved by the Tribe.

The ICWA does not address permanency planning hearings. However the decision in state court concerning the permanency plan for the child will continue to be governed by the substantive requirements of the ICWA.

Consequently, before an Indian child can be adopted the termination of parental rights provision in the ICWA must be satisfied.

In tribal court permanency planning hearings (may be called review hearings) proceed much the same way as in state courts. The difference may be that tribal courts will retain jurisdiction over a case much longer than state courts to insure that all efforts have been exhausted and reunify the family including extended family has not been achieved.

COURT ORDERS

Following every court hearing the court will issue written court orders. Written orders are not always issued immediately and in some courts it may take several months. The lack of a written order however does not negate any of the oral orders made at the court hearing. If the court orders visitation between the child and parents the caseworker cannot procrastinate because a written order has not been received and therefore not proceed with visitation. Upon receipt of written orders the caseworker must be sure to review and understand the order. If there are issues or questions regarding what is in the written order discuss this with the agency attorney. Written orders may be modified upon the filing of proper court motions. Most written orders will also identify the next court hearing date. It is the caseworker's responsibility to document the next court date. If there is a situation making it absolutely impossible for the caseworker to attend the next hearing contact the agency attorney who will be able to determine how best to proceed.

Throughout the court proceedings the caseworker must always be prepared for court hearings. When caseworkers are not prepared for court or do not show up for court hearings the child is the one that suffers the consequences. As stated earlier in this report when hearings are not held the additional time may create increased anxiety for the child and the family because of the uncertainty of what is happening. Caseworkers must also be cognizant of the fact that transportation is often non-existent for many Indian families. Taking into consideration the vastness of Indian country many families go through great lengths and expense to be present for hearings and when the hearings are not held the family may be set back in their progress or lose confidence in the caseworker. Courts also do not get the information they need to be adequately informed about cases under its jurisdiction. A case should never be continued for the reason that the caseworker is not prepared to go forward. If there are reasons why the caseworker is not prepared for court these reasons must be discussed with the agency attorney who will determine how to proceed. If the caseworker will not be available for court perhaps arrangements can be made for a supervisor to present the information. How such issues will be handled must be determined by the agency in consultation with the agency attorney.

Court Records

Children's court records in most jurisdictions are closed files. This means that only people authorized, usually by statute will have access to the file. In addition to statutory authorization most courts will also require legitimate legal reasons before the court file is released for review. When the court will actually produce the file for review will depend on the records management system of the court. Some courts may take a few days to retrieve the file and the individual will have to return at that time to review the file. Other courts may be able to produce the file in a matter of minutes. Each court will have its own procedures regarding how individuals may access a child's court file. Most courts require that when a child turns 18 the child's file be destroyed unless the child has siblings that are still under the court's jurisdiction. Some courts also retain jurisdiction of a child even after the child has turned 18 so long as the child is following an approved case plan.

Confidentiality

It seems obvious that caseworkers need to maintain confidentiality regarding the families they are working with. Perhaps it is this presumption that has led to the lax of caseworkers regarding rules of confidentiality. Caseworkers do need to be reminded that confidentiality is part of their ethical responsibilities to the families they are working with.^{xi} Caseworkers often state; "Everybody already knows what's going on with this family anyway". Even if this is a true statement the caseworker does not have the right to contribute to the information that is already out in public. This includes discussion of the case with staff members that are not directly involved in the services for the family.

In an effort to minimize the trauma associated with child protection cases, more and more agencies are establishing Child Protective Teams or are staffing cases with service providers outside of the immediate agency who are providing services to the family. Every team or agency must have established policies in place regarding the sharing of information in these meetings. Service providers, especially those providers that have to maintain a license to practice their profession will be more comfortable about sharing information if they are assured of confidentiality.

Caseworkers must also be careful about sharing sensitive client information with extended family. Information should only be shared with extended family if the parents give their permission or if the court has determined that the extended family has a right to know the information. If the caseworker is unsure about whether the extended family should have certain information, talk with the agency attorney. Provide all the known information so the attorney will be able to make an informed decision.

SUMMARY AND RECOMENDATIONS

The family is the cornerstone of the continued existence of the American Indian. When an Indian child is removed from his or her family for their protection the ultimate and primary objective should be reunification with the family. To be an effective advocate for the family the caseworker must believe in the value and strength of the American Indian family. Respect tribal family

values. Every family will have their own individual beliefs and belief systems. The caseworker must have a good well-grounded understanding of the knowledge, attitudes, and beliefs of the Indian families. This understanding will assist the caseworker to discover the strengths of the family and then to capitalize on those strengths.

The caseworker must also be accountable to the families they are working with. Be accessible and make regular contacts with the family. Return telephone calls promptly. It is very damaging when a parent states in court that they have attempted contact with the caseworker but telephone calls are not returned. It will not matter how legitimate the caseworker's reasons may be for not returning phone calls this type of damage is irreversible because the caseworker's role is to assist the family. This can not be accomplished if the caseworker is not communicating or assessable to the family.

A caseworker must have compassion and empathy for the family. Rarely do families consciously decide to hurt their child but because of underlying unresolved issues harm to the child is often the end result. An effective caseworker is one who is not judgmental; someone who is able to understand the situation of the family and yet still be able to assist the family with reunification. A caseworker should be able to place themselves in the family's predicament and thereby be able to identify the obstacles and barriers confronting the family. To often caseworkers and families get into power struggles because the caseworker is often trying to "make" the family do something instead of assisting the family to accept responsibility for their own lives. On the other hand the family is also testing the boundaries to see how much they can get away with. To alleviate such power struggles the caseworker must be able to effectively communicate with the family through consistent and frequent contact. The caseworker must develop a rapport with the family which will enable to family to accept that the caseworker is there to assist the family and not to punish the family.

Caseworkers also need to work with the court system not because of it. Often caseworkers view the court as a bump in the road that they have to get over or around. Collaboration with the court may be improved if caseworkers recognize the court as part of the case plan or casework process. When the court is identified as an integral part of the process then they are more likely to be seen as instrumental in the reunification process and not as an obstacle.

The court also needs to understand how the agency operates and what services are available. If the best services are not available what alternatives will meet the family's needs? The court should not issue orders for services that are clearly not attainable for the child and family. At the same time the court must hold the family and the agency accountable not only to the court but to each other. The court and the agency relationship will be strengthened through effective on going communication.

Maintain or establish relationships with other public agencies and the governments that fund child welfare programs. When people know about the overwhelming responsibilities of child welfare services they are more likely to be

supportive of the work of the agency. Such sharing of information will also help keep the public from guessing at the responsibilities and services of child welfare programs. Educate the government about the type of issues families are faced with. Let them know what resources are available and what resources are needed. It is very difficult to become a good parent unless you have information and access to programs and services and a community of support. Develop short and long term objectives. The short term objectives will help measure immediate accomplishments as well as identify those activities of the agency that may not be conducive to the goals of the agency. Long term objectives will help focus on the long range plan so that the obstacles and accomplishments are not view in a vacuum.

It is important and necessary for Tribes to work with the states to inform the states of the challenges impacting tribal courts and child welfare programs. There are still misconceptions about what Tribes are able to accomplish and what resources are at the disposal of Tribes. There has been a tendency among non Indians to focus on the wealth of a few Tribes and conclude that all Tribes are wealthy. There are also still many people, Indian and non Indian that do not have a grasp of tribal sovereignty and therefore do not understand how tribal governments and tribal courts operate. Overlapping state and tribal jurisdiction also complicates the delivery of services to Indian families. Both the state and Tribes will benefit from an increased ability to access information with which to establish a better understanding of each other. Through this collaboration Indian children and families will be better protected and served.

In closing it is important to recognize that the Indian people are proud of their cultural heritage. Most do not desire to integrate into mainstream American but to be on parity with the rest of America. Indians continue to practice traditional ceremonies and speak traditional languages and yet understand that today, Indian children must have the knowledge base of the non Indian culture while holding on to traditional teachings. A caseworker who is able to understand this struggle will be an effective advocate for Indian children and thereby Indian families.

ⁱ House Report No. 95-1386

ⁱⁱ Williams, Robert A. Jr., *American Indian in Western Legal Thought: The Discourses of Conquest* (1990)

ⁱⁱⁱ United States Constitution, Article I, Section 8, Clause 3. Hereinafter "Constitution".

^{iv} 21 U.S. (8 Wheat 543. (1823)

^v 30 U.S. (5 Pet.) 1. (1831)

^{vi} 31 U.S. (6 Pet.) 515. (1832)

^{vii} Getches, David, Wilkinson, Charles F., Williams, Robert A. Jr., *Federal Indian Law, Cases and Material*, 3rd Edition. West Publishing. 1993. Hereinafter Getches, Wilkinson, Williams.

^{viii} Canby, William C., *American Indian Law in a Nutshell*. West Publishing. 1998. Hereinafter "Canby".

^{ix} Johansen, B.E. (2000) Education -The nightmare and the dream: A shared national disgrace, a shared national disgrace, *Native Americas* 17 (4), 10-19.

^x Id

^{xi} *Ex Parte Crow Dog*, 109 U.S 556, 1883

^{xii} 18 USC § 1153.

^{xiii} Offenses currently covered are murder, manslaughter, kidnapping, maiming, 4 classifications of assault, arson, burglary, sexual abuse, incest, robbery, theft.

^{xiv} *United States v Clapox*, 35 Fed. 575 (D.Or. 1888)

^{xv} Canby @19

^{xvi} 25 CFR 11.

^{xvii} Canby @ 24

^{xviii} Jones, B.J., *Role of Indian Tribal Courts in the Justice System* The Center on Child Abuse and Neglect, March 2000.

^{xix} Austin, Raymond, *Tribal Courts*, Presented at ASU College of Law. November 16, 1991

^{xx} Constitution, Article. IV, Section. 1

^{xxi} *Hilton v. Guyot*, 159 U.S. 113, 163-64, 16 S.Ct. 139, 143-44, 40 L.Ed. 95 (1895)

^{xxii} *Somportex Ltd. v. Philadelphia Chewing Gum Corp.*, 453 F.2d 435, 440 (3d Cir.1971)

^{xxiii} Zion, James W., *The Navajo Peacemaker Court: Deference to the Old and*

Accommodation to the New, 11 American Indian Law Review 89 (1983)

^{xxiv} Stuart Barry, *Building Community Justice Partnerships: Community Peacemaking Circles*. Aboriginal Justice Section, Department of Justice of Canada, Ottawa, Ontario. K1A0H8

^{xxv} Arredondo, David E.& Leonard P. Edwards, *Attachment, Bonding, and Reciprocal Connectedness*, 2000.

^{xxvi} 25 USC 1912(d)

^{xxvii} 42 USC 1305 (Note)

^{xxviii} Some tribal courts and state courts permit private citizens to initiate dependency petitions. In Arizona the Guardian ad litem for a child in a criminal proceeding is often the one initiating a dependency petition if the petition is not brought by the State.

^{xxix} 25 USC 1912(a)

^{xxx} 25 USC 1912 (b)

^{xxxi} 25 USC 1912(a)

^{xxxii} ARS 8-824(A)

^{xxxiii} 42 USC 475 (5)(E) as revised by Section 105 of ASFA

^{xxxiv} 25 U.S.C. § 1912(d)

^{xxxv} House Report No. 95-1386m 95th Cong. 2d Sess. 22 (1978), *reprinted* in 1978 U.S.C.C.A.N. 7530m 7545,

^{xxxvi} *Guidelines for State Courts; Indian Child Custody Proceedings*. November 26, 1979.

^{xxxvii} ARS 8-862

^{xxxviii} 42 USC 675(5)(c) as amended by Sec. 302 of ASFA

^{xxxix} Id

^{xl} 1.07, Privacy and Confidentiality. National Association of Social Workers, *Ethical Standards, Social Worker's Ethical Responsibility to Clients*.

PRE-POST TEST – COURT RELATED C.W. PRACTICE

PRETEST/POST TEST

1. Tribal sovereignty existed before the US constitution and not as a result of the constitution. **True** **False**

2. The _____ of 1885 established the authority of federal courts to prosecute Indians who commit certain crimes in Indian country

3. Two traditional alternatives to tribal courts which have been utilized by some tribes are 1)_____ 2)_____

4. Tribal courts are operated under their tribal code and must comply with state and federal laws and procedures for courts **True** **False**

5. In deciding to initiate child welfare proceedings in the court, two (2) questions must be answered:

1. is the child in _____

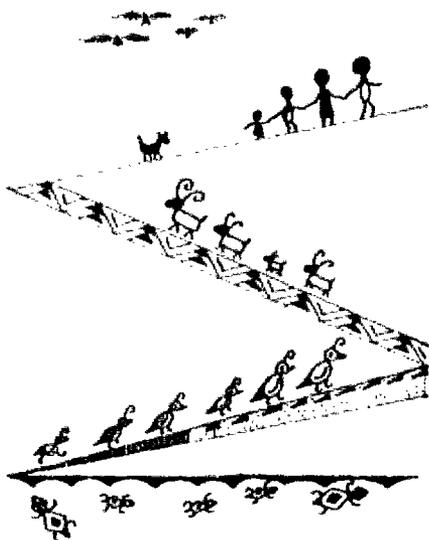
2. can the child's safety be maintained in _____

6. Case worker's investigative report must contain the contents of the referral for protective services in order that the validity of the referral can be determined by the court **True** **False**

7. In state court dependency proceedings, notice to the parent or Indian custodian is defined by the Indian Child Welfare Act **True** **False**

17. In maintaining confidentiality, information should only be shared with the extended family if the parents give their permission or if the court has determined the extended family has the right to the information. **True** **False**

Permanency Planning for Indian Children



Prepared By:

This module is adapted with permission from Module V: Permanency Planning for Indian Children (Second Edition) National Indian Child Welfare Association

CHAPTER 1 INTRODUCTION

This curriculum module will examine permanency planning in Indian child welfare. It will introduce the Indian child welfare worker to the principles, concepts, and skills used in ensuring that children are provided with continuity in their lives and a sense of belonging over time. This module is designed to provide the Indian child welfare worker with an understanding of the historical and cultural context within which permanency planning is applied. It provides an overview of permanency planning and the essential elements for its implementation. The goal of this module is to enhance the capacity of the Indian child welfare worker to perform permanency planning functions in the context sustaining Indian culture while at the same time adhering to federal policies and procedures that affect children who are in out-of-home care. Permanency is a planning process that can include reunification to maintain an Indian child's culture and identity.

LEARNING OBJECTIVES

Upon completing this training session, participants will:

- Recognize the ways in which Indian culture has historically provided permanence for children.
- Understand the aims and objectives, reunification and how this relates to permanency for Indian children.
- Distinguish the basic assumptions that underlie and govern the practice of permanency planning for Indian children.
- Recognize how the Adoption and Safe Families Act of 1997 has affected permanency planning for children and how its provisions can be tailored to the specific cultural needs of tribal communities and families.
- Recognize and utilize the essential casework functions that keep parents as permanent resources for children.
- Understand the importance of the child's perception of permanence.
- Listen and communicate effectively with children regarding permanency planning issues.
- Know the concepts and process involved in making permanency planning decisions for Indian children.
- Recognize and choose among appropriate permanency planning options when parents are unable to be a permanent resource.

- Understanding the importance of how reunification can encompass permanency.

Historical Issues

While permanency planning is a rather new development in the field of child welfare, the concept of belonging—the heart of permanency planning—is central to Indian culture. Tribal society is based first and foremost on the family. In Indian culture, family membership means much more than being the child of given parents. It means belonging to an extended family or interdependent, nurturing support network. In many tribes, these extended family networks are organized into larger groups or clans that offer individuals another point of reference in their sense of belonging. The tribe offers formalized group recognition of belonging that goes beyond family and clan. Beyond this level of tribal identification is the sense of belonging that comes from Indian spiritual belief systems, most of which recognize the interdependence of all things, each thing having both its place in existence and a relationship to all other things. It is this sense of relationship with all things in one's physical and spiritual environment that reinforces the sense of identity and belonging and goes beyond the physical or tangible world.

When these reference points are intact, they offer the individual a sense of trust over a period of time, which is a crucial aspect of permanency. The group, or interdependent nature of Indian society, offers the individual strength, a sense of purpose, and a sense of commonality with other members of the group. This sense of commonality promotes the individual's commitment to the group, as well as the group's commitment to the individual, and is reinforced by tribal custom and the oral tradition. It is unfortunate that over a period of time this cultural system has eroded somewhat, and there are Indian families who have lost the ties that bind them to extended family, tribe, and culture.

While it can be said that not all Indian people are served by the cultural system in the way they were historically, it is also true that these reference points for belonging still exist and can be sought out and enhanced as resources even for those estranged from their culture. The Indian Child Welfare Act embodies this belief in its order of placement preferences for Indian children: first, with the extended family; second, with another tribal member; and third, with another Indian family not of the child's tribe. Permanency planning in Indian child welfare, therefore, has as much to do with maintaining child's connection and sense of belonging to the extended family, clan, or tribe as it does their connection to their biological parents.

Termination of parental rights is valued as the method of choice in the dominant child welfare system to ensure permanence. In Indian child welfare, however, it has the potential of severing the child's connection to an extended family or tribe. Care must be taken by the tribe and family to remain involved in the child's

perspective of permanency and sense of belonging. Indian child welfare must ask if termination of parental rights serves a viable function in an Indian extended family cultural system where connectedness and belonging go far beyond emotional bonds with biological parents. Only careful case-by-case decision-making can answer this question. Termination of parental rights, while still an option, should be closely examined and conservatively applied. Within the rich cultural heritage of Indian people, permanence is a highly valued concept, and it extends beyond the concept of permanency planning as defined by the dominant society and its child welfare system.

The perception of permanence must come from the child and his or her sense of belonging to a family, extended family, tribe, and cultural group over time. The Indian child welfare worker must ensure that children who come into substitute homes retain this perception of permanence. Each case must be carefully examined with this in mind, considering not only continuity of the child's relationships with parents but also his or hers sense of belonging to the extended family, clan, or tribe.

With that in mind, this module examines the role of permanency planning in the field of Indian child welfare, and gives a cultural interpretation of permanence and its alternatives for implementation. Further, it examines the implications for practice with that include the involvement of tribal entities and communities.

Permanency Planning

Permanency planning has been described as the intent to provide children with a sense of connectedness and continuity, or a sense of belonging which lasts over time. It is not, nor should it be thought of, as a separate child welfare service. Rather, it is a core concept that guides the delivery of all child welfare services. It is the basis for programs that support families and enable children to remain within their own homes, as well as programs that provide permanent family resources when a child's parents are not be expected ever to be able to provide adequate care. Indian child welfare services must meet two challenges in the permanency planning process. The first challenge is to make and use program policies and procedures that are committed to the preservation of families. The second challenge is to get families to take responsibility for their children. Ensuring that children do not become emotional orphans is a responsibility shared by both family and agency.

Thus, permanency planning seeks to prevent children from entering the foster care system unnecessarily or, for those who enter it, to prevent long-term, unplanned foster care. It is based on the idea that the identity and adjustment problems experienced by many foster children are related to the lack of connection which occurs when moving from one foster home to another without a permanent resolution to their situation. The lack of permanent plans for foster

children encourages the condition called “foster care drift” in which the agency loses sight of the child’s best interests.

In other cases, children often lose contact with their biological parents through the lack of a visitation plan or appropriate services to rehabilitate the parents. Even children who do not move from one foster home to another may develop emotional attachments to adults to whom they do not legally belong. Thus, the rights of biological parents can be informally and psychologically terminated without due process. The practice of permanency planning works to ensure that the rights and interests of parents are served as the needs of children are met. Family networks which remain involved with the permanency planning process allows a sense of responsibility for the family’s outcome.

The Adoption and Safe Families Act

With the passage of the Adoption and Safe Families Act (ASFA) of 1997, Congress re-emphasized the need to focus attention on the safety and well being of children who are placed, or are at risk of being placed, in foster care. A few provisions of ASFA are, on the surface, in direct conflict with the cultural values of most tribes. For example, one provision requires that a petition to terminate parental rights be filed based on a strict timeline. Many tribes do not believe in the termination of parental rights, and most place more value on relationships than on timelines. However, it is extremely important to note that ASFA provisions allow for exceptions. Each mandate of the law is followed by exceptions. For effective application of ASFA, in the context of American Indian culture, the exceptions are as important as the rules. In this manual you will learn how to comply with ASFA within the cultural context of tribal child welfare practice.

ASFA is an amendment to Title IV-B and Title IV-E of the Social Security Act. The most significant aspects of ASFA are as follows:

- The health and safety of children must be the paramount concern in all decisions regarding provision of services, placement, and permanency decisions. States are required and encouraged to establish or utilize various mechanisms to achieve this goal, including criminal background checks of prospective foster and adoptive parents.
- Reasonable efforts to reunify a family are not required where a parent has a pattern of abusive behavior toward the child in question or of criminal behavior toward another child of the parent, or if the parental rights of a parent to a sibling of the child in question have been previously terminated involuntarily.
- Incentive payments intended to increase the number of foster children placed for adoption are made available (to states).

Expedited permanent placements for children are sought in the following ways:

1. Mandating petitions for termination of parental rights once a child has been in foster care for a period of 15 out of 22 months, subject to the following critical exceptions:
 - a. when a child is in a placement with a relative;
 - b. when a compelling reason not to terminate can be documented; and
 - c. when services of the case plan have not been provided.
2. Encouraging the use of concurrent planning—namely, planning for an out-of-home permanent placement, such as adoption, at the same time that efforts are being made to reunify the child with his or her family.
3. Requiring a permanency hearing within 12 months after the initial foster care placement.
4. Removing state and county jurisdictional barriers which delay interstate and inter-county adoptive placements.
5. Extending the reasonable efforts and case plan documentation requirements to also include efforts to find a permanent placement for a child.
6. Expanding Adoption Promotion and Support Services and Family Reunification Services.

Summary

Permanency planning in Indian child welfare refers to the agency's commitment to providing children with a continuity of relationships over time. Without vigilant attention to long-term goals, case outcomes are dependent on circumstances, the worker's subjective response to the situation, and the haphazard use of casework methods. Essential elements include written case plans, effective case management, objective decision-making, and understanding of and commitment to the child's perception of permanence. Each of these elements is pertinent to all aspects of Indian child welfare practice and are required best practices of Indian child welfare work. There are no exceptions to ICWA compliance with the ASFA. These practices are inherent in good Indian child welfare work regardless of ICWA protection. This module deals with culturally relevant options that can ensure permanence for children and how to accomplish them. First, we will consider several basic assumptions that underlie the practice of permanency planning in Indian child welfare.

As a tool to assist the reader, ASFA implementation hints will be provided throughout the manual.

EXERCISE 1: "Permanence: A Joint Responsibility" Using the material provided by the trainer, explore the meaning of permanence in Indian child welfare. For self-study, refer to the exercises in the appendix.

DISCUSSION QUESTIONS

- Consider the attitudes about children and child-rearing responsibilities in your community. In what ways do cultural values and practices ensure that children feel a sense of belonging?
- What are some of the differences between how children and child-rearing were viewed historically and how they are presently viewed? What has been the impact on children?
- In your experience as an Indian child welfare worker, what helping methods have been most useful in getting parents to take responsibility for their children?
- What are the attitudes, values, and norms in your community that affect permanency planning for children? How are they expressed?

CHAPTER 2 ASSESSMENT

Careful assessment of a situation answers the question, "What's the matter?" That is, assessment identifies the problems. Permanency planning is enhanced by clearly identifying factors which must change, and by identifying the strengths and limitations of the methods used to correct the problems. The logical outcome of assessment is a plan that addresses the factors needing change.

Recommended services that may prevent placement or reunite a family are the joint responsibility of the agency and the family. The agency's responsibility is to actively offer its services. The family's responsibility is to accept and engage these services. The combination of reasonable and active efforts provides the building blocks to match the families needs with available services. Following is a brief review of assessment:

Assessment is the process used by the ICW worker to gain an understanding of what the problem is, why it exists, and what the barriers to and resources for change are. The assessment allows the worker and client to determine what plan will best meet the client's needs.

The assessment is governed by the situation. It is an attempt to answer the question, "What's the matter?"

The history of the client is important. The social history gathered by the worker helps give an overall picture of the client in relationship to the difficulty and can contribute to a more effective plan of action.

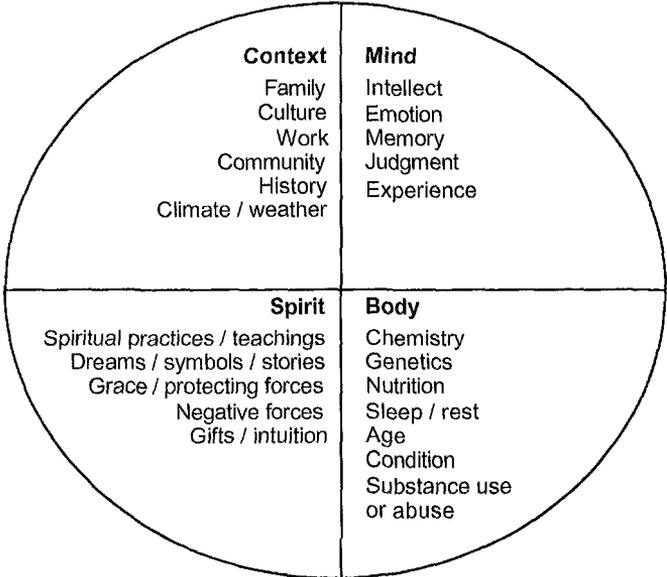
The history of the problem is also important. The worker must remain focused on the situation, remembering that the client has both an objective view of and subjective feelings about the situation.

The worker forms a professional opinion about the client's readiness to accept help and how reasonable the client's view of the problem is.

A culturally relevant assessment is based on an understanding that culture influences beliefs, behaviors, and choices. Second, it is based on an awareness that Indian people today do not adhere to a fixed set of values or expectations. Instead, Indian people exhibit a wide range of values and behavior. Because the experience of being Indian depends on tribal affiliation, degree of assimilation, and family history, each individual must be assessed in the context of his or her own experience and identity.

A holistic view of the family balances four life-areas:

- the mental/emotional functioning,
- the physical well-being,
- the spiritual beliefs and practices, and
- the context of the family.



Caption: The relational world model for viewing the family can be illustrated with a four-quadrant circle. The four quadrants represent four major forces or sets of factors that must be in balance. They are the context, the mind, the body, and the spirit. The mind includes our cognitive processes such as thoughts, memories, and knowledge, as well as emotional processes such as feelings, defenses, and self-esteem. The body includes all physical aspects such as genetic inheritance, gender, and condition, as well as sleep, nutrition, and substance use. The context includes culture, community, family, peers, work, school, and social history. The spiritual quadrant includes both positive and negative learned teachings and practices, and also positive and negative metaphysical or innate forces.

This view provides the best picture of a family's capacity to provide a sufficient minimum level of care for its children. Social, emotional, family, self-help, intellectual, and physical functioning are also areas of interest to the worker.

The assessment examines each area for strengths and weaknesses, resources and liabilities, and constructive and destructive behavior.

The assessment of families is the process of learning what the relationships are within the family, among both individuals and groups of individuals. It involves the roles that members play, the rules of the family, the relationships within the family, and the ways in which the family works together to cope with stress.

The study of social functioning involves finding out how the client or family relates to those outside the family.

In the area of emotional functioning, the worker forms an understanding of the major means a client uses in dealing with feelings. A more in-depth psychological evaluation may be called for; in such cases, referral to the appropriate professional is indicated.

Assessment of physical functioning looks at the impact of such things as health, health history, physical condition, handicaps, eyesight, hearing, speech, and fine and gross motor skills. The physical assessment always includes a screening for substance abuse even when it may not appear as a problem.

The worker looks at the economic situation of the client to determine what impact it has on the problem.

In the area of intellectual functioning, the worker looks for the client's ability to understand and process information. Can the client read and understand forms, a description of his or her rights, and court-related papers?

The assessment process begins with the first contact. The worker should be able to put together an initial plan in a few weeks or less, but the assessment draws

together a wide range of information and develops a picture of the whole that clarifies the situation.

Placement Prevention

One of the most effective strategies for ensuring permanency for an Indian child within his or her own family is the prevention of out-of-home placement. Services that enable parents to continue their parenting role increase the possibility that the family will remain intact over the long term.

The Indian Child Welfare Act requires that active efforts be made (by state agencies) to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family. Many tribes have adopted this as policy as well, because it represents good child welfare practice.

For children in state custody, ICWA requires "active efforts" to prevent placement. ASFA exceptions do not apply to ICWA cases. As mentioned above, there are exceptions to reasonable efforts requirements to prevent removal of a child from the child's home. These exceptions include (1) aggravated circumstances such as abandonment, torture, chronic abuse, or sexual abuse; (2) parent previously had parental rights involuntarily terminated to a sibling of the current child in custody; (3) parent has committed, aided, abetted, attempted, conspired, committed or solicited to commit murder or voluntary manslaughter of the child or another child of the parent; or (4) parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.

While these situations are exempt from the reasonable efforts requirement, nothing in federal policy prohibits placement prevention services when it is determined to be in the best interest of the child. For example, a parent who has lost children to termination of parental rights in the past, but who has made significant change, can be offered services. Every case must be judged on its own merits. Indian child welfare functions with the commitment to preserve families. Two elements of practice support this effort:

1. Objective decision-making, based on the concept of a minimum sufficient level of care *[FN: A minimum sufficient level of care is the point below which a home is inadequate for the care of a particular child. This standard implies that the child needs a certain amount of physical, spiritual, and emotional nurturing. Without it, the child is deprived of the care he or she needs to grow and develop. This practice value is reinforced by federal policy that requires that the safety and well-being of children be protected (ASFA).]* The worker's job is to ensure that children are safe, but also that they will not enter placement unnecessarily.

2. Services that are directed at sustaining families ensure that children who can be served in their own homes will be able to stay at home.

Following is a brief review of services that can be helpful in preventing placements.

Helping Approaches

A variety of helping approaches may be called for and used in maintaining families. Casework (the process of intervening with an individual or family to positively influence their psychological and social functioning) is the approach most frequently employed. While focusing on relationships, trust-building and communication is essential, it is not enough. The worker's role includes casework, parent education, and case management. The roles of advisor, enabler, teacher, intervener, coordinator, supporter, and advocate are all important functions in helping parents. The worker uses a number of skills in helping while establishing a position that places the responsibility for children in the hands of the parents.

There are many types of services. The following options, organized by type of need, are by no means all-inclusive, but they do suggest alternatives. *[FN]*
Adapted from: Jenkins, J. L. et al. Child Protective Services: A Guide for Workers. DHEW Pub. No. (OHDS) 79-30203 (1979).

To develop self-esteem and self-nurturing:

- Structured activity, such as instruction in recreational activities, to build a sense of success in various work tasks
- Group experiences which allows the child to identify with others experiencing the same needs and problems
- Work or volunteer activities which allows the child to experience a sense of contribution and self-esteem
- One-to-one treatment relationship with a professional to begin to understand personal needs and desires and their validity, and helps the child to deal with personal problems of anger, frustration, fear, and depression
- One-to-one or group treatment to help the child to learn to ask for and receive constructive attention and validation of personal needs and desires

To overcome isolation and fear of relationships:

- A professional or paraprofessional to act as a friend, to be interested in the parent's needs, to take the parent to lunch, to baby-sit with the children, to model what friendship means for the parent
- Structured social activity through which the parents can test out and begin to build relationships with peers
- Respite from child care to enable parents to pursue their own interests and friendships more freely

To develop support systems:

- A professional, paraprofessional, or extended family member available on a daily basis to discuss or help with routine daily activities
- A professional, paraprofessional, or extended family member to model housekeeping or child rearing
- A professional, paraprofessional, or extended family member who is available as a friend and can visit weekly or biweekly and be available by phone in time of crisis
- A group of parents to with whom to socialize and begin developing personal support systems

To deal with marital problems:

- Marital counseling or family therapy to begin to deal with problems in the marriage or family unit
- Structured group or one-to-one experiences in which to learn to ask for or receive nurturing or support from spouse
- Help in solving environmental and life crises

To help with life crises:

- Basic necessities: food, clothing, shelter, employment, legal assistance, or medical services
- Advocacy or professional intervention to secure services
- Training in how to operate within the health, social services, and legal systems

- Counseling focused on developing vocational interests, finding a job, and job training
- Counseling on dealing with daily pressures and demands

To learn how to care for and protect the child:

- One-to-one or group counseling to identify the role the child plays in the parent's life, or what the child means to the parent
- Counseling or role modeling in how to deal with the special child who is handicapped, retarded, or hyperactive
- Role-modeling in how to properly care for and protect a child
- One-to-one or group counseling to learn new ways of getting nurturing and support from sources other than the child

To learn nurturing child-rearing practices:

- Counseling or parent-group participation to learn components and stages of normal child development to help restructure expectations
- Counseling from elders and extended family to learn about traditional child-rearing practices and values
- Counseling or parent-group participation to learn alternative methods of discipline that avoid corporal punishment
- Counseling or parent-group participation to learn alternative methods of receiving nurturing and enhancing feelings of self-esteem that do not include burdening the child with these needs

To support and nurture the child:

- Structured experiences (day-care, new school, play group) for the child, with other children and adults, to help the child learn about other systems of relationships; to learn to get support and nurturing from others beside the parents; for socialization with peers; and for the development of motor skills and intellectual skills
- One-to-one or group therapy (therapeutic day care, play therapy, or traditional psychotherapy) where the child can learn to deal with fears, anger, frustration, or offensive behaviors
- Culture classes that promote a positive identity and self-esteem

To help with substance abuse:

- Identify the problem, including a professional substance abuse screening and assessment.
- Mobilize the family toward seeking treatment for the substance abuser including, but not limited to, individual and family counseling directed toward initiating treatment.
- Identify and coordinate treatment resources including helping to find financial resources to pay for treatment.
- Support the family if the parents go to residential treatment by helping to develop a care plan for the children.
- Direct individual and family counseling toward getting the client into treatment.
- Provide individual and family counseling that will help the family function after treatment.
- Provide supportive, educational intervention that helps families to recognize, prepare for, and deal with relapses.

Extended Family

Inclusion of the healthy relationships the child has with the community and tribe is vital in the decision making process.

Mobilizing Kinship Involvement

After using assessment questions, help the parents mobilize the kinship network into a care system. After the parents have thought about possible kinship resources, the worker may be able to suggest that the worker and the parent approach a relative together about providing support. A request coming directly from a parent is often more quickly addressed than one coming from a person from an outside agency. Whenever possible, facilitate the natural process.

Sometimes parents are unwilling to approach their extended family, and there are many reasons for this. They may not want their relatives involved because of shame. This is a poor reason not to involve extended family members. On the positive side, shame is an indicator that the parents still care what their family thinks of them. The extended family's opinion has a behavior-correcting influence if it is used effectively. If clients are feeling shame, help them face their family. Be mindful of a parent's hesitancy in order to help them confront the negative consequences of their behavior.

Some parents avoid their kinship network because they have burned out almost everyone in their support system. Too many irresponsible acts, too many abandonments or violated trusts, will leave a kinship system strained, and members of it may be reluctant to offer help. In this case, the worker's role is to determine what can be done to make amends or to heal the kinship network. The worker may be able to engage the extended family on behalf of the children when the parents cannot. At the same time, help the parent overcome his or her reluctance to risk rejection by an overtaxed family. A useful technique in such cases is a kinship meeting, also known as a Family Group Conference. Gather members of the extended family together to discuss the needs of the child(ren) and what it will take for them to fulfill the role of substitute care provider.

Another reason parents do not want their relatives involved is that they have experienced multigenerational neglect, or physical or sexual abuse. Careful assessment is needed to determine the extent to which resources in the kinship network are dysfunctional. In severe cases, the extended family may not be an option for providing assistance. But nearly every extended family has healthy members. Most Indian people are simply related to too many people to not have healthy resources. Finding them may be difficult, but second, third, and fourth cousins, fictive kin (people we call relatives but who have no discernible blood ties), and clan relatives are all possibilities to be considered. These relatives may be in another state or on another Indian reservation. (Note: ASFA provisions remove state and county jurisdictional barriers that delay interstate and inter-county permanent placements.) Do not be too quick to accept the parents' desire for confidentiality or fear of dysfunctional relatives. Explore with the parents the basis of their concern and the full extent of the resources. An assurance to parents may be the knowledge that ASFA recognizes placements with a relative as an exception to the termination of parental rights petition requirement. Relative placement is also a planned permanent placement that does not require the state agency to document a compelling reason for such a placement.

Many times it is possible to treat the extended family as the client who is actively working to restore healthy interdependence that was lost through generations of distress and dysfunction. In small communities, several clients may come from the same extended family, making extended family intervention necessary to help prevent future problems.

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EXERCISE 2 "Maintaining Families" Using material provided by the trainer, practice identifying appropriate helping approaches. For self-study, refer to the exercises in the appendix.

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CHAPTER 3 FAMILY REUNIFICATION

When placement does occur, reunifying the family as soon as the child can be safely cared for in the home is usually in the best interest of the child, the family, and the tribe. Reunification should be determined by improvement in the behavior or condition that brought the child into care. Once the condition or behavior has changed, and a minimum sufficient level of care can be provided for the child, he or she should return home, usually under court supervision. It often happens that workers and courts increase the expectations of parent capacity after the child comes into care, and to correct the behavior or condition that brought the child into care is not considered enough. When this happens, parents can become frustrated and tend to give up because every time they meet one set of goals, new problems are identified and new goals are set. Any delay in returning children to their own homes, when the danger to them is past, increases the chances that the child will remain in the system.

Several factors contribute to early family reunification. As in placement prevention, the agency with custody must make reasonable efforts to reunite the family (except in cases such as those described above). Reasonable efforts are based on an assessment and resulting case plan. ICWA requires that "active" services be provided "before" the removal of the Indian child in an attempt to avoid the necessity of removal.

Successful reunification is closely related to consistent visitation, effective case management, written case plans and agreements, and parent involvement. Parents must know their rights to due process, and it is important that parents understand the critical timelines of the Adoption and Safe Families Act in their reunification process.

Parent Visitation

One of the most difficult responsibilities for parents is visitation because visiting children in foster placement is a painful experience. It is the time when feelings of loss, guilt, fear, or anger may be the most intense. Parents often do not want to face their child. They fear being compared to the foster parents. They are also understandably afraid of being judged on how they interact with their child. The primary reason for parents' failure to visit is the emotional pain involved, not their irresponsibility.

Research tells us that the more visitations occur, the greater the likelihood that the child will be returned to the parents. It is extremely important that the worker be sensitive to the pain of visitation and help parents work through these feelings. The worker must carefully judge where and when visitation is to occur and consider the needs of the parents, the child, and the foster family. Balance the needs of the foster home with those of the parents, and keep in mind that

visitation which is accessible and positive is the priority. To help plan visitation, refer to the following:

- Schedule unsupervised visits, unless there is a clear danger to the child.
- Conduct visits in an environment that is as much like the family's home as possible. This will usually not be the foster home.
- Avoid allowing the foster parents to give too much advice or instruction to the parents.
- Help parents plan visits that are child-focused, with developmentally appropriate activities.
- Plan visits around activities that encourage parent responsibility such as taking the child to appointments, shopping, or to school events.
- Use visits as an opportunity to discuss parenting or child development and to enhance bonding.
- Try to spend time with the parents immediately following the visit for support and intervention.

(Note: "Time-limited family reunification services" provided for under the Safe and Stable Families Act, (Title IV-B), may be used to support parent visitation.)

Written Agreements

The ICW worker's task is to keep parents engaged in maintaining (or regaining) their parenting responsibilities. One way to work toward this goal is for the worker to enter into written agreements with the parents. Following is a brief review of written agreements.

Purpose *[FN]* Adapted from: Pike et al. Permanent Planning for Children in Foster Care: A Handbook for Social Workers. USHEW Pub. No. 77-30124 (1977).

- A written agreement provides direction and clarification for parents who are sometimes overwhelmed by the agency and often unsure of the agency's expectations.
- It specifies obligations for both parents and the service agency. It should avoid unrealistic expectations because these set the parents up for failure.
- It formalizes the parents' agreement with the treatment program.

- It establishes, in writing, expectations later that might be distorted, denied, or confused. It is not a legal document but can be useful in eventual litigation if parents fail to adhere to the treatment program. If they have something in writing to take with them, the parents can think about it away from the pressures they may feel during meetings with the caseworker or in an agency office.

Parents' Role in Decision-making

Case planning that ensures permanency includes parents in the decision-making process. Case plans are developed with, and not for, parents. Likewise, written agreements are developed with, and not for, parents. When plans are developed with parents and diligent efforts are made to provide services that help parents meet the specific goals, the parents are given greater responsibility in choosing the permanent outcome. There are two ways in which parents participate in the choice of eventual outcome. They may participate actively or passively.

Active Participation

Active participation of the parents in decision-making includes engaging in planning activities that either restore the family to an adequate functioning level or resolve the need for permanence by creating and working through an alternative permanent plan. In either situation the client is actively engaged in the process. Activities directed toward maintaining or restoring families have been previously addressed. Activities directed toward engaging the parents in creating and working through an alternative plan may include the following:

- Helping parents identify the realities of the situation that prevent them from being a permanent resource for their children.
- Working through the feelings of loss, anger, failure, or guilt which may accompany the parents' realization that they cannot be the permanent parental resource for their children.
- Examining and discussing with parents the permanent alternatives for their children that consider issues such as culture, extended family, and future contact with the child.
- Facilitating the separation process between the parents and child when the parents are unable to be the permanent resource. This might include joint discussion with the parents and child regarding the reasons, alternatives, and future of their relationship. It might also include working through a healthy good-bye.
- Helping the parents define and establish a non-custodial parenting role that is productive for the child and satisfying for the parents.

Another way in which parents actively participate in the decision-making process is to exercise their rights to due process. Any effort of the parents to use the legal system to advocate for their rights should be supported. Failure to advise parents of their rights to due process is a serious error on the part of the worker. Avoid discouraging the client from seeking due process. In many situations, parents may feel that due process is their only means to active participation.

Even after the ASFA timelines are exhausted, it always remains an option to continue services to reunite a family, provided that the service is based on a case plan tailored to the best interests of the child. Cases covered by ICWA require active efforts regardless of the ASFA timelines.

Non-Custodial Parenting

Even when parents cannot raise their children, they can be a productive and fulfilling part of their children's lives. In today's society of divorced and blended families, there are many examples of healthy non-custodial parenting. Non-custodial parenting usually occurs in situations in which long-term planned foster care, guardianships, or open adoption become the permanent plan. There are several ways to parent even when not living with the children. Care by non-custodial parents involves the following:

- Visiting regularly. Children need dependability, so visits need to be as consistent as possible.
- Contributing financially. The role of who provides financial care does not change in the child's perspective about who the parent is, and the contribution is as important emotionally as it is financially. It is one of the clearest ways for parents to show they care.
- Attending school conferences and activities such as the child's school events or sports events.
- Maintaining positive relations with the custodial parent around parenting issues. Disagreements may be expected, but arguing over the child is inappropriate.
- Teaching children who their relatives are.
- Eating with their children. One thing that relatives often do together is eat. Special cultural or family foods, our use of foods to mark special occasions, and our rituals around eating together can contribute to a healthy relationship between parents and their children.

These are but a few of the possibilities that can be part of a healthy non-custodial relationship. Careful work goes into developing this type of relationship and includes helping a parent decide that custodial parenting is not feasible or desirable, and that other fulfilling options are available for both the child and the parent.

(Note: A Non-Custodial Parenting plan could represent a compelling reason not to seek termination of parental rights under ASFA.)

Passive Participation

In some situations parents choose to let the system impose decisions on them. Their participation in the decision-making is passive. Their behavior (lack of response, absence, or other conduct) indicates their choice not to be a permanent resource for their child. This conclusion can only be drawn when diligent efforts have been made to engage them and services have been refused or have failed, and only after a reasonable length of time (in most cases at least one year) has been given. Such parents and caseworker must be as informed as possible that behavior is an indicator of choice and both elements are dependent on each other for successful outcomes. Efforts of the parents to change their situation, even if their efforts are ineffective, should be given positive recognition. This issue will be discussed further in the decision-making section of this module.

EXERCISE 3 “Parent Participation” Using the material provided by the trainer, role-play a discussion with a parent regarding her or his role in creating a permanent plan. For self-study, refer to the exercises in the appendix.

Summary

Services to parents should reflect the worker’s intent to consider the parents as the child’s permanent resource if at all possible. This includes actively seeking out and engaging the parents in the helping and decision-making process. Permanent planning is done with the parents’ involvement to whatever extent possible.

FOR FURTHER DISCUSSION

- In your experience, what helping approaches have been most effective in preventing out-of-home placements?
- Each Indian community is different. What is the level of extended family involvement in your community? How can this be enhanced?

- What role do written agreements play in your work with families? What issues do you feel are involved in developing such agreements?
- To what extent do parents participate actively in the planning process in your agency? How might their involvement be increased?

CHAPTER 4 WORKING WITH CHILDREN

The focus of permanent planning is on the child's perception of belonging to a family over time. In child welfare, it is the child who is vulnerable to the actions and decisions of others. The parents, worker, and court govern what the child's life is to be like, and too often, it is the system's perception of permanence that governs decisions. Historically, Indian culture has respected and valued the thoughts, feelings, and self-determination of children. Indian child welfare services function with these same values. In this context, good decisions concerning permanence can be made only when workers look to the perception of the child as their guide. The worker needs to recognize the child's reference points for belonging in order to maintain and reinforce existing connections, and to help the child develop new connections where appropriate. These tasks can be accomplished, in part, through the relationship that the worker develops with the child.

Skills in listening, recognizing feelings, and talking to children are the tools that the worker employs in understanding and guarding the child's perception. The following information addresses the worker's role with the child and suggests ways for the worker to ensure that the child's perception remains the focus in the permanent planning process.

Keeping the Child Informed

Children of any age benefit from being informed about what is happening to them. While infants and very young children may not intellectually understand explanations, they can understand the reassuring tones and sincerity of concerned workers, parents, and foster parents. Traditionally in many tribes, children were not talked down to. This ancient practice, which respects the individual child, is equally valid today in Indian child welfare practice. The messages that children get should be clear, positive, and, as much as possible, tailored to their level of understanding. Children need to be told who is to care for them, where their parents are, if and when they will see their parents, and what the eventual plan is. Older children can and should be aware of why they are in foster care and the specifics of the case plan. This awareness of what is happening to them and that someone is in charge helps reduce confusion and anxiety. Following is an example of what a worker might tell a pre-schooler who is going into foster care.

“Right now your mom can’t take care of you. You will be staying with a new family and I will be helping your mom get ready to have you come back to live with her.”

Some points to remember are:

- Children need information about what is happening to them.
- For the younger child, clear, brief, and simple statements delivered in positive, caring tones are most helpful.
- Messages should be honest and reality-oriented as well as non-judgmental, kind, and supportive.
- What the child perceives at a feeling level is as important as the intellectual understanding of information.

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EXERCISE 4 “Informing the Child” Using the material provided by the trainer, practice sharing information with a child. For self-study, refer to the exercises in the appendix.

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CHAPTER 5 VISITATION

Visitation is one of the primary mechanisms by which the worker helps children maintain a sense of connection with their families. Research has shown that in cases where parents visit regularly, the likelihood of family reunification is greater. Visitation may present many problems for parents, children, and foster parents. Visitation should happen anyway. The primary reason that parents fail to follow through with visits is not lack of concern, but rather the emotional turmoil they face in visiting. It is the task of the worker to recognize these issues and help the parents cope. The child’s response to visitation may be to “act out” afterwards, a part of the process to be expected. The worker’s task is to help the foster parents cope and help the child with the feelings generated by the visit. Coolness or being distant during a visit may also be a normal response of a child during visitation. A child who is well-attached to his or her parents may be distant during a visit as an expression of anger at the parents. Many children simply must get to know their parents again after even a brief separation. Some points about visitation to keep in mind are:

- Parents often feel judged, on display, or in competition with foster parents.
- Visitation is the time when parents’ sense of failure is most acute.
- Visitation should be structured to provide the most positive atmosphere possible for the child and his or her parents.

- Positive visitation can be arranged even for the most difficult parents. Sometimes this requires the worker to remain present for the visit.
- Children's reactions to visitation, e.g., being distant or acting out, are normal but need to be attended to by the worker.
- The visit is an artificial situation at best, and interactions during this time may not be good indicators of the quality of the parent-child relationship.
- The feelings generated by visitation for parents and children provide the worker with an opportunity to deal with sensitive issues in the casework process.
- Visitation may be part of a permanent plan in which the child will not be returning to her or his own home.

The Child's Role in Decision-making

While children are dependent on the adults in their lives to make decisions about their care, children do have a role in the decision-making process. That role can be active or passive. Children take an active role in decision-making when they are old enough to express a preference. Historically, Indian children as young as eight were considered to have a role in decision-making with regard to their care. Though this must be judged individually, the child's preference should be solicited and considered in any permanent plan.

Children may also passively participate in the planning by displaying through their behavior where their sense of belonging lies. Running away (to parents) or reluctance to attach to a new family may be behavioral indicators. The worker must consider the perception of the child in order to plan effectively.

Coping with Loss

In some cases children will not be reunited with parents. In those instances, how the worker handles telling the child may be as important to the outcome as what that plan entails. Once informed of the plan, children need help in working through the feelings generated by such plans. It is important that the worker has laid the groundwork by keeping the children informed about what is happening to them and about the progress of their parents. A child whose parents voluntarily accept an alternative plan might be told:

"The parents' job is to make sure their kids are taken care of. Your parents are doing that job by making sure you have a family to grow up in."

A child for whom an alternative plan is made without the consent of the parents may be told:

“When parents can’t do the job of making sure that their kids are taken care of, the court makes sure for them. The court is making sure that you have a family to grow up in.”

These statements are brief and matter-of-fact, and they communicate clearly the reality of the situation. What the worker will tell the child will vary, depending on the age and competency of the child. Whatever messages are given, they should be non-judgmental, simply stated, and framed in as positive a way as possible. Once the child has the information, the next task is helping him or her cope with the reality of the situation. In this process the worker can expect several reactions:

- **Shock:** Even though the child seems well prepared, when reality hits, the child’s initial response may be one of shock.
- **Denial:** A normal reaction in any loss is denial. The child may ignore the reality and continue to act or speak as if reunification is still the plan.
- **Anger:** The child may experience anger as a normal reaction. Acting out, running away, or fighting may occur.
- **Bargaining:** Once the child begins to deal with the reality, he or she may want the parents to have one more chance, or may want to live with another person who is also not a resource, or may want to live on his or her own.
- **Acceptance:** Finally, as the child works through the sense of loss and grief, he or she comes to understand the reality of what is happening and begins to make adjustments.

Not all children exhibit all of these reactions, but many do. The more preparation children have received in establishing understanding of the situation, the greater the chance that they can get through the loss with a minimum of lasting negative effects. It is a time when children need support, understanding, and strong adults to help them maintain control. The worker’s role is to help everyone concerned to understand and cope with the process.

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EXERCISE 5 “Coping with Loss” Using material provided by the trainer, examine the normal process of dealing with loss. For self-study, refer to the exercises in the appendix.

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FOR FURTHER DISCUSSION

- Consider how you feel when decisions are made that affect your life (at home, work, school, etc.) and you are not informed. Can you remember having such an experience as a child?
- Visitation can be difficult for the worker as well as for children and parents. What feelings do you experience while planning or conducting visits?
- At what age were you allowed to make decisions about your own life? At what age are children in your community expected to be able to make decisions?
- Consider how children might feel when informed that they will never live with their parents again. If you were in their position what would you need from others?

CHAPTER 6 DECISION-MAKING

One element of permanency planning that is applied throughout the process is decision-making. Decisions are made concerning intake, placement, services, returning children, or permanent alternatives. These decisions are made by the family, the worker, and the court. Decision-making in Indian child welfare is an active process of making choices. Decisions by default or inaction are to be avoided. The process of decision-making is, by necessity, highly individualized. In each case, decisions are based on the unique factors present in that situation. This section focuses on the issues and concepts that influence the decision to make an alternative permanent plan.

Rights of Parents vs. Rights of Children *[FN]* Susan Downs and Catherine Taylor, *Permanent Planning in Foster Care: Resources for Training*. Washington: DHHS Pub. No. 81-30290, 1980.

The right of parents to raise their own children according to their own norms and customs has long been recognized. That children also have rights is an idea of more recent origin. Initially, these rights were stated in terms of the right to protection from specific harms, such as child labor laws and statutes prohibiting child abuse and neglect. More recently, some have begun to claim that the child has rights beyond protection from harm, specifically the right to a continuity of relationship, to live with a family he or she can regard as his or her own. This claim raises questions about where the child's strongest attachments lie, which he or she sees as his or her parents. The child's rights to a permanent home, then, must be balanced with the parents' rights and wishes. This information becomes important data in determining where the child should be placed.

For Indian children the rights of the child must also be considered in the context of the rights of the extended family and tribe, as defined by tribal custom and code.

The Least Detrimental Alternative

The concept of the least detrimental alternative has become a guide in permanency planning. It refers to the recognition that when children cannot return home, there is usually not one best plan. Rather, there are several possible alternatives that must be examined on an individual, case-by-case basis to determine which alternative will be least detrimental to the child. Examination of placement alternatives should include parents, extended family, foster parents, or others involved. The primary focus is to provide children with adequate care and to guard their sense of belonging. While the Indian child welfare worker develops plans that are based on the concept of the least detrimental alternative, ultimately it is the court that determines the final outcome. Clear documentation and communication to the court are essential in ensuring the least detrimental alternatives for Indian children. The least detrimental alternative must assure the safety and well-being of the child.

A Minimum Sufficient Level of Care *[FN]* Adapted from Victor Pike et al., *Permanent Planning for Children in Foster Care: Handbook for Social Workers*. Washington: DHEW Pub. No. 78-30124 (1977), p. 14.

The minimum sufficient level of care is the point below which a home is inadequate for the care of a particular child. This standard implies that the child needs a certain amount of physical, spiritual, and emotional nurturing. Without it, the child is deprived of the care he or she needs to grow and develop.

Such a judgment is necessarily relative; there are no fixed criteria. Whether or not a home falls below a minimum sufficient level must be decided by an informed judgment, which evaluates a particular home as a suitable placement for the child who may return there. To some extent, the minimum sufficient level is set by local, current, and community standards. Acceptable standards in one part of the country regarding, for instance, child supervision or corporal punishment, may not be acceptable in another.

A useful way to approach this judgment is to ask yourself, "If the child were returned home tomorrow, would I have concern for the child's welfare?" If so, try to identify the principle cause for concern. Would the child's nutrition, health, or physical safety be neglected? Would he or she be left inadequately supervised for periods of time? Do you have reason to think he or she might be physically abused? Could the child be emotionally neglected? The safety and well-being of the child are paramount considerations.

Note that the emphasis is on the care of a particular child. A child with emotional or physical handicaps may have extraordinary needs and require a different level of care than does a child without these handicaps. The age of the child may also enter into a determination of the level of care necessary. Workers with adolescents in their caseloads seek to evaluate the child's level of functioning, as well as that of the parents. A teenager who is largely able to care for himself or herself may be able to return to a home considered marginal for a younger, more dependent child.

It is also important to realize that this standard is intended as a minimum, not an ideal. Neither the courts and nor the agency have the right to require parents to meet some ideal in terms of child rearing, but only to require that there be no real danger to the child.

The decision to pursue a permanent plan other than the return of the child to her or his own home must be made on the basis that the parents cannot and will not be able to provide the minimum sufficient level of care. This must be judged only after appropriate services have been offered and sufficient time allowed for change. This is ultimately a legal decision. Case plans, client contacts, and worker activities must all be carefully documented.

Reasonable/Active Efforts

As described earlier, under federal law, child welfare programs that receive federal funds are obligated to make reasonable efforts to prevent the need to remove a child from his or her home, and if that child is removed, to reunite the family as soon as possible. However, as described in section ASFA has modified the requirements for reasonable efforts.

Technically, reasonable efforts (discussed on page 10) include two requirements. First, services to prevent placement or to help reunite families must be provided based on an assessment of what is needed. Second, a court must determine that the efforts of the child welfare program were reasonable to bring about the desired change. This means that documentation and record-keeping are essential elements of casework. The reasonable efforts requirements are designed to prevent unnecessary placements and to keep placements as brief as possible when they occur.

Even in emergency situations, the child welfare program should determine if the child could safely be served in his or her home. If not, then placement is within the federal requirements. When children are served at home but the situation worsens, placement is appropriate, and reasonable efforts are then made to reunite the family.

Whether services are "reasonable" in a particular case should be measured against what has been possible in other cases in the same and other locations.

Reasonable efforts may look different in different locations because available services may be different. Also, it is not enough for the worker to simply refer the family to services, but must also personally help the family engage the services as well as providing direct casework services. For tribes and workers who need to comply with the provisions of P.L. 96-242 and ASFA, P.L. 105-89, guidelines are included in the appendix of this manual.

Active Efforts

The legislative history of ICWA evinces a clear congressional bent for energetic efforts to be made by state agencies in Indian communities for the development of culturally relevant programs designed to address the problems that lead to the removal of Indian children. (B.S Jones1995) Caseworker models of home counseling, daycare, residential treatment and group homes are to be encouraged and supported by the state or community agency.

Time

Permanent planning with its concept of linear time challenges this cultural view of time. How much time is enough time for a parent to make changes? How long must children wait for changes to occur before they can return home? Local agencies, courts, and communities must decide these questions based on cultural values and local norms. What is considered as a reasonable amount of time in one community may be different in another community.

The issue of time, in relation to the time requirements of ASFA, has been one of the most difficult aspects for Indian child welfare workers to address. Because timelines abound, it is important for the worker to be aware of ASFA requirements and how these requirements apply to each individual case. For example, if a parent is making progress in treating a substance abuse problem, and continued progress would allow future reunification without endangering the child, this could constitute a compelling reason not to file a TPR petition, which would otherwise have been required.

Likewise, if a child is placed in a relative placement, this falls within the preferred placement of the Indian Child Welfare Act. As such, the placement would also fall within the "relative exception" to the TPR requirement. All exceptions to ASFA should be clearly documented in the child's case file.

Drawing on the strength of this traditional concept of time, the Indian child welfare worker concerned with making a permanent plan can focus on the experience of the parents during the process instead of on the length of time. If more time seems appropriate, this need should be acknowledged and documented. Where possible, exceptions may apply to allow more time for the family. Then the extension can be conducted in a well-planned way.

Note: Remember, the intent of federal law and policy is to ensure the safety, well-being and sense of belonging of children who enter the child welfare system. That is our first and foremost priority. ASFA timelines provide a framework to help us stay focused on these priorities. They should be used to support practice, not direct it at the case-by-case level.

Identity

As discussed in previous modules, Indian people come from a variety of backgrounds with many different experiences of being Indian. The great diversity that exists among Indian people, even within the same community, is an issue that must be considered in Indian child welfare. In permanency planning, the Indian child welfare worker must also consider how the cultural values about identity affect decision-making.

Vine Deloria and others have commented on the concept that traditionally an Indian person's identity changes with growth and development. This is evidenced by the fact that in some tribes an individual might have several different names at different points in her or his life. Baby names, adult names, and nicknames change as does identity. Even relatives' names change with marriage or death. This community recognition of identity change is an important concept in permanency planning.

Parents who now cannot meet the minimum sufficient level of care for their child will be different people at some point in the future. A person who is currently an alcoholic parent may be a respected elder later in life. Given this cultural context, children who need a permanent alternative today may have a valuable resource in their parents sometime in the future. Thus, permanency planning in Indian communities often reflects this belief in identity change. Permanent options that hold open the possibility of contact and identification with parents are, in many situations, culturally appropriate.

Extended Family

The extended family is the primary support network within the Indian culture. As discussed in the overview, it is important that permanency planning in Indian child welfare consider the child's sense of belonging and connection with the extended family. In situations where an alternative permanent plan must be considered, the extended family must be given primary consideration. Even when the extended family is unable to provide direct care on a permanent basis, they should be considered in the planning. When children become adults their support network is still the extended family. Contact with the extended family throughout their years growing up helps children keep such support networks intact. A child can benefit in terms of identity and future support when the extended family is a resource that remains open to them. Options in permanency planning that hold

open this possibility usually are more culturally appropriate than options that sever those ties.

Decisions about permanent plans for children must be considered in the context of these cultural issues. The unique cultural variables in Indian communities demand that permanency planning, like other aspects of child welfare, be highly individualized and adapted to local cultural norms and values.

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EXERCISE 6 “Cultural Variables in Permanency Planning” Using material provided by the trainer, examine the cultural issues that affect permanency planning. For self-study, refer to exercises in the appendix.

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CHAPTER 7 REASONS TO SEEK ALTERNATIVE PERMANENT PLANS

For some children it becomes necessary to develop permanent plans that are other than returning home. Such decisions must be made based on well-documented information. Following are descriptions of situations in which alternative permanent plans may be appropriate.

Absence

Absence of parents may be due to the parents’ willful abandonment of their children with the intention of forsaking all obligations. In such cases, an alternative permanent plan is appropriate when the three following conditions exist:

- A diligent search has been made to locate the parents and engage them in a plan to restore the family.
- After a reasonable amount of time has passed (as defined by community standard or legal code), the parents have neither made an effort to accomplish nor succeeded in accomplishing their established goals.
- The child is viewed as capable of developing lasting ties with a new family.

Conditions

The worker may view certain conditions of the parents as so severe that they prevent the parents from assuming responsibility for their child. Alternative permanency plans for a child should be considered when:

- Mental illness, emotional illness, mental deficiencies, or substance addictions fail to respond to appropriate treatment after a reasonable length of time.

- Parents refuse, after a reasonable length of time, to accept treatment or services to correct conditions.
- Such conditions are judged by experts to be so severe that they prohibit the parents from providing a minimum sufficient level of care.
- Such conditions are documented with concrete evidence, including criminal background checks.

Conduct

In some situations, the conduct of the parents is such that their behavior prevents them from being able to provide a minimum sufficient level of care even after appropriate services have been offered and/or delivered. In such cases an alternative permanency plan is appropriate when the three following conditions exist:

- Neglect, abuse, sexual abuse, or refusal to provide for the child persists even after a diligent effort has been made to treat the parents.
- Written agreements have been developed, appropriate services provided, periodic reviews conducted, and a reasonable length of time has passed.
- The conduct that causes the parents to fail to meet minimum sufficient level of care standards is clearly documented.

After these criteria are met, the worker begins the process of exploring permanent options for the child. As part of this exploration for options, the worker must consider the legal status of the child and determine what course of legal action may be required to implement each option. The following section describes several possible permanency planning options and related legal actions.

Extreme Conduct

Some conduct is so extreme that federal policy allows for alternative permanent plans to be considered immediately. In most of these situations, reunification services need not be offered.

- Parent has abandoned, tortured, chronically abused, or sexual abused the child.
- Parent previously had parental rights involuntarily terminated to a sibling of the current child in custody.

- Parent has committed, aided, abetted, attempted, conspired to commit or solicited to commit murder or voluntary manslaughter of the child or another child of the parent.
- Parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent.

When it is determined that these extreme circumstances exist and that it is in the best interest of the child not to consider reunification, the worker must initiate alternative permanency options for the child and proceed with the appropriate legal actions.

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EXERCISE 7 “The Decision to Seek an Alternative Permanent Plan” Using case material provided by the trainer, practice determining when an alternative plan is appropriate. For self-study, refer to exercises in the appendix.

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FOR FURTHER DISCUSSION

- Consider your community, court, and program. Does there seem to be more concern for children’s rights or parents’ rights? What about tribal rights?
- What is the prevailing attitude in your community about what the minimum sufficient level of care is? Who should decide?
- What mechanisms exist in your agency for case reviews, documentation, and team decision-making? What changes might you suggest?
- Consider your own community. How do people respond to the concept of “permanent plans” for children? What are the cultural issues involved?

CHAPTER 8 OPTIONS IN PERMANENCY PLANNING

Normally, the best permanent plan for a child is with his or her own family. However, this option is sometimes impossible, and alternative permanency plans must be arranged. Several options exist. Each has its own advantages and disadvantages and necessary legal procedures. The legal procedures used in carrying out alternative permanent plans are complex, and they vary depending on state or tribal codes. It is beyond the scope of this training material to deal with specific legal procedures. Several resources exist to assist Indian child welfare workers with the technical aspects of permanency planning *[FN]* Two resources for information and training materials on the legal aspects of permanency planning are: The American Indian Law Center in Albuquerque, New Mexico, and the National Resource Center on Permanency Planning.

This section outlines options that are available, indicates their advantages or disadvantages, and briefly describes how they can be accomplished. The choice of any of these options depends on the unique characteristics of each case and is influenced by the cultural issues involved.

Guardianship *[FN]* Adapted from Pike et al., *Permanent Planning for Children in Foster Care*, 1977, p. 76.

Every child has (or should have) a guardian: a natural guardian by birth, or through adoption, or a judicially appointed one. Guardianship differs from "legal custody," which the court awards to a child welfare agency when it orders foster care placement. The guardian of the person does not necessarily also have legal custody, and guardianship carries more rights and responsibilities than does legal custody. For example, the guardian can take the child out of state, consent to a minor's marriage or major medical treatment, and make other significant decisions about the child.

For purposes of permanency planning, guardianship arrangements have the advantage of being more immune to disruption than are formalized long-term foster care agreements. A guardianship can be threatened if a parent petitions at a later date for custody of his or her child, or the guardian can dissolve the guardianship. In view of the growing acceptance by the courts of children's rights and the concept of the psychological parents, it appears unlikely that guardianships of long duration will be threatened by a proposal initiated by impulsive parents. The guardian controls all visiting with the biological parents.

A further advantage of guardianship is that it fits culturally with the extended family concept. The use of guardianship formalizes and protects ongoing care of the child by an extended family member. Other individuals may also become guardians. One disadvantage is that financial arrangements may be difficult. This plan is appropriate when:

- The child is unlikely to return home.
- An extended family member or other individual wishes to become the guardian.
- Adoption is not feasible or advisable.
- Satisfactory financial arrangements can be made. Some child welfare agencies cannot make foster care payments to children with judicially appointed guardians. The financial burden can be lightened if the child is eligible for such assistance as SSA, SSI, Indian, or Veterans' benefits. Some states allow the guardian to continue to receive foster care payments, so it is necessary to determine the procedure for your state or tribe.

How to do it *[FN]* Material on how to accomplish a guardianship is adapted with permission from Fort Berthold Community College.

Historically, Indian people generally took care of all guardianship matters within the extended family system. Relatives within the extended family usually assisted with the children by verbal agreements with the natural parents, or took care of the children when their parents died or abandoned them. These agreements were usually quite satisfactory and did not require court intervention. However, as more Indian children have gone into foster homes and institutions on a long-term basis, the concern for the welfare of these children has grown.

Guardianship proceedings must be initiated by the filing of a petition with the court. If the tribe has a tribal court and the tribal code gives the court the authority to determine guardianship, then the petition is filed in tribal court. In tribes where there is no tribal court, the process must be conducted in state court. Usually, the tribal code or court forms specify the information that must be contained in a guardianship petition. Normally, the petition includes the following:

- The full name, address, age, and tribal affiliation of the child
- The full name, address, and age of the proposed guardian
- The relationship of the guardian to the child
- All known relatives of the child and basic information about the relations if known
- Relevant consent documents
- A description and statement of value of all property owned or possessed by the child
- An explanation of the conditions or circumstances that warrant appointment of a guardian
- A formal request to the court for an order appointing the guardian

Tribal courts usually refer a guardianship petition to an ICW program or other public or private agency for investigation and reporting. Information that should be provided by the agency includes the following:

- Information about the child, including physical health, mental health, family background, tribal affiliation, any living relatives, and anything else concerning the child that is relevant to the prospective guardianship.

- Information about the petitioners (guardians), including their physical health, mental health, tribal affiliation, relationship to the child, employment and financial condition, as that would relate to their ability to provide for the child, their fitness as parents, and the suitability of their home for the child.
- Information about the natural parents of the child, such as their feelings about the child, their desire to allow the guardianship, their fitness or unfitness as parents.

After the petition is filed and the investigation is completed, the tribal court holds a hearing on the guardianship petition. The procedures and the considerations involved in a guardianship hearing are very similar to those involved in an adoption hearing which is described later in this manual.

Differences from Adoptions

Although many of the policies and procedures concerning adoptions are very similar to those concerning guardianship, there are a number of differences, such as:

- Adoptions are final and permanent arrangements. Guardianships are usually temporary arrangements (for example, until the child reaches the age of majority) and are often periodically reviewed and extended.
- Once an adoption decree is issued, the court usually has no further involvement with the family. In guardianship proceedings, there is often ongoing supervision by the court. The guardian sometimes has to post a bond if the child owns significant property and provide frequent accountings and reports for the court.
- The adoptive parents exercise all of the rights and duties of the natural parents. The scope of a guardian's power, however, is usually clearly defined by the court order or the tribal code. The scope of the guardian's authority can range from very limited rights and duties up to an exercise of all of the rights and duties of the natural parents.
- The standards for parental consent in guardianship proceedings are often less than those for adoption proceedings.

Customary or Traditional Adoptions

Historically, tribal societies recognized children in their own right as part of the entire fabric of the tribe, belonging not just to their biological parents, but more importantly, to the tribe. Every member of the tribe had obligations to all children and to each child. It is important to recognize that the tribe protected children when parents were unable to protect or provide for them. Extended families and

clans were pivotal in a child's life, and this remains true for most children living on reservations. A child might have been given to or placed with a member of the parents' family or clan for a variety of reasons, and permission from an official agency or department was not envisioned or necessary. However, there are at least two concerns which now may compel a tribe to consider the need for official approval of customary adoption: first, because important financial and programmatic resources may be available only when a child is formally adopted, and second, because legally recognized consents are necessary for education and medical treatment. In addition, it is important to acknowledge that not all placements are voluntary and family members may have to intervene informally when they see children at risk and take them into their control. Legal process may be necessary to forestall fighting and family "tugs of war."

Language protecting an adopted child's rights by birth to participate in traditional activities should be included; however, whether such official language will be accepted by traditional people must be debated by the tribe (UNM Tribal Adoption Code).

For purposes of permanency planning, a traditional or customary adoption is more immune to disruption than are formalized long-term foster care agreements. Like a guardianship, a traditional adoption can be threatened if a parent petitions at a later date for custody of his or her child, or the guardian can dissolve the adoption. In view of the growing acceptance by the courts of children's rights and the concept of the psychological parents, it appears unlikely that guardianships of long duration will be threatened by a proposal initiated by impulsive parents. The adoptive parent controls all visiting with the biological parents.

A further advantage of a traditional adoption is that, like a guardianship, it fits culturally with the extended family concept. It formalizes and protects ongoing care of the child by an extended family member. Other individuals may also become adoptive parents through a traditional adoption.

Like guardianship, customary tribal adoptions could be considered when:

- the child is unlikely to return home;
- an extended family member or other individual wishes to become the adoptive parent through a customary adoption;
- "mainstream" adoption is not feasible or advisable; or
- satisfactory financial arrangements can be made. (New federal policy changes now permit Title IV-E adoption subsidies to be provided to families who adopt through customary procedures if the child is Title IV-E eligible. The tribe or

Bureau of Indian Affairs may be willing to make subsidy payments to children adopted by tribal custom if they are not IV-E eligible.)

Formalized Long-Term Foster Care *[FN]* Pike et al., Permanent Planning for Children in Foster Care, 1977, p. 72.

This plan formalizes a foster care arrangement often already in existence by making a non-legal, written agreement among the foster family, the child welfare agency, the biological parents, and the child. It gives the foster family more autonomy in planning for the child than is customary in regular foster care. Biological parents may find this plan less threatening than guardianship, and be willing to sign an agreement and abide by its provisions. Foster parents are protected by the agreement from fear of losing the child, as the agency agrees to maintain the placement until the child is grown, unless new circumstances arise in the foster home that demand a reappraisal of the placement. Foster parents often worry when there is a change of worker, since the whole question of whether the child will return to his or her parents can come up again at that time. This agreement ensures both the foster parents and the child of placement continuity.

This plan is appropriate when:

- the child is unlikely to return home.
- adoption is not feasible or advisable.
- a good foster home is available, especially one in which the child is already part of the family.

One advantage of this option is that it allows the child access to his or her own parents and extended family. A disadvantage is that it is less stable and predictable than other permanent options. In situations in which the condition of the parents is the reason the child cannot return home, this option may be more appropriate.

Formal long-term foster care differs from guardianship in the following ways:

- It has no legal standing or safeguards and can be more easily disrupted. If, for example, the foster family should move out of the area, and the biological parents object to the child going with them, the placement may have to terminate.
- The child welfare agency retains legal custody, so the agency continues foster care payments, pays medical bills, and provides supportive services. The agency also controls visitations. Long term foster care is feasible under ASFA if

the best interests of the child have been considered and determined by due process.

How to do it:

- Develop a written agreement with the parent, child, and foster parent that reflects the particular circumstances of your case. Draw up the agreement yourself and arrange for signatures. Legal advice, if available, can help in drafting the agreement.
- Be sure that all parties—biological parents, if they are willing; foster parents; agency; and the children, if they are old enough—are included in the agreement.
- Remind all parties that, although this is not a legal document, it is based on the good faith and shared concern for the child's welfare of all participants.
- At the judicial review, ask for court approval of the plan. Include a determination that reasonable efforts have been made to reunite the family, that it is not feasible or advisable to reunite them, and that it is not feasible or desirable to adopt or enter a guardianship.

A Emancipation *[FN]* Pike et al., *Permanent Planning for Children in Foster Care*, 1977, p. 78.

Emancipation means that the child becomes independent from adult caretakers. States and tribes differ in procedures for emancipating minor children.

Emancipation may be a good plan for an older teenager who is independent, does not want to live at home, and for whom foster care resources have been exhausted. It might also be appropriate for a responsible teenager whose home was broken up and who wishes to finish his or her education without changing schools. The child usually receives General Assistance and is essentially on his or her own with or without supervision by the agency. In most instances, the youth continues to live with a relative, foster family, or a family friend. Most programs rarely use this option, and when they do, they offer supportive services to the youth. A substance abuse assessment should be conducted prior to this plan because problems with drugs or alcohol will usually cause failure of such a plan.

The advantage of this option is that the child relies on the natural support network of his or her extended family and has the potential of a continuing relationship with his or her own family.

It is an appropriate option when:

- the child is unlikely to return home.

- the child is old enough and capable of independent living.
- the child has a natural network of support that helps him or her function independently.

How to do it:

Emancipation proceedings, like guardianship proceedings, are initiated by the filing of a petition with the court. If the tribe has a tribal court and the tribal code gives the court the authority to emancipate minors, then the petition is filed in tribal court. In tribes where there is no tribal court, the process must be conducted in state court. Usually, the tribal code or court forms specify the information that must be contained in an emancipation petition.

In cases where the petition is not filed by the ICW program on behalf of the child, the tribal court usually refers the emancipation petition to the ICW program for investigation and reporting.

Information provided by the agency should include:

- Information about the child including physical health, mental health, family background, tribal affiliation, any living relatives, and anything else concerning the child that is relevant to the prospective emancipation.
- Information about the natural parent(s) of the child, including their feelings about the child, their desire to allow the emancipation, and their fitness or unfitness as parents.

After the petition is filed and the investigation is completed, the tribal court holds a hearing on the emancipation petition. The procedures and the considerations involved in an emancipation hearing are very similar to those involved in a guardianship hearing.

Adoption

An adoption is a legal procedure in which a parent/child relationship is created between people who are not biologically related as parent/child. The legal rights and responsibilities that formerly existed between the child and his/her natural parent(s) come to an end as a result of the decree of adoption. These legal rights and responsibilities are then replaced by similar rights and responsibilities and given over to the new adoptive parents.

Several forms of adoption exist, and all require that the parents' legal rights to the child be terminated, whether voluntarily or involuntarily. Indian child welfare must seriously consider the impact of termination on the identity of the child, the

connection of the child with the extended family, and the connection with the tribe. The stability which adoption offers is its advantage. This advantage must be weighed against the stability offered by extended family connections.

Termination of parental rights and subsequent adoption are most appropriate when:

- the child is unlikely to return home.
- the child has few or no extended family resources or when extended family resources can be maintained despite termination of parental rights.
- the child is considered adoptable. (More detail on this subject is given in the next section.)
- an adoptive home is available for this particular child. The Adoption and Safe Families Act clearly describes that permanent placements are identified on a child-specific basis.
- the child can be freed for adoption either by voluntary consent of the parents or by involuntary termination of parental rights.

B Determining Whether a Child Is Adoptable *[FN]* Pike et al., *Permanent Planning for Children in Foster Care*, 1977, p. 64.

The purpose of determining whether a child is adoptable is to ensure that every child freed for adoption is subsequently placed in an adoptive home. An adoptable child is one who is able to form a healthy attachment to a new family and for whom there is a suitable parent willing to adopt him or her. When termination of parental rights is not followed by adoption, the state or tribe becomes the parent of the child, since the child then has no legal parents of his or her own. Caution should be exercised in freeing children for whom no adoptive family has been identified.

Several factors that may affect a child's adoptability and should also be considered as potential barriers to successful adoption are:

- Age

Older children have been historically more difficult to place for adoption, because they are seen as less desirable by adoptive parents and because they may have strong attachments with natural parents and/or extended family. Adoption of older children might occur when the child has developed a deep attachment to a substitute care provider.

- Extended Family Connections

Children who have significant attachments within their own extended family are less likely to make the necessary attachments to an adoptive family unless the ties with extended family can be maintained. The extended family should be considered the resource of choice.

- Bonds with Natural Parents

Children who have deep emotional ties with their natural parents or who have not been helped to work through the loss of their parents may not be able to form emotional bonds with adoptive parents.

- Emotional and Physical Health Issues

Severe emotional disturbance, depending on prognosis, can preclude adoption; the younger the child, the more serious the disturbance can be without precluding adoption. The child of any age who is least likely to succeed in adoption is the child who cannot respond in a parent-child relationship. A child who is sociopathic or autistic, or who is severely damaged by past experiences, requires an unusually secure adoptive parent.

Unfortunately, children with physical disabilities are also less appealing to some potential parents, and the cost of medical treatment affects adoptability. The four possibilities for a child needing medical or psychiatric treatment are:

1. adoption by a family whose medical insurance provider will accept responsibility for the child with a pre-existing condition;
2. provision of an adoption subsidy can be provided;
3. adoption after the medical or psychiatric problems are resolved; or
4. adoption by an affluent family.

- Mixed Race

The extent to which mixed-race children are seen as desirable by adoptive parents varies from region to region and is affected by the racial mix of the child.

- Sibling Relationships

There continues to be a shortage of adoptive homes for sibling groups of three or four brothers or sisters who should be placed together.

* * * * *

EXERCISE 8 "Determining Adoptability" Using material provided by the trainer, practice determining whether a child is adoptable. For self-study, refer to exercises in the appendix.

* * * * *

CHAPTER 9 TYPES OF ADOPTION

Several types of adoption exist and may be more or less appropriate in any given situation. Following are the several forms which adoption may take.

Open Adoption

An open adoption is one in which the child and the natural parents continue to have a relationship even after the parents' legal rights have ended. This option may be particularly useful for older children or children with some emotional attachment to the parents. It has the further advantage of giving the child access to his or her extended family. In small communities where everyone knows everyone else, this option is more realistic than a closed adoption. The child grows up with an awareness of who his or her natural family is. One disadvantage is that the child's loyalties may be divided between the adoptive family and the biological family.

Closed Adoption

A closed adoption is one in which there is no contact between the child and the biological family. Records involving the child's origins are sealed. This option is more appropriate for a very young child or a child with few or no ties to biological parents or extended family. It may also be the option of choice of the parents when they do not want their identity known. Its advantage is to give the child only one family to be attached to. Its disadvantage is that the child has no contact with the biological extended family. As the child matures and becomes an adult, this lack of knowledge about his or her past, particularly when searching for tribal connections, may lead to emotional issues. With adoption laws changing throughout the country, closed adoptions are becoming increasingly difficult to keep "closed" forever.

Subsidized Adoption *[FN]* Pike et al., *Permanent Planning for Children in Foster Care*, 1977, p. 67.

Subsidized adoptions enable children with disabilities or special needs to be adopted. These are children who have established emotional ties to their foster parents; have physical, emotional, or mental handicaps; are of mixed race backgrounds; are older; or are siblings who should not be separated. Subsidized adoptions may be open or closed.

Under the subsidized adoption program, a subsidy for a child (through federal, state, or tribal resources), enables qualified families to take permanent responsibility the child. The subsidy agreement is tailored to the child's needs and may allow for medical, legal, or other costs; a monthly reimbursement for a limited time; or a monthly reimbursement that continues until the child is grown.

Foster Parent Adoption

Foster parent adoptions occur when a child in foster care becomes free for adoption, the foster parents want to adopt, and the home is approved for adoption. It usually occurs when the child has already established strong emotional bonds with the foster parents. Often, children who have been in the same foster home for a long time desire this option. These adoptions may be open or closed. Workers must consider the cultural background of the foster parents in the decision to proceed with such adoptions.

Foster parent adoptions may occur more frequently through the use of concurrent planning, a permanency planning tool endorsed by the Adoption and Safe Families Act. Concurrent planning is a dual-track process that places a child in a home that is willing to adopt the child if the reunification with the birth family is unsuccessful.

Extended Family Adoption

Extended family adoptions are ones in which an extended family member becomes the legal parent of the child. It is a more stable option than guardianship or an informal arrangement. It may be open or closed, depending on the wishes of the extended family or parent. This option has the advantage of keeping the child in her or his extended family. These adoptions may also be subsidized. Extended family adoptions have the further advantage of having a traditional cultural base. The legal process simply formalizes this tradition.

Termination of Parental Rights

All of the adoption choices require that the child be free for adoption—that is, the rights of the parents must be terminated in some way. This may occur either by voluntary consent or through legal action that terminates the parents' rights involuntarily. A decision to seek termination of parental rights must carefully consider the factors in each individual case. The cultural issues and values that influence this decision must be fully considered.

Family involvement throughout the length and breadth of the case results in decisions that are usually supported by the family and tribe. The TPR process is not enjoined prior to family involvement. Arizona tribes seek a holistic approach throughout the case planning and implementation of Indian child welfare cases. The court perceiving the family as a whole is vital in mutual agreements and

decisions being supported. In the context of these cultural issues termination of parental rights is an extreme action and should be reserved for only the most severe cases when permanency can be provided by no other means. It is beyond the scope of this module to discuss the legal procedures involved in the termination of parental rights. Each tribe or state will have different requirements for such action. Termination of parental rights will depend largely on the worker's being able to prove that:

- The parents are not likely to be able to provide a minimum sufficient level of care; the child has been abandoned as defined in state law or the parent has committed murder, voluntary manslaughter, or felony assault that leads to serious bodily injury against any of his or her children.
- Diligent efforts have been made to find and engage the parents in services. (Documentation is extremely important.)
- Services that have been provided were appropriate to the needs of the parents.
- The child has been in out-of-home, non-relative care for 15 out of the last 22 months.
- The child is adoptable.
- A suitable plan and adoptive resource exist for the child.
- This plan is culturally appropriate for the child and will safeguard the child's identity and tribal status.

The instances of parental conduct that give rise to termination of parental rights and allow adoption must be stated in the adoption or juvenile code. Generally, upon adequate evidence of non-support, abuse, neglect, or desertion, parental rights will be terminated and consent to adoption is dispensed with or waived.

Abandonment by the natural parents is conduct that amounts to renouncing the natural parental relationship with the child. This may encompass situations of extreme neglect where the court determines that the best interests of the child demand a permanent removal of the child from the home. This renouncing of the natural relationship also may encompass a refusal to provide support to the child or actual child abuse.

The courts have generally held that the parents' conduct must be intentional to constitute abandonment. Also, many jurisdictions provide that for the conduct to amount to abandonment the parent must have left the child permanently or indefinitely in the care of others, making little or no effort to support or communicate with the child. It is not necessary for the parent to physically

abandon the child. It will be sufficient if the parents' conduct indicates a total lack of interest in the child's welfare.

However, when a parent abandons a child and later resumes his/her parental duties, the court may treat the parent as having repented and terminate abandonment proceedings.

Other situations (besides abandonment, neglect, and abuse) which may result in an involuntary terminating of parental rights include: "incurable mental illness," "incurable alcoholism," "life imprisonment," and "imprisonment for an extended period."

In some jurisdictions, when the natural parents do not voluntarily consent to the adoption, their parental rights would have to be terminated in a separate proceeding prior to the adoption proceeding. But in other jurisdictions, both steps may be accomplished in a single adoption proceeding.

Voluntary Consent

Most adoption codes require that the consent of parents be in writing and before witnesses. Great care must be taken that the language and meaning of adoption is understood, to avoid confusion, especially with young unwed mothers. Natural parents often do not understand the meaning and finality of relinquishing their parental rights.

Usually, both natural parents must consent to the adoption of a legitimate child unless one of them has lost his or her parental rights through abandonment or other conduct which dispenses with the parent's right of consent. If one parent is dead, the consent of the other parent is required. As long as grounds for the involuntary termination of parental rights do not exist, lack of consent of the natural parents bars adoption. Usually, only the consent of the mother is required in order to adopt illegitimate children, and most adoption codes provide that children of a certain age must consent to adoption. The age is set out in the adoption codes, usually about 12 years old.

When the child has been placed in the custody of a child-caring agency as a result of court proceedings, most adoption codes require the consent of the agency for the adoption. The consent of a guardian of the child must also be obtained for adoption. However, many adoption codes do provide that an adoption decree can be granted in the absence of an agency's or guardian's consent if the court determines that the adoption would be in the best interests of the child.

Natural parents may revoke their consent to an adoption, but it is governed by the adoption code. Parental consent may be revoked at any time if rights of others are not impeded, including rights of the child, assuming there is no

statutory provision to the contrary. However, most courts have held that natural parents may not arbitrarily withdraw their consent to the adoption. The most important factor for the court to consider is the status of the child at the time of the attempted revocation. If the child has already been placed with the adoptive parents at the time of the attempted withdrawal of consent, it is less likely that the court will allow withdrawal. (Note that the Indian Child Welfare Act has provisions concerning revocation of consent.)

* * * * *

EXERCISE 9 “Options in Permanent Planning” Using material provided by the trainer, explore options for permanent placements. For self-study, refer to exercises in the appendix.

* * * * *

Summary

Options in permanency planning must be used creatively to provide the least detrimental alternatives for the child. Decisions must involve the child, parents, and extended family, as well as the Indian Child Welfare program and the legally responsible court. In the permanency planning process, how the participants proceed together is as important as the final result.

FOR FURTHER DISCUSSION

- Consider the children in the care of your agency who cannot go home. What options exist for these children?
- In what ways does your agency protect children’s connections with their extended family when they are unable to return to their biological parents?
- Consider open adoptions, closed adoptions, and customary or traditional adoptions. What are the advantages or disadvantages of each in your community?
- Termination of parental rights is part of securing the permanent alternative of adoption. How are these procedures handled in your community?
- Do the attitudes of the Indian child welfare worker affect which permanent options will be chosen? If so, how?

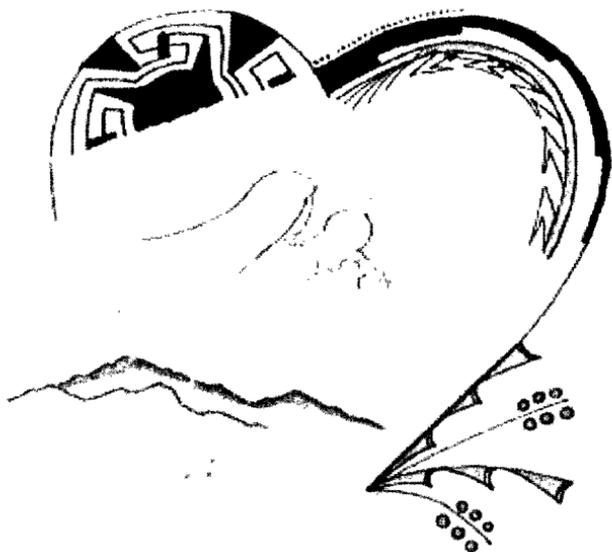
PRETEST/POST TEST

1. T F the concept of belonging – the heart of permanency planning – is central to Indian culture.
2. T F Permanency planning in Indian child welfare has much to do with maintaining a child's connection and sense of belonging to the extended family, clan, or tribe as it does to the connection to their biological parents.
3. The first challenge of permanency planning is to make and use policies and procedures that are committed to the _____ of families.
4. T F Ensuring that children do not become emotional orphans is the responsibility of the family.
5. _____ occurs when the agency loses sight of the child's best interests and the child remains in foster care for a long time.
6. T F Active efforts are required to reunify a family regardless of the pattern of abuse toward the child by the parent.
7. T F Cultural values and practices ensure a child's sense of belonging.
8. The _____ is governed by the situation; it attempts to answer the question, "What's the matter?"
9. T F Because the experience of being Indian depends on tribal affiliation, family history and degree of assimilation, each individual must be assessed in the context of the worker's experience and identity.
10. The four quadrants of the relational worldview are: physical, spiritual, emotional/mental and _____.
11. T F One of the most effective strategies in child welfare is to only apply active efforts to ICWA protected children.
12. T F Healthy relationships the child has that include the extended family are secondary to the relationships in the child's immediate family.
13. T F The use of fictive relatives for emergency placement alternatives is a natural occurrence and should not be scrutinized for appropriateness by the worker.
14. T F The timelines of the Adoption and Safe Families Act are critical and need to be carefully explained by the worker to the parent.
15. The _____ role in decision making ensures their involvement in the written case plan and promotes the responsibility of the _____.
16. T F Cases covered by ICWA require active efforts regardless of ICWA timelines.
17. The focus of permanent planning is on the _____ perception of belonging to a family over time.
18. Keeping the child informed supports ancient practices of respecting the individual and is no longer practiced except in ICWA specific child welfare cases.
19. _____ is one of the primary mechanisms by which the worker helps children maintain a sense of connection with their families.

20. The feelings generated by the visitation for the parents and the child provide an opportunity for the _____ to address sensitive issues in the casework process.
21. T F The better prepared a child is in understanding the situation the greater chance the child will get through the experience with minimum of lasting negative effects.
22. T F Decision making in Indian child welfare should primarily address the tribes concerns and sovereignty status.
23. T F If a child's extended family is unable to provide direct care on a permanent basis then, the requirement of active efforts has been met.
24. T F Children who have deep emotional ties with their natural parents or who have not been helped to work through the loss of their parents may not be able to form emotional bonds with their adoptive parents.
25. Increasingly, if the child's tribe and the child's family are involved in the _____ process, the judge will perceive the case management as holistic model.

NOTES

Understanding the Cultural Context: Working with American Indian Children and Families



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NATIONAL CLEARINGHOUSE ON CHILD
ABUSE AND NEGLECT INFORMATION

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This training curriculum is dedicated to the resilient American Indian children and their families who have survived and prospered despite their challenging history.

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The curriculum development process included the use of state and tribal child welfare workers, including child welfare services supervisors, in focus groups to develop materials concerning child welfare practice. In turn this information was used by the writers to develop the curriculum modules. The editors would like to thank all of those workers and supervisors for their commitment to Indian children and families and to the improvement of child welfare practice. Additionally these same workers reviewed parts of the curriculum and provided insight for the final curriculum. These workers' unselfish commitment to this process and product was exemplary.

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FORWARD

Federal policies have impacted American Indian families throughout the history of the United States. The early history of the United States contains numerous examples of European colonial values impacting relationships with American Indians and shaping policies that later affected how tribes would be governed. As a federal system emerged with related United States policies, important lessons learned from positive interactions with the tribes were often overlooked and ignored. One example of this is drawn from the cultural view of children and their relationships with family and community and how these views differed between tribes and the developing federal values and policies. This is demonstrated from conflicting world-views of how children should be cared for by the larger community or "the state." In Eleanor Leacock's "Women and Colonization", this cultural clash was evident during early colonial contact between the French and the Montagnais-Naskapi. Jesuit values influenced French efforts to convince the Montagnais-Naskapi that relationships between children and their tribe should be limited only to parents. However, this biological limitation was not the Montagnais-Naskapi cultural value as expressed by one of the tribal fathers: "You French people love only your own children, while we love all the children of our tribe". The United States government adopted the protocol of the French and other Europeans by designing federal policies to strip Indian cultures. The adverse affects of the federal policies towards American Indians have been well documented, ranging from dependence and benign neglect to genocide. American Indian families suffered from child welfare practices which resulted in removals of American Indian children for social reasons at extremely high rates when compared to other children. American Indians were also separated from their families through the placement of their children in boarding schools. Collectively, such actions often led to the loss of individual tribal languages and customs.

Through advocacy initiated by concerned American Indians, legislation was developed to protect American Indian children from unnecessary removals and to provide strict requirements for states when they removed these children from their homes. This legislation, the Indian Child Welfare Act [ICWA], P.L. 95-608 passed in 1978, is considered to be the single most important federal law governing Indian child welfare. The ICWA establishes protections for Indian children and tribes as exemplified by the Preamble, "that Congress through statutes, treaties, and the general course of dealings with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources" and "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe". American Indian families have benefited for the past twenty-plus years from the protections provided by the ICWA but unfortunately have still experienced high rates of separation from their children.

Many supporters of the ICWA view it as a type of American Indian family preservation, providing for the prioritization of the American Indian family, both nuclear and extended, as caretakers for their children. The structure of the Indian family is well-defined within ICWA. The use of the definition of the extended Indian family is bolstered within ICWA by noting the functions of tribal law and custom, and

reinforced by the requirements to use the social and cultural standards of the tribe. Additionally, tribal affiliation must be considered by states when making any child placement plans, and the tribe itself becomes a party to any dependant child proceedings. With the introduction of the tribe into the proceedings and the legal jurisdiction guaranteed to the tribe in matters concerning their children, ICWA is seen as promoting the American Indian family and the tribe as the main resources for placement of the Indian child. While many state child welfare workers may view the ICWA as the law governing the placement of American Indian children and the corresponding requirements for notification of the tribes of the hearings and other court proceedings, the ICWA has very strict requirements for the preservation of the child's family, including the immediate return of the Indian child once the dangerous situation has been resolved and the immediate transfer of dependency cases to the tribal court when so requested. The passage and implementation of the ICWA has helped identify some of the best practices necessary for working with American Indian children and families, including the preservation of the relationships of the children with their families, both nuclear and extended.

Federal child welfare legislation for all children has included the focus on substitute care, family preservation and support, and the placements of children with ethnically appropriate caregivers. The Adoptions and Safe Families Act [ASFA], P.L. 105-89 passed in 1997, significantly changed the federal child welfare focus affecting the States, accelerating a trend towards permanency for children removed from their homes. Previous federal child welfare legislation directed towards all children focused primarily on family preservation and the resumption of responsibility by the parents for the safety and well being of their children. Family preservation and support were seen as a basis to ensure child safety and as an effective means to reduce the costs, both social and economic, of substitute and/or foster care. With the passage of ASFA the focus was shifted to the expedited permanent placement of children, either with their parents and families, or in another permanent home. Limits were placed on the length of time children should remain in foster care; adoption promotion and support services were mandated; and incentives were provided to States for the permanent placement of children from foster care. Additional incentive amounts were available to States for the permanent placements of special needs children, which included American Indian foster children. ASFA has affected the State's permanent placement activities with American Indian children in their care and potentially can narrow the choice to severance and adoption. Most American Indian cultures do not value severance as it conflicts with the recognition of the relationships of the child's with their families and with the tribal customs. Adoptions are not that frequent within tribal societies, usually happening with the consent of family members and the child themselves. Guardianships and family placements are much more prevalent because they have a better fit with many tribal societies' customs.

Both ICWA and ASFA are concerned with the safety of American Indian children but may differ in their focus on the outcomes when American Indian children experience problems affecting their ability to remain in their own homes. Additionally the ICWA prioritizes the child's extended family, their tribe's other members and other American Indians if placement outside of that home is necessary. With ASFA providing emphasis to States to expedite the permanent placement of children and the ICWA requiring more specialized work toward family reunification and increased networking

with tribes and their members, it was inevitable that some conflicts would occur. Additionally ASFA requirements include only the provision of “reasonable efforts” to reunite parents with their children, while the ICWA requires the provision of “active efforts” including remedial and rehabilitative services to families. While ASFA requires only reasonable efforts to reunite children with their family, those requirements for reasonable efforts are not required for certain classes of parents, and no such exclusions for active efforts exist for any parent within the ICWA. Also ASFA has as one of its goals to place children in permanent homes regardless of the location of that home, thus not allowing state boundaries to inhibit the placement of the child. In contrast ICWA is very concerned with the location of the placement and subsequently with the placement itself, requiring adherence to the placement preferences for both foster care and adoption. Equally as important, the ICWA specifics of 1) the trust responsibility of the U.S. for Indian tribes, 2) the recognition of the extended Indian family with their tribal laws and customs, and 3) the relationship of the Indian child to the tribe distinguish the ICWA from the ASFA.

With the conflicts noted above, state workers can feel pulled in different directions when working with American Indian children, especially when the child’s parents are not immediately available or involved in the child’s return. State child welfare administrators can also become conflicted, as complying with ASFA can impact child welfare funding, through both federal ASFA sanctions and incentives, while complying with ICWA does not have direct funding impacts. These types of conflicts and potential differences in the practice of American Indian child welfare have not gone unnoticed. The Children’s Bureau, Administration for Children and Families recognized this situation and provided an opportunity to address the needs of state and tribal child welfare workers through the development of a training curriculum that helps to better prepare state and tribal workers to work with American Indian children and families.

The following curriculum is part of this initiative to develop training curricula that will assist child welfare workers in providing services to American Indian children and their families that address and comply with both the ICWA and the ASFA. Information, gained through the methodology employed in developing this curriculum, highlighted the uniqueness of individual tribal groups, within the larger group of American Indians and Alaskan natives. Competencies in working with American Indian children and families must be developed specifically to each unique group, using the groups stories, symbols, language, customs and other cultural specific approaches. Additionally this curriculum will present the training materials in such a way as to create a need to understand the unique status of American Indian children and their historical and cultural backgrounds. These elements of the unique legal status of American Indians and their specific histories and cultures are extremely important to guide and direct child welfare practices which will make sense within their community’s frame of reference. Based on this methodology the following curriculum is titled “**Understanding the Cultural Context: Working with American Indian Children and Families**”. The limitation for this curriculum and any curricula that attempts to describe all American Indian and Alaskan natives is considerable, as each group is unique and has their own culture and community context. This curriculum should be used with this limitation in mind, allowing for the uniqueness of the specific group to be determinant in its application.

This curriculum development included the use of an Advisory committee, composed of tribal and state administrators with extensive experience in American Indian child welfare services delivery and training. The Advisory committee assumed an oversight role for the curriculum development, ensuring the project remained true to its goals and methodology. This methodology included the use of focus groups of state and tribal child welfare workers and supervisors, and the "Circles of Wisdom" groups of American Indian elders. The "Circles of Wisdom" elder focus groups were presented with questions regarding the strengths of American Indian families; their present day challenges; and the qualities of an effective child welfare worker. Similarly the worker's groups were presented with questions regarding the, qualities, attitudes and beliefs of child welfare workers and the knowledge, skills, and abilities needed to work effectively with American Indian children and families. The information derived from these groups was given to a selected group of curriculum writers, based on their experience and expertise, to provide the basis for the training modules. The selection of the subject areas for the training modules and the identification of the curriculum writers were accomplished through the consultation with the Advisory committee. When the curriculum modules were drafted, they were then submitted for review by the state and tribal child welfare workers and supervisors. The review comments, developed by the workers' groups, were then reviewed by the "Circles of Wisdom" elders' groups. Fidelity to this process was maintained throughout the project to ensure the accuracy, utility and cultural context of the curriculum when working with American Indian children and families.

From the writings, reviews and comments the following curriculum, containing seven different modules, was constructed:

"Family Preservation" by Hillary Weaver. DSW. Lakota. Associate Professor at State University of New York at Buffalo who has written on American Indian health, culture and social work practice with American Indians

"Family-Centered Practice" by Dr. Dan Edwards. Yurok. Director of Indian Studies. University of Utah and Dr. Margie Egbert Edwards. Professor Emeritus. University of Utah, who have collaborated in writing on social work practice with American Indian youth, American Indian elders, and substance abuse issues and practice.

"Community-based Family and Children Services" by Dr. Eddie F. Brown, Pascua Yaqui, Director, Bruder Center at George Warren Brown School of Social Work, Washington University at St. Louis and Dr. Gordon Limb, Winnebago, Assistant Professor, Arizona State University West, Department of Social Work, who have collaborated in writing on the state compliance with ICWA, Title IV-B ICWA Sections of State Plans, and Tribal-State Title IV-E Intergovernmental Agreements.

"Clinical Practices with American Indian Children and Families" by Dr. Robert Robin, Department of Psychiatry, Yale School of Medicine who has written on sexual abuse in American Indian children, domestic violence with American Indians and family support from American Indian elders.

"The Interplay between the ICWA and the ASFA" by Paul Matte, PhD and J.D., Attorney for the Gila River Indian Community's Tribal Social Services Child Welfare

programs, has practiced law for the State of Arizona in ICWA cases as well as tribal courts.

“Court Related Indian Child Welfare Practice” by Veronica Geronimo, MSW and J.D., Tohono O’Odham, has practiced both social work and law in state and tribal court and is currently with the Attorney General’s Office of the Tohono O’Odham Nation.

“Permanency and Family Reunification with American Indians” by the National Indian Child Welfare Association, edited by Nadja Printup-Jones, MSW, Comanche, which has adapted this article from their training manual for working with American Indian children and their families.

This curriculum requires the reader to be familiar with the ICWA and the ASFA, assuming a basic understanding of the legislation and the practices associated with each of the laws. Also a basic understanding of child welfare practice is helpful to the reader in understanding some of the child welfare practice differences noted in the curriculum. With this in mind, the editors are hopeful that the use of this material will aid both state and tribal workers in improving the delivery of child welfare services to American Indian children and families.

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National Indian Child Welfare Association

Edited by,

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FAMILY PRESERVATION WITH AMERICAN INDIAN CHILDREN AND FAMILIES



Prepared By:
Hilary Weaver, D.S.W.

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Key Concepts

Cultural Competence

The ability to work with clients in a way that acknowledges, respects, and incorporates their cultural values and traditions. Cultural competence consists of a particular set of knowledge, skills, values and attitudes. Data is provided from two studies to help operationalize this concept in an American Indian context.

Family Preservation

A type of child welfare program characterized by multimodal, intense, home-based services. Family preservation services are guided by a strengths focused, family-centered philosophy designed to offer support that will enable them to raise children in a safe and stable environment.

Model Drift

Deviations from a stated ideal or set of values. This occurs when what is actually implemented in family preservation programs varies from the philosophy that is an integral part of this concept. For example, although a strengths-based focus is fundamental to family preservation philosophy, in reality some family preservation programs have a deficit focus.

Sovereignty

The inherent right of indigenous people to self-determination and self-governance. This legal principle has been recognized by the federal government in the United States Constitution and reaffirmed by the Supreme Court. While as a legal doctrine, sovereignty has been partially eroded by intrusions by the federal and state governments, as a philosophy it emphasizes the cultural integrity and on-going and distinct nature of American Indian cultures and societies in spite of changes brought on by contact with European and subsequently American societies. American Indian tribes retain "all the powers of self-government of any sovereignty except insofar as those powers have been modified or repealed by act of Congress or treaty. Hence over large field of criminal and civil law, and particularly over questions of tribal membership, inheritance, tribal taxation, tribal property, domestic relations, and the form of tribal government, the laws, customs, and decisions of the proper tribal governing authorities have, to this day, the force of law" (Cohen, 1986).

Training Objectives and Outcomes

- To understand the historical context of child welfare services for American Indian people including the detrimental impact of federal policies
- To understand the philosophical underpinnings of family preservation
- To understand how the political context has hindered full implementation of family preservation

- To understand the policies that guide implementation of family preservation in an American Indian context
- To understand the need for cultural competence, respect for sovereignty, and advocacy in order for family preservation to achieve its positive potential within an American Indian context

Training Curriculum Content

American society struggles with the issue of what to do with families where children are judged to be at risk for abuse or neglect. Many people have strong opinions on this subject and heated battles in the media are not uncommon. It is particularly heartbreaking when abuse or neglect results in the death of a child. In these instances, vocal critics often attack social workers and the child welfare bureaucracy for leaving a child in a dangerous situation. On the other hand, there are also heartbreaking stories of children who are removed from their families and are shifted from home to home. These children often develop a series of problems related to this instability such as emotional trauma and substance abuse.

The policies that guide child welfare services shift between favoring practices that support keeping children in families where they have experienced abuse or neglect while providing remedial services, and those that promote removal and termination of parental rights. In reality, all or nothing debates about how to handle child abuse and neglect cases are overly simplistic. Neither keeping families intact nor removing children should be the only option available for troubled families (McRoy, 2000).

In fact, either type of child welfare program typically provides a temporary fix for symptoms of the problem. In other words, they may offer substance abuse treatment or counseling to remediate child abuse and neglect when the underlying problem is really poverty (McRoy, 2000). Indeed, basic societal problems such as poverty, violence, and drugs are at the core of child welfare problems (Meezan, 2000). Until underlying problems are addressed, child welfare services will always be limited in their impact.

Another limitation of child welfare services is that models and practices such as family preservation are developed and applied with minimal regard for tailoring to distinct populations. It is not that models cannot be developed or shaped to meet the needs of different populations. In fact, there are many positive aspects of family preservation that easily lend themselves to practice with American Indian populations. In reality, however, the culturally-specific tailoring to meet the needs of American Indian clients rarely happens outside tribally-based programs.

This curriculum module begins with an examination of the concept and practice of family preservation. Subsequently, the historical context of services to American Indians and the impact of contemporary policies are examined. This is followed by an overview of family preservation within an American Indian context. The module concludes with a vision of what culturally appropriate family preservation could look like for American Indian people.

An Overview of Family Preservation

In recent decades, family preservation services have become common across the country. This section of the curriculum reviews how family preservation is defined and the philosophy behind this type of programming; a discussion of the content, implementation, and evaluation of family preservation programs; and a review of some of the challenges facing family preservation.

Definitions and Philosophy

Discussions of family preservation are muddled by unclear and sometimes conflicting definitions. The term family preservation is used differently by different people. Some define it as a practice or program model, while others see it as a philosophy guided by values and principles, a service delivery model, or a policy (McRoy, 2000). Lack of a clear and consistent definition is a barrier to effective service delivery and evaluation (Pheatt, Douglas, Wilson, Brook, & Berry, 2000). This lack of theoretical clarity has been identified by practitioners as a significant limitation (Hilbert, Sallee, & Ott, 2000). In this curriculum module, the term family preservation is used to identify a type of child welfare program characterized by intensive home-based services and grounded in a pro-family philosophy.

The philosophy that underlies family preservation is based on the premise that children develop best if able to remain with their family or at least use their family as a resource. In this philosophy, family, community, ethnicity, and religious background are strengths that can be used as resources (McRoy, 2000). Family preservation philosophy is based on assumptions that: 1) parents have a right to raise their children if at all possible; 2) child abuse has many causes, including external stressors, not just parent psychopathology; 3) children flourish with continuity and stability, thus the parent-child bond should be supported when possible; 4) biological connections are important to a child's identity and separations can be devastating; 5) children may feel responsible for removal from their families and have a negative self-image and feelings of rage and powerlessness fueled by subsequent losses and moves; 6) families have the strength and capacity for change and growth and can be helped through an empowerment approach; and 7) appropriate supports and interventions can help parents effectively care for children (McRoy, 2000).

Content and Implementation

Family preservation services are usually brief, concentrated interventions provided through protective services or a private agency. Services, typically delivered in the home, are designed to bring about behavior change in the family, make the environment safer, and prevent child removal. Similar services may be provided if a child is removed but the intent is to return the child to the family home (McRoy, 2000). Multiple concrete, clinical, and educational services tailored to each family's needs are provided (Cash, 2001; Littell, 2001; McRoy, 2000).

Family preservation services are typically offered for between one and four months. Workers have small caseloads and spend two to fifteen hours per week with each family (Littell, 2001). In-home services provide an opportunity for a comprehensive assessment of family functioning and allow for a broad base of services tailored to each family's needs (Gruber, Fleetwood & Herring, 2001).

The need for family preservation services arises when families cannot provide a safe environment for their children. One reason for this may be that parents are struggling with addictions. Substance abuse can have a significant detrimental impact on parenting abilities and the well-being of children. Family preservation can be effectively blended with substance abuse recovery content to address the needs of families struggling with addiction (Gruber, Fleetwood, & Herring, 2001), yet the issue of timing can be critical. For example, it is common for substance abuse services to have waiting lists, meanwhile the clock is running for federally mandated child welfare timelines. Ideally, child welfare and substance abuse services should compliment each other, however, in reality, they are often out of sync.

While family preservation services are typically offered within a nuclear family framework, kinship care can also be a form of family preservation (McRoy, 2000). It may be feasible to provide services to members of the extended family more capable and/or willing to care for children than the parents. Extended family members can be excellent resources and sources of stability for children. It is important to note, however, that kinship providers often need more resources than other foster families. More supportive and economic services need to be provided since kinship providers often do not have the training and economic supports of other foster families.

The number of family preservation programs increased dramatically during the 1990s. This trend was fueled by a declining number of foster families accompanied by a growing number of children in substitute care (McRoy, 2000) as well as by dissatisfaction with unnecessary child removals and other aspects of the foster care system (Hilbert, et al., 2000). In 1993, the federal government established the Family Preservation and Support Services Program which distributed almost \$1 billion to states over a five year period. States were encouraged to use this, along with other funding, to integrate preventive services into child welfare. Several states had already developed family preservation initiatives prior to this federal initiative (McRoy, 2000).

Family preservation programs offer substantial savings over traditional foster care or residential programs. Family preservation costs approximately \$3,000-5,000 per child, per year while family foster care costs around \$10,000 per child, per year. In spite of clear financial incentives and federal rhetoric in support of family preservation, \$16 billion was spent on foster care whereas only \$1 billion was spent on preservation during the same period (McRoy, 2000).

In some states, family preservation programming has become subject to managed care. For instance, in Kansas, family preservation like other child welfare services, is now contracted by the state to private agencies. Family preservation expenses are capped at \$3,400 which may lead to premature

termination if funds are exhausted. Meanwhile, in Kansas, foster care costs a minimum of \$15,500 (Pheatt, et al., 2000). Managed care further institutionalizes the funding inequities between family preservation and foster care.

Evaluation

Family preservation is one of the most widely studied models in social work (Cash, 2001). Past studies of family preservation programs have shown mixed results, often have not been rigorous (Altstein, 2000; Littell, 2001), and rarely compared family preservation to other services (Holosko & Holosko, 1999). There is, however, some empirical evidence and considerable practice wisdom that supports the effectiveness of particular elements of family preservation programming. One study found that when families collaborate with helping professionals in treatment planning they are more likely to comply with program expectations. This, in turn, leads to a significant reduction in both subsequent child maltreatment reports and out-of-home placement (Littell, 2001). Likewise, early intervention leads to more positive and lasting outcomes (Pheatt, et al., 2000).

A 10 year longitudinal study of the Homebuilders model of intensive family preservation found significant differences in parent-centered risk and parental disposition and in child-centered risk and child performance but not in economic risk or household adequacy (McRoy, 2000). This suggests that programming is effective in addressing social aspects of the problem but underlying problems such as poverty persist. Studies have also documented the effectiveness of family systems and ecological practice models (McRoy, 2000).

A meta analysis of 56 programs found that programs that promoted family wellness and prevention of maltreatment are effective. In particular, intensive programs with high levels of family involvement, an empowerment or strengths-based approach, and social support, were more effective than programs without these features. Programs with more than 12 visits and more than 6 months duration were most effective (MacLeod & Nelson, 2000). It should be noted, as stated earlier, that most family preservation services are of shorter duration than what research has documented to be most effective. In this regard, there is a significant disconnect between research and practice. This disconnect is created and reinforced by resource limitations.

Challenges Facing Family Preservation

Clearly, family preservation has the potential to have a significant positive impact on families where children are at risk for abuse or neglect. Unfortunately, not all family preservation programs have lived up to that potential. There are several obstacles to the success of family preservation programs. These include the limited availability of respite care, referring caseworkers lack of confidence in family preservation service providers thus referring to foster care instead, variance in services offered and judicial decisions, and lack of a clear model (Pheatt, et al., 2000). Two additional significant problems are clear: inadequate funding and model drift.

Family preservation must be adequately funded to be more than a temporary fix (McRoy, 2000). This has never been the case. As long as substantially more funding is spent on programs with a conflicting mandate like foster care, family preservation can never live up to its potential. These significant funding discrepancies undermine development of a true continuum of care where a variety of services are available to address a variety of problems. Additionally, until the underlying causes of abuse and neglect such as poverty and oppression are identified and addressed with substantial structural changes in American society, we will never have a truly proactive approach to supporting the well-being of children and families.

Model drift is another significant problem in the implementation of family preservation services (Red Horse, Martinez, & Day, 2001). In other words, what is actually implemented differs from the model as stated. While the philosophy of family preservation sounds very positive, in practice, this is an ideal that is rarely attained. For instance, mutuality and partnering between families and workers, a key component of family preservation, was not even mentioned as important in a survey of family preservation practitioners (Hilbert, et al., 2000). Likewise, the strengths base is considered a defining characteristic of family preservation, yet Red Horse, et al., (2001) identified shedding a deficit orientation as the greatest challenge facing family preservation.

The social disparities that underlie child welfare problems disproportionately effect children of color (Meezan, 2000). Solutions require a commitment to social justice and community building, not simply clinical and concrete services. American society has not yet mustered the will to address societal problems through mechanisms such as a living wage and health insurance for all. Social workers are well positioned to push for justice, fight oppression, and facilitate much needed societal changes. "It takes will and money and **a social worker**, rather than a rocket scientist or a politician, to alleviate the enormous pressures on our current child welfare system" (Meezan, 2000, p. 5; emphasis in original).

The Historical Context of Services to American Indians

The concept of sovereignty is fundamental to understanding both the historical and contemporary realities of American Indians. This concept is recognized in the U.S. Constitution. As indigenous people, American Indian tribes historically functioned as independent entities or nations. Treaties with European nations and later with the United States were based on government-to-government relationships. Over the years, the United States grew more powerful and violated these agreements, thus eroding sovereignty or the right to self-governance. American Indian tribes came to legally be considered domestic dependent nations. The federal government took on the role of paternal protector while placing American Indian tribes in the role of wards. This relationship, known as the federal trust responsibility, continues today. Aspects of sovereignty have eroded, yet, vestiges of it persist and it is a fundamental principle that must be upheld. The right to self-determination, self governance, and cultural integrity

must be respected within the context of child welfare policies, as within all other contexts.

There is a long history of government interventions with American Indian families and efforts to dismantle indigenous cultures. In particular, interventions often targeted changes in the family as a way to promote assimilation into American society. The legacy of these efforts provides the context for contemporary discussions of American Indian children and families. Notable policies of particular relevance to families include boarding schools, adoption programs, and sterilization policies. While indigenous people have survived destructive policies and practices, they have suffered a heavy toll (Red Horse, Martinez, Day, Day, Poupart, & Scharnberg, 2000).

Boarding schools were the tools of a long-standing federal policy of cultural destruction. This followed policies of physical genocide embodied in wars and deliberate spreading of diseases. Beginning shortly after the U.S. Civil War and not dwindling until the 1950s and 1960s, many American Indian children were removed from their families and communities to attend residential schools, often great distances from their homes. These schools emphasized vocational skills and gender socialization designed to assimilate American Indian children into particular roles in American society. Boys were typically taught to be farmers while girls were taught domestic skills. In these schools, indigenous languages and religions were usually banned. Strict rules were enforced by physical discipline based on a military model. For example, children were often beaten for speaking their Native languages. Physical and sexual abuse were common in the boarding schools. In these institutions, children had no positive role models for parenting. Once they had their own children, they often perpetuated the dysfunctional behaviors they experienced in the schools including physical and sexual abuse (Morrisette, 1994; Swinomish Tribal Mental Health Project, 1991; Weaver & White, 1999).

Boarding schools were the first out-of-home placement policy for American Indian children. These schools were based on the premise that American Indian families were inferior to Whites and all vestiges of traditional cultures must be eradicated. This philosophy of "kill the Indian save the man" dominated American Indian policy for over a century (Red Horse, et al., 2000).

As the boarding schools waned in favor, adoption programs were developed that continued to operate from a philosophy of cultural destruction as rehabilitation. The federal Bureau of Indian Affairs, in conjunction with the Child Welfare League of America, instituted the Indian Adoption Project in 1957. This served as a clearing house for interstate adoption of American Indian children by non-Indian families (Red Horse, et al., 2000). State programs developed similar efforts. For example, between 1944 and 1977, the Boys and Girls Aid Society of Oregon placed 94% of the American Indian children in their care with non-Indian families (Collmeyer, 1995). By the mid 1970s, 25-35% of all American Indian children were living away from their families (Brown, Limb, Chance, & Munoz, 2002; Red Horse, et al., 2000). This alienation of American Indian children from their communities and cultures was seen by many American Indians as a

significant threat that could ultimately lead to the total destruction of American Indian societies.

In another attack on American Indian families, the Indian Health Service, a federal agency mandated to promote the health and well-being of American Indian people, instituted a policy of sterilization. In the 1960s and 1970s, approximately 42% of all American Indian women of childbearing age were sterilized (Jaimes & Halsey, 1992). American Indian women were often threatened with the loss of their welfare benefits or the loss of children if they did not consent to sterilization. Others were sterilized without their knowledge or consent (Lawrence, 2000; Torpy, 2000).

U.S. policies such as those discussed above have deliberately undermined American Indian communities, families, and cultures. Cultural repression in both historical and contemporary times has caused a trauma that leads to identity crises, family dysfunction, and community disintegration (Red Horse, et al., 2000). Indeed, many of the contemporary social problems that family preservation and other services were designed to address can be directly linked to the social disruption caused by U.S. policies of assimilation and cultural destruction. This legacy must be acknowledged as part of developing healthy, pro-family programs.

The Impact of Contemporary Policies

United States policies continue to undermine American Indian cultures, although in more subtle ways than their predecessors. Examples can be found in contemporary child welfare practices. The "best interest of the child philosophy is antithetical to American Indian family preservation. Mainstream psychological theories of child development completely ignore Indian cultural factors such as kinship networks and other tribal customs in determining attachment and resiliency as phenomena in child development. Tribal practices of extended family and the significance of cultural attachment (not merely attachment to biological parents) are ignored, as is loss to the collective tribal community that results from a child's removal from his or her culture" (Red Horse, et al., 2001, p. 19).

Developing and implementing truly culturally competent family preservation programs is a significant challenge in today's policy environment. Policies and laws relevant to family preservation programs include the Indian Child Welfare Act, the Adoption and Safe Families Act, and Public Law 280.

The Indian Child Welfare Act

The Indian Child Welfare Act of 1978 (ICWA) is an anomaly among U.S. child welfare policies. The 1960s and 1970s, in spite of continuing atrocities such as government-sponsored sterilization, were an era in which the U.S. began to emphasize policies promoting self-determination for American Indian people. Indigenous people were given some measure of control to govern and serve their own people within a reaffirmation of the federal trust responsibility. This climate

led to the development of ICWA and tribal family and child welfare programs (Red Horse, et al., 2000).

ICWA can be viewed as a mediating effort for cultural affirmation (Red Horse, et al., 2000). This law was developed with significant input from American Indian leaders and helping professionals. ICWA was designed to address the longstanding problem of out-of-home placement of American Indian children and subsequent cultural loss. As such, the law takes steps to keep American Indian children within their cultural context, both in terms of their living situation (ideally remaining within their home or at least within their kinship network) and in terms of jurisdictional issues (keeping them within tribal social service and court systems rather than those of the state) (Weaver & White 1999). One of the key provisions of ICWA was the mandate that American Indian definitions of family be used as guides in child welfare (Red Horse, et al., 2000).

ICWA has reduced the number of American Indian children in state child welfare systems and the number of American Indian children in non-Indian homes. The Act's provisions, however, are still not systematically followed, thus, it has not reached its full potential (Brown, et al., 2002). American Indian children are still disproportionately in substitute care (Red Horse, et al., 2000). Now, however, American Indian children are more likely than in the past to be in foster care with American Indian families. The impact of this important law has been minimized because it has never received adequate funding. Additionally, helping professionals in state and private systems are often unaware of its requirements and, thus, provisions of the law are frequently violated. In order for ICWA to live up to its potential, substantially more funding for programs and training for helping professionals are necessary (Weaver & White, 1999).

ICWA can be viewed as a framework for indigenous family preservation (Red Horse et al., 2001). ICWA affirms the right of American Indian tribes to take over or at a minimum be involved with any proceeding that involves out-of-home placements of tribal members. This is premised on the sovereignty and integrity of American Indian nations/tribes. Tribal governments, legal systems, and social service systems are accorded "full faith and credit" under ICWA. This statement affirms that they are competent and on an equal standing with comparable non-Indian entities. ICWA emphasizes keeping American Indian children with their families or at the least within their cultural context. This mirrors the intent of family preservation.

The Adoption and Safe Families Act

The Adoption and Safe Families Act of 1997 (ASFA) was passed in response to public outcry over children lingering for years in foster care with little or no planning for a permanent solution to family problems. This law sets a timeline that limits the amount of time that can be spent in foster care. In most cases where children are unable to return home quickly, the law mandates moving toward a termination of parental rights, thus, freeing the children for adoption.

ASFA tips the balance between the philosophies of saving families for children and saving children from families (Meezan, 2000). "As ASFA transforms the child welfare policy agenda yet again, its focus on streamlining the adoption process, along with the implementation of a quota system for federal funding, will have serious implications for American Indian tribes, families, and children. As a consequence, the interface between ASFA and American Indian communities remains of great concern, particularly since it mirrors earlier attempts at assimilation, which was in the main, a precipitating cause for passage of ICWA. In this respect, current policy appears like old wine in new bottles: it recycles old efforts disguised in the language of 'the best interest of the child' and remains skewed in a non-Indian paradigm" (Red Horse, et al., 2000, p. 10).

Tribal leaders have expressed concern that ASFA is often mistakenly perceived to override ICWA (Red Horse, et al., 2000). ASFA, although it does not technically override ICWA, is antithetical to ICWA and tribal custom and practice (Red Horse, et al., 2001). The emphasis on quick planning and movement toward severing biological ties is contrary to American Indian cultures. Additionally, the emphasis on the nuclear family is inconsistent with kinship networks, clan systems, and concepts of tribal membership that are at the heart of American Indian identity.

Public Law 280

Another significant policy that shapes the context of social service provision for some American Indians is Public Law 280. This law, currently in place in 15 states, gives states total or partial jurisdiction over the American Indian people within their boundaries (Getches & Wilkinson, 1986). In states that have adopted Public Law 280, tribes face additional challenges to sovereignty that undermine tribal family preservation initiatives (Red Horse, et al., 2001). In these states, county social services may infringe on tribal family preservation programs. Additionally, state and county influences, such as those present in Public Law 280 states, have been documented to encourage model drift and impede implementation of tribal and social cultural standards (Red Horse, et al., 2000).

Whether or not they live in a state that has passed Public Law 280, American Indian communities and governments must interact with other aspects of American society. When those interactions are positive and respectful of American Indian cultures, it bodes well for culturally appropriate family preservation programming. When government entities outside tribal social services include cultural aspects in their programming this has proved important to indigenous family preservation services. In these instances, government-to-government relationships are maintained between tribes and states (Red Horse, et al., 2001).

Balancing Conflicting Policy Mandates

In spite of policies affirming self-determination, American Indians still are affected by mainstream child welfare services grounded in Eurocentric biases

(Red Horse, et al., 2000). Being culturally competent includes being aware of institutionalized discrimination and its impact on various populations (Meezan, 2000). Although ICWA affirms that American Indian tribes have the right to assume jurisdiction over child welfare cases involving their members, in practice this does not always happen. State or private child welfare workers who are ignorant of ICWA or do not recognize that a child in a foster care or adoption proceeding is American Indian, may neglect to notify a tribe that one of its members is being placed outside the home. Also, there are times when a tribe does not have the resources to assume jurisdiction over one of its members. In particular when a member is living far from the tribe, a great expenditure of resources would be required to handle the case. In cases such as these, American Indian children remain subject to state services.

Mainstream family preservation models have been criticized by American Indian professionals and clients. These models are still grounded in a Eurocentric foundation based on nuclear family systems, promoting development of the self, and individual success and autonomy. The underlying philosophy of mainstream programs promotes maturation away from the nuclear family of birth and formation of another nuclear family. Such concepts are alien to American Indian cultures. This individualistic philosophy in which children are expected to grow away from their family as a part of healthy development is at odds with indigenous philosophies that value the collective and emphasize continued interdependence through extended family networks as a sign of mature development. Extended family systems and community values are not duly considered in mainstream family preservation programs. Such programs do not typically acknowledge cultural traditions such as the central role of elders in family and community life and the importance of clan membership (e.g., among the Navajo, children belong to their clans). Additionally, family preservation models with their intensity may be perceived to replicate earlier aggressive government interference with the family. This type of intervention has been the hallmark of dominant society relations with indigenous people (Red Horse, et al., 2000).

Family Preservation with American Indians

Information gathered through traditional American Indian talking circles in Minnesota and Wisconsin confirmed that there is still significant mistrust and misunderstanding between American Indian people and social service providers (Red Horse, et al., 2000). A serious dilemma exists when state or county social service workers make decisions for, or counter to, tribal programs. This alienation of tribal decisions and values is a fundamental erosion of sovereignty. Community values and decisions must be affirmed in family preservation (Red Horse, et al., 2001).

Family preservation in an American Indian context is fundamentally linked to tribal sovereignty. Likewise, American Indian history and tradition are integral to the development of appropriate family preservation services (Red Horse, et al., 2000). "In tribal practice, family preservation involves bringing

families in balance with community, spiritual, and other natural relationships. Parents and children do not stand alone, either as perpetrators or victims. Each is part of larger systems of family, extended family, kinship, clans, community, tribe, and natural world" (Red Horse, et al., 2001, p. 22).

The family preservation program at Ft. Berthold in North Dakota provides a model of tribally-based services. A study of this program found that tribal family preservation requires community education and advocacy, tribal members as staff, reliance on cultural systems, and social work skills that incorporate culture and work from a strengths base (Red Horse, et al., 2001).

Integrating Cultural Competence in Family Preservation

Recent decades have seen increasing calls for cultural competence in all branches of human services. Only preliminary steps, however, have been taken in operationalizing this concept with specific populations such as American Indians. As part of the development of this curriculum, focus groups were held with tribal and state human service workers as well as American Indian elders to provide specific guidance for shaping cultural competence in this context. The findings of these focus groups closely parallel the results of a national survey of 62 American Indian social workers and social work students (Weaver, 1999).

Focus groups of tribal and state human service workers identified three major areas when asked about the values, attitudes, and beliefs associated with effective service provision for American Indian children and families. Helping professionals need to: 1) value the strength of American Indian families including their belief systems, and focus on their best interests; 2) respect families, demonstrate trust and a non-judgmental attitude, value relationships and the context of American Indian families; and 3) display cultural sensitivity toward children, families, and communities while having a curiosity and open-mindedness that leads them to seek cultural understanding. These findings were much the same as the national sample that identified 1) helper wellness and self-awareness, 2) humility and willingness to learn, 3) respect, open-mindedness, and a non-judgmental attitude, and 4) social justice as key components of cultural competence with American Indians (Weaver, 1999).

When asked about skills, knowledge, and abilities associated with effective work with American Indian children and families, the tribal and state human service workers stated that important areas include: 1) relevant laws, regulations, and ICWA; 2) knowledge of tribal government, tribal differences, and sovereignty; 3) knowledge of state and tribal perspectives on child welfare, abuse, and neglect, combined with the ability to work collaboratively; 4) skills in assessment and working with multiproblem families; 5) cultural knowledge; and 6) skills to communicate and negotiate with counterparts in state or tribal child welfare programs. In the national sample, American Indian helping professionals and students were asked separately about knowledge and skills associated with culturally competent service provision. Four important areas of knowledge were identified: 1) understanding diversity among and within American Indian groups; 2) history of American Indian people; 3) culture; and, 4) contemporary realities of

American Indian people. Two categories of skills were identified: 1) general skills such as networking and advocacy; and, 2) containment skills such as listening and allowing silences (Weaver, 1999).

Tribal and state human service workers were also asked to identify the motivation and commitment necessary for effective work with American Indian children and families. The areas they identified were: 1) desire to help and continually learn; 2) desire to practice social work values; 3) demonstrated interest in American Indian culture; 4) commitment to the rights of American Indian children to be safe, secure, and retain their culture; commitment to the rights of families to care for and protect children; commitment to fair and equal justice for children and families; and 5) the commitment to keep families together.

Focus groups held with American Indian elders explored different but related questions. The elders were asked to identify the qualities of strong parents and families. In response they came up with the following. Families need to: 1) have relationships both in their immediate and extended family to maintain a positive environment and role models; 2) provide discipline, rules, and boundaries for all members, especially children; 3) teach children roles including ceremonial roles and how to relate to others; 4) know and fulfill parental responsibilities; 5) infuse spirituality in daily life; and, 6) teach and demonstrate love.

Elders were also asked, How do we keep families strong today? They responded: 1) encouragement and appreciation for each other; 2) demonstrate togetherness through activities and events; 3) parents and grandparents prepare children for independence as defined by the family; 4) mutual respect; 5) parents and grandparents model respect, communication, and goal setting; and, 6) parenting classes and self-help groups.

Lastly, the American Indian elders were asked to identify the qualities of a good child welfare worker. They stated: 1) be professional, accountable, and visible in the community; 2) appropriate behavior that doesn't interfere with work; 3) humor, positive attitude and communication style, patience, compassion, and respect; 4) grounding in the culture, diversity of tribal communities, some bilingual skills; 5) educated, skilled, able to link to community resources; and 6) value children, relationships, and family.

The information gathered from American Indian helping professionals, students, and elders gives insight for shaping services with American Indian children and families. In reviewing the responses to the survey and focus groups, several issues are emphasized throughout. Concepts such as the strengths of families, respect, being open-minded and non-judgmental, and truly valuing American Indian families and cultures are echoed repeatedly. Human service workers need to be knowledgeable and skilled in working with American Indian families within the context of tribal communities, tribal governments, and policies like ICWA. Through these characteristics, helping professionals can support American Indian families as they strive to teach, guide, and raise their children in a positive, culturally-grounded environment.

Practice Issues

Although there are clear compatibilities between family preservation philosophy and American Indian values, in practice many family preservation programs are still culturally incompetent at serving American Indian children and families. In spite of rhetoric to the contrary, mainstream services and service providers continue to function from a deficit perspective, ignorant of indigenous cultural practices. This in turn, is harmful to American Indian children, families, and communities (Red Horse, et al., 2000).

Non-Indian frameworks inform contemporary family preservation models and theories. It is important to assess how much these frameworks transcend past colonialism. In particular, how do such models fit within a context of sovereignty? (Red Horse, et al., 2000). Instead of borrowing mainstream models in their entirety, it is more appropriate to integrate the framework and ideals of family preservation programs into an American Indian context.

Contemporary family preservation must incorporate healing of the American Indian "soul wound" that lingers from historical oppression (Red Horse, et al., 2000). This begins with a recognition of the historical trauma that has occurred to American Indian people and the contemporary impact of unresolved grief. For example, the intergenerational memory of on-going interference from the federal government often leaves American Indian people reluctant to trust professionals and be open to accepting help. Professionals must acknowledge the anger and grief related to past exploitation and be conscious of issues of power in the helping relationship.

Casework standards and practices should be based on tribal strengths (Red Horse, et al., 2001). Strengths can be identified by involving tribal members in the development of programs and standards. This is an important step in moving away from a deficit perspective. Strengths may include a strong clan system, cultural knowledge, spiritual practices, and tribal social services.

A lot can be learned from tribal social service programs already in existence. These can serve as models for the development of other tribal programs as well as providing guidance for non-tribal programs that serve American Indian families. For example, tribal social service workers in the program at Ft. Berthold do not see themselves as separate from the community or the people they serve. Formal social work training is considered helpful but cultural knowledge is considered vital. Culture is integral, not an add on to programming (Red Horse, et al., 2001).

The Challenges of an Urban Context

In this day and age, the majority of American Indians no longer live on reservations, yet funding and services have not kept pace with changing demographic patterns. This presents particular challenges for providing culturally competent family preservation services for American Indians. Many urban areas do have human service agencies that serve American Indians. Some of these agencies also have specific family preservation programs. Urban American Indian programs, however, often receive considerably less funding than their

reservation-based counterparts and do not even qualify to apply for many funding streams. In particular, although the Indian Child Welfare Act allows for funding of urban agencies, in reality, this funding stream has not existed for many years. This is especially problematic since most ICWA cases arise in urban areas, yet no funding is available to meet this need.

Urban American Indians, in particular, are likely to participate in mainstream programs rather than tribally-based services. Stereotypes held by professionals lead them to believe that none of their urban clients are likely to be American Indians, therefore, American Indian children and families often go unrecognized. Urban American Indians are also less likely than their reservation-based peers to have access to programs tailored to meet the needs of American Indians. It is quite challenging for an agency that serves a multicultural population to ensure that they are also meeting the needs of specific populations. In such contexts, American Indians typically get lost in the shuffle.

Examining Issues of Power

Power, although frequently not explicitly acknowledged, is one of the primary dynamics operating within child welfare services. Ultimately, someone in authority has the legal right to remove a child from his or her family; an awesome and often devastating power. Helping professionals can impose standards and require that families conform to certain rules or mandates. This opens the door to coercion that, while antithetical to social work values, often exists in subtle forms.

Family preservation philosophy espouses striving for a mutuality and a partnership between families and helping professionals. It is extraordinarily difficult for this to truly exist and be more than just lipservice given the operative power dynamics. It is also important to recognize that American Indians are minorities, often marginalized in American society. On the other hand, social workers are often members of the dominant society with all the privileges that entails. Even social workers who are themselves from a minority background have professional status and are associated with dominant society bureaucracies. This places them in powerful positions over clients. Indeed, the colonizer-colonized relationship that has defined United States and American Indian relations is often mirrored in the social worker-client relationship. Helping professionals must recognize and explicitly acknowledge the power dynamics present if they are to maximize the chances of truly providing culturally competent and productive family preservation services.

Like the micro or clinical context, the macro or policy context of family preservation is rife with power dynamics. Current policies continue the legacy of cultural destructiveness stated more explicitly in earlier policies. Policy makers must wrestle with how to be responsive to the needs of diverse populations in a multicultural society.

The foundation for culturally appropriate policy formation is already in place for American Indian people. Respect for sovereignty grounded in indigenous status has the potential to be the keystone for culturally appropriate service provision. Policies grounded in paternalism must be rejected. Policies