



Healing Historical Trauma:

Developing Culturally Appropriate Victim Services
for Native American Victims of Crime

RESOURCE MANUAL



OFFICE FOR VICTIMS OF CRIME

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INTRODUCTION

The Office for Victims of Crime, the consultant firm of Wasserman, Leviton, and Hodder, and the University of Oklahoma Health Science Center, Center of Child Abuse and Neglect, Project: Making Medicine, welcome you to the Native American track of workshops at the National Organization for Victim Assistance's (NOVA) 22nd Annual North American Victim Assistance Conference. The track includes four workshops covering Historical Grief and its Relationship to Victimization, Law Enforcement Issues in Indian Country, Promising Practices, and Victim Advocacy in Indian Country. The sessions are geared toward those working with victims of crime in Indian Country as well as those serving Native American victims throughout the country.

This resource guide is intended to provide ongoing reference materials to participants of the Native American track. The guide is divided into four sections, highlighting articles and monographs related to each of the workshop topic areas. Each presenter has developed new material and/or selected existing articles to provide participants with up-to-date information. The guide also provides a list of workshop presenters. We encourage you to contact any of the presenters if you have additional questions or desire more information about a specific topic.

Thank you for your participation in the Native American track. We hope that you find the information useful in assisting Native American victims of crime. Special acknowledgment goes to the Office for Victims of Crime, Office of Justice Programs, Department of Justice for making this track possible.

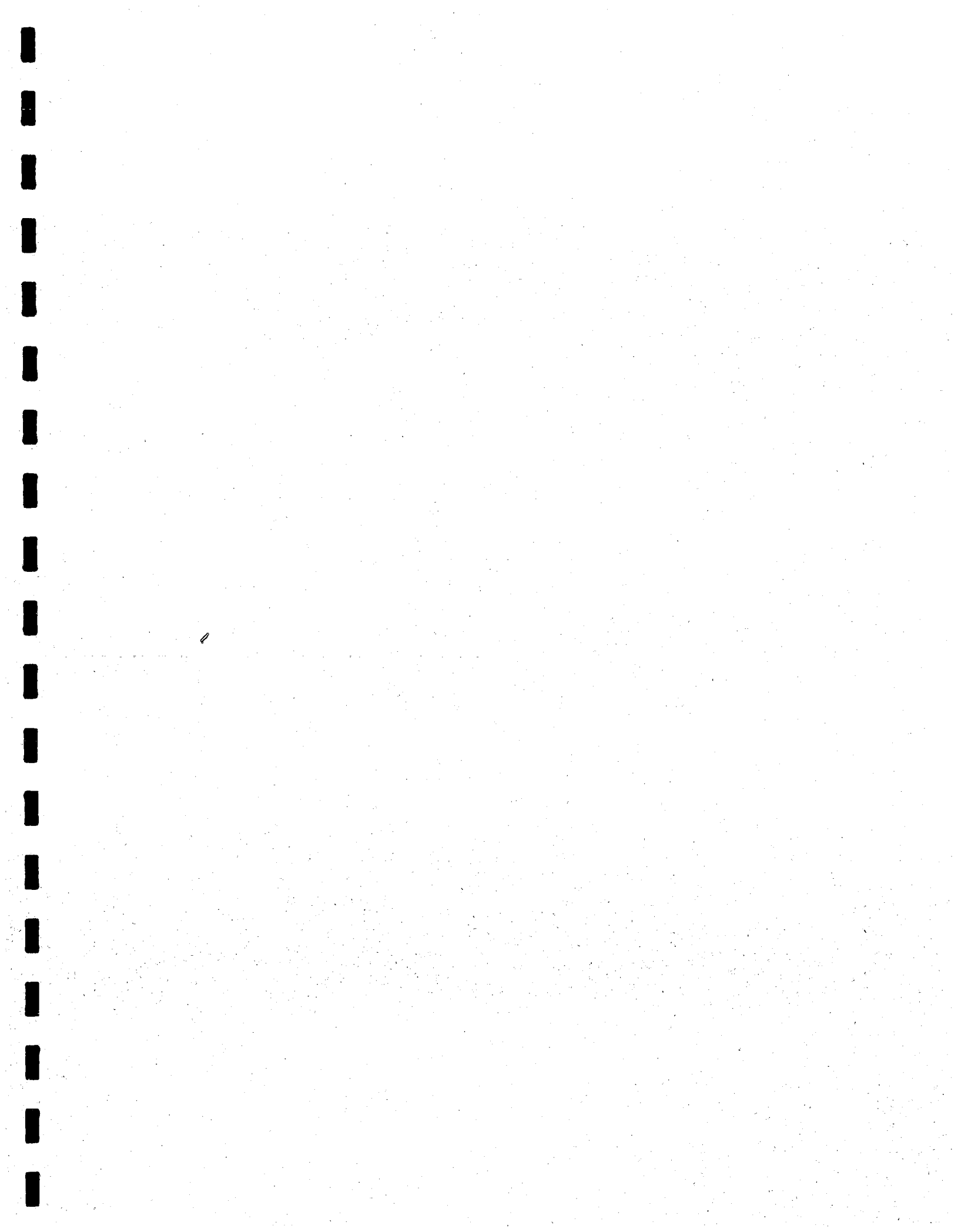


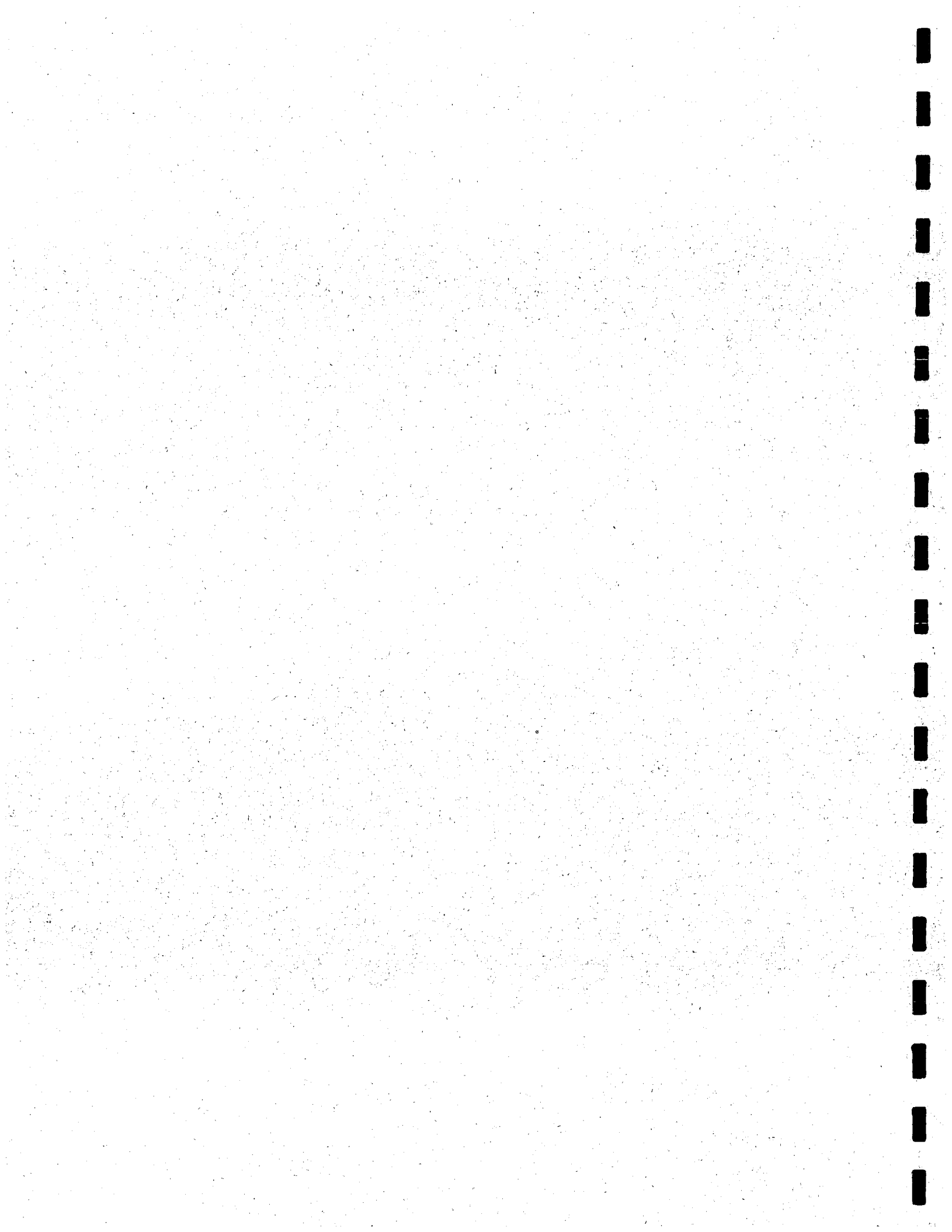
**HEALING HISTORICAL TRAUMA:
Developing Culturally Appropriate Victim Services
for Native American Victims of Crime**

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**Understanding and Healing of Historical Truama
Workshop**

Avis Archambault, MA
Traditional Native Healer
Phoenix, Arizona

**Presented at the 22nd Annual North American Victim Assistance Conference
August 13, 1996
Tulsa, Oklahoma**



UNDERSTANDING / HEALING OF HISTORICAL TRAUMA: A NATIVE AMERICAN PERSPECTIVE

WORKSHOP DESCRIPTION:

The workshop *positively* reinforces "resiliency" factors inherent within the interdependent Values and Philosophies of **Native American Cultures**; while addressing the common experience of **Historical Trauma**. The perceptions of ALL PARTICIPANTS are validated-- as they reach beyond existing societal barriers; toward the creation of culturally-appropriate, effective **Victim Assistance** models.

PRESENTER PROFILE:

AVIS ARCHAMBAULT, M.A. (A Native American of the Lakota/ Gros Ventre Nations) is a former university professor recognized internationally, variously as: an educator, trainer, therapist, poet, and Native Traditional Treatment Practitioner. She serves as consultant/ trainer to diverse community projects within: universities, Indian communities, medical and governmental organizations in the United States, Canada and Mexico.



UNDERSTANDING / HEALING OF HISTORICAL TRAUMA: A NATIVE AMERICAN PERSPECTIVE

Avis Archambault, M.A. (Lakota/ Gros Ventre) Consultant/ Trainer, and Traditional Treatment Practitioner,
2014 N. Pima Road, Scottsdale, Arizona 85257 (602)941-5844 Fax: (602)949-2648

ABSTRACT:

The **strengths**, and positive "historical" impacts of **Native Americans** (First Nations Peoples) and their respective: Philosophies/ Cultural Value Systems/ Educational Methods/ Family Systems/ Tribal Governing Models/ Religious Models/ and Systems of Justice have long been minimized/ undervalued, if not totally ignored, as viable models having meaningful and vital importance in the lives of contemporary Native Peoples. A mainstream bias is the norm in most **Justice** and **Victim Assistance Programs** that serve "Indian country."

To understand the *positive*, nurturing and interdependent philosophies of **Native American Cultures** which **promote respect for all life/ all cultures**; and to acknowledge that our perceptions/ **our values do create a *different* reality** for **each** individual/ tribal-culture/ and **society of Humankind,is important**. Certainly it is a different experience for Native Peoples living within a "mainstream reality" than it is for the average American. The following objectives are established as a means to promote understanding around the issues mentioned herein.

- I. Participants will understand the strengths & *positive impacts* of Native American Cultural Values upon both individual and societal systems.
- II. Participants will understand how Historical Trauma impacts *both* Native and non-Native societies.
- III. Participants will engage in the recreation of appropriate Victim Assistance Community processes Re: personal healing/ & community responsibility.

The **understanding** (Healing, if you will) of the residue around "**Historical Trauma**" of Native Americans, for both native and non-native peoples, is an important prerequisite and foundation for the re-creation of meaningful justice programs. Professionals, victims, and communities-at-large, can learn to **reach beyond** existing: individual/ community/ and societal **barriers** to exercise their *unlimited* "creative-potential" for **problem-solving victim issues**.

METHODOLOGY/ OUTCOME:

The workshop **mobilizes the combined abilities, knowledge and skills** of the **diverse participants** through mini-lectures, one-to-one & group experiences. Handouts of charts/ models/ and paradigms/ are also employed (re: discussion), culminating with a Native American cultural group-process wherein participants **jointly envision Victim Assistance models for Community Wellness**.

UNDERSTANDING / HEALING OF HISTORICAL TRAUMA: A NATIVE AMERICAN PERSPECTIVE

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WORKSHOP OUTLINE:

The workshop draws *positively* upon the nurturing and interdependent philosophies of **Native American Cultures** to promote respect for all life-forms and all cultures; knowing that our perceptions and our values do create a *different reality* for each individual/ tribal-culture/ and society of Humankind. The participants will reach beyond the existing individual/ community/ and societal barriers to exercise their *unlimited* "creative-potential" for problem-solving victim issues; toward the creation of culturally-appropriate, effective, Community **Victim Assistance** processes.

OBJECTIVES:

- I. Participants will understand the strengths & *positive impacts* of Native American Cultural Values upon both individual and societal systems.
- II. Participants will understand how Historical Trauma impacts *both* Native and non-Native societies.
- III. Participants will engage in the recreation of appropriate Victim Assistance Community processes Re: personal healing/ & community responsibility.

SECTIONS:

- I. Defining & Discussion of "Culture"/ Cultural practices, re:
 - * value systems * identity/ belonging * "Traditional" roles
- II. Defining/ Understanding "Historical Trauma", re:
 - * how group attitudes/ expectations can promote or hinder "normal" human development * impacts of post-traumatic stress
- III. Processing/ Recreating Community Wellness, re:
 - * utilizing participant skills & resources * promoting "cultural" resiliency factors * taking community ownership * mobilizing the community's "creative-potential"/ & resources for Healing

PLEASE NOTE: this workshop is experiential and interactive in nature--- not a lecture presentation--- draws no conclusions, but allows the participants to rely upon their combined abilities, knowledge and skills. Handouts of charts/ models/ and paradigms/ are also employed (re: discussion), culminating with a Native American cultural group-process wherein participants jointly envision **Victim Assistance** models for **Community Wellness**.



A POSITIVE SELF-IMAGE

(Self Esteem)

BEING

One's sense of SELF

One's uniqueness, characteristics, abilities. For Native Peoples; one's "Path in Life"/ and one's Name; Historically *they are one and the same.*)

Knowing

One's sense of Meaning of Life

The Knowledge, Value System, Philosophy of Life. For Native Peoples; One's Cultural Heritage and *Specialized* (may include Healing) *Knowledge*, and Family History.)

Doing

One's sense of Power.

Ability to use skills and resources. Taking Responsibility. Influencing Life around you. For Native Peoples; *Enacting your VISION before the People* (very Powerful). And contributing to the large body of aquired/ existing *Medicine knowledge.*)

Having

A sense of being connected

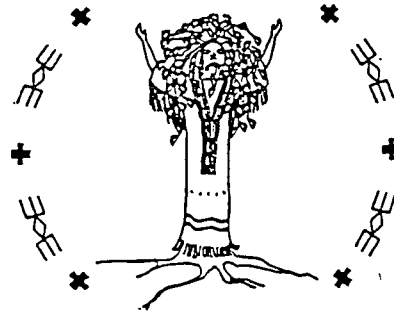
Having *Relationship* to a certain group/ to a role in Life. For Native Peoples; A connection to ; a *Heritage/ the Ancestor Nations, the Living Generations, the Unborn Generations.* To All Life Forms To All Creation. TO OUR DESTINY.

One must have all conditions within for high self-esteem. If any are missing/ damaged, the result is a sense of worthlessness. To rebuild it we must acknowledge our *worth/ take responsibility/ aquire needed skills/ support, make choices.... cope with cuircumstances...*

REGAIN ONE'S POWER

NATIVE AMERICANS

(Cultural Needs)



- * Cultural Identity**
- * Belonging**
- * Relationship**
- * “Traditional Role”**
- * Historical
Meaningfulness**



SACRED HOOP (NATIVE-WORLD) BROKEN BY:

DOMINATION (by another race or society)

*U.S FEDERAL POLICIES *THEFT OF HOMELAND

* IMPOSITION OF "UNNATURAL" SOCIAL ORDER

* SUPPRESSION OF: LANGUAGE, CEREMONIES,
CULTURE, AND "SPIRITUAL WAY OF LIFE."

*DESTRUCTION OF NATIVE FAMILY SYSTEMS

*RESIDENTIAL SCHOOLS

* SLAVERY BY CHURCHES AND SOCIETY

*DENIAL OF NATIVE HISTORICAL IMPORTANCE

* FEAR * IGNORANCE * STEREOTYPING

* PREJUDICE * OPPRESSION * RACISM

*VIOLENCE * SYSTEMATIC DENIAL

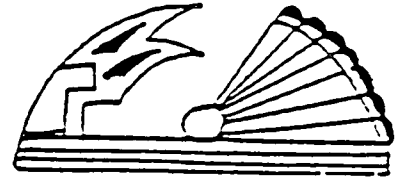
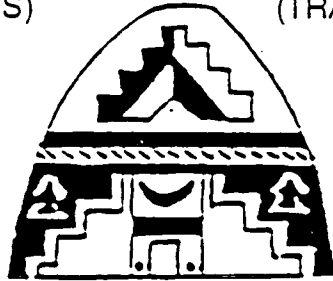
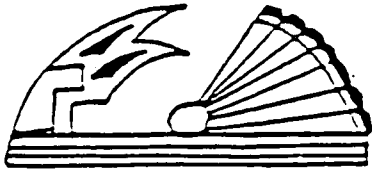
* MULTI-GENERATIONAL TRAUMA

* GENOCIDE * POLLUTION OF "MOTHER EARTH"

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NON-INDIAN
(DOMINANT SOCIETY VALUES)

NATIVE AMERICAN
(TRADITIONAL INDIAN VALUES)



<p>SELF (take of #1)</p> <p>PREPARE FOR TOMORROW</p> <p>TIME (use EVERY minute)</p> <p>YOUTH (rich, young, beautiful)</p> <p>COMPETE!</p> <p>Learn to be AGGRESSIVE</p> <p>SPEAK UP!</p> <p>TAKE and save</p> <p>CONQUER Nature</p> <p>SKEPTICAL/Logical</p> <p>(Ego) SELF attention</p> <p>Religion (a PART of life)</p>	<p>I</p> <p>MUST</p> <p>BECOME AWARE</p> <p>OF THESE</p> <p>CONFLICTING</p> <p>VALUES</p> <p>OR I</p> <p>CAN BECOME</p> <p>↓</p> <p>CONFUSED</p> <p>↓</p> <p>ANGRY</p> <p>↓</p> <p>FRUSTRATED</p> <p>↓</p> <p>UNBALANCED</p> <p>MENTALLY</p> <p>PHYSICALLY</p> <p>SPIRITUALLY</p>	<p>Group (take care of the People)</p> <p>TODAY is a Good Day!</p> <p>A RIGHT time/RIGHT place</p> <p>AGE (knowledge, wisdom)</p> <p>COOPERATE</p> <p>Be PATIENT</p> <p>LISTEN (and you'll learn)</p> <p>GIVE and share</p> <p>Live in HARMONY (With all things)</p> <p>Great MYSTERY/intuitive</p> <p>HUMILITY</p> <p>A SPIRITUAL Life</p>
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CIRCLE OF LIFE

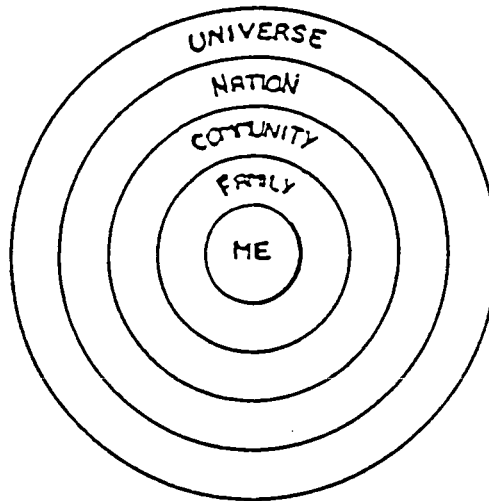


SELF:

I am the CENTER of my CIRCLE of LIFE.
 I must establish a RELATIONSHIP with my HIGHER-POWER.
 I must begin to RESPECT/LOVE/UNDERSTAND myself;
 MENTALLY/PHYSICALLY/SPIRITUALLY.
 I must come to ACCEPT myself.

FAMILY:

As I begin to grow in SELF-AWARENESS/SELF-WORTH. I am better
 ABLE to LOVE/UNDERSTAND/ACCEPT and work with my FAMILY.
 I begin to COMMUNICATE/SHARE/STRENGTHEN my "FAMILY
 CIRCLE" (our family foundation).



COMMUNITY:

As I ESTABLISH/FEEL/KNOW my connections to my HIGHER POWER
 and to my FAMILY - - - my LOVE/ENERGY/WORK can better
 EXTEND (in a more natural way) to my COMMUNITY (my extended
 family, "My Relations").

NATION:

As I/(WE) become STRONG in the LOVE/SECURITY/POWER of SELF
 and FAMILY and COMMUNITY. I/(WE) can begin to extend
 LOVE/RESPONSIBILITY/ EFFECTIVENESS further; through
 RESPECT/KINDNESS/GENEROSITY and RIGHT-ACTION within
 and FOR our NATIONS.

UNIVERSE:

As WE become STRENGTHENED as NATIONS of people. ALL of our
 good ATTRIBUTES/VALUES/RIGHT ACTIONS become manifested
 In an ever larger CIRCLE to touch ALL of "CREATION"/ALL of our
 RELATIONS.



SACRED HOOP (of NATIVE- WORLD) BROKEN

(Results for Native Peoples)

*LOSS OF HOMELAND *LOSS OF IDENTITY

*LOSS OF CULTURE THROUGH LOSSES OF:

*LANGUAGE *EXTENDED-FAMILY SYSTEM,
*TRIBAL VALUE SYSTEM, *TRIBAL TRADITIONS,
*TRADITIONAL EDUCATIONAL METHODS, *ROLE
MODELS, *HEALING METHODS, *CEREMONIES,
*A NATURAL WORLD ORDER *DIGNITY *POWER,
*SAFETY, *SOVEREIGNTY, *DESTINY,
*A SPIRITUAL WAY OF LIFE.”

LOSS OF SELF-WORTH resulting in:

*ANGER *FEAR *HUMILIATION *SHAME
*ISOLATION *DEPRESSION *HOPELESSNESS
POWERLESSNESS *APATHY *DENIAL *RAGE
*VIOLENCE *ILLNESS *MULTI-GENERATIONAL
GRIEF *DISTRUST *SELF- and CULTURAL-HATE
* SUICIDE *INTERNALIZED-OPPRESSION (A belief
in the attitudes/ & false labeling of Native Americans)

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OPPRESSION

OPPRESSION definition= "A burdensome, unjust manner of governing that *weighs heavily* upon the SPIRIT and the senses."

INTERNALIZED OPPRESSION definition= "Having subjectively adopted unnatural, oppressive racial attitudes/ behaviors as a *reality* in one's life".

Examples of manifestation among dominant-culture members; A fear/ or hatred of: Native Americans, Blacks, Mexicans, Jews, Asians, Women, or other so labeled; "minorities".

Examples of manifestation among People of Color: A negative-collective identity/ loss of identity/ a wish to assume the identity of the oppressor.

RACISM definition= "A belief in the superiority of one race over another and the resultant discriminatory treatment."

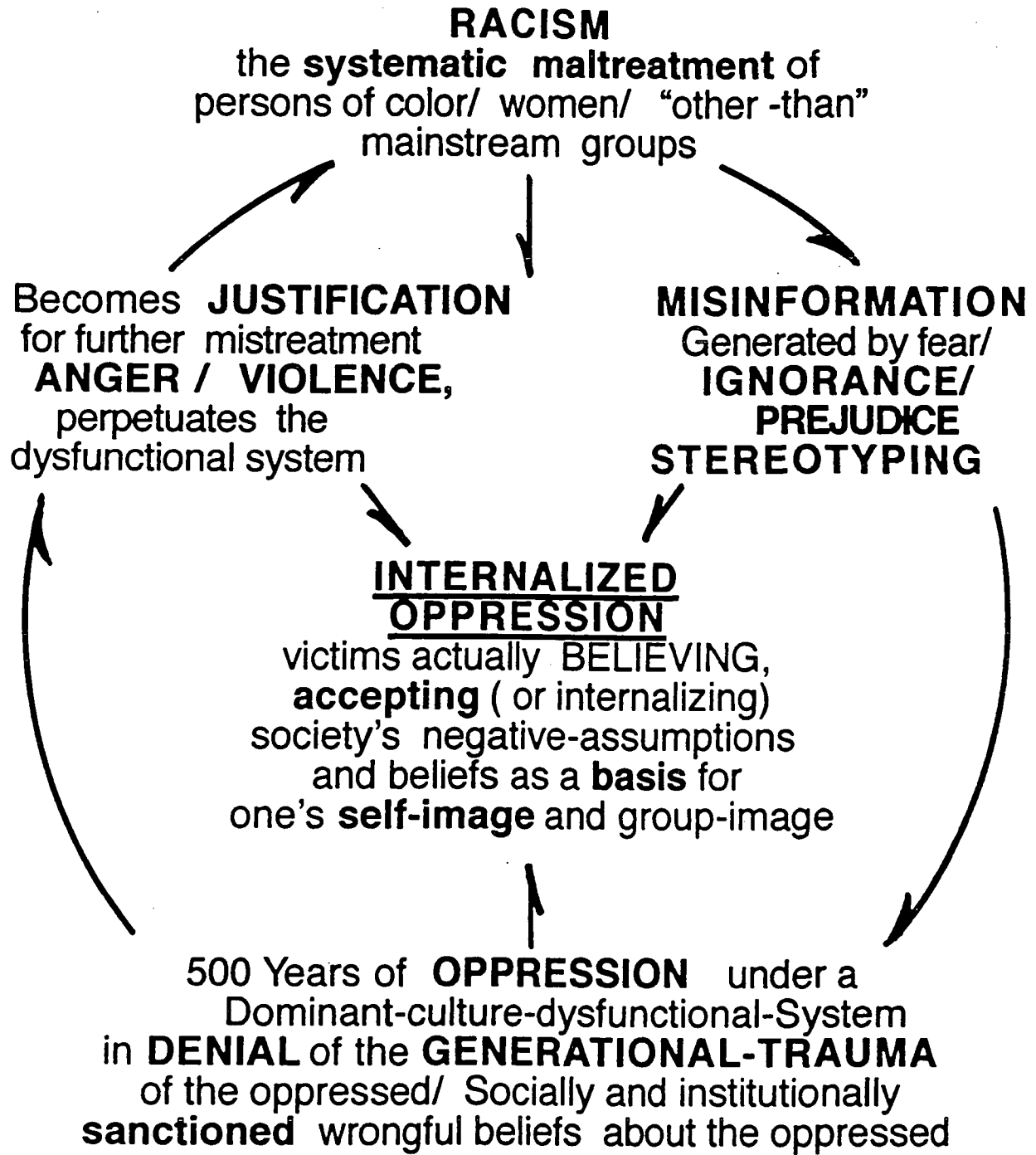
INSTITUTIONALIZED RACISM definition= "The widespread, systematic exploitation and the exercise of power for control and/ or maltreatment of any particular race (or individual) by the institutions (or members) of the dominant-culture infrastructure."

RESULTS OF INTERNALIZED OPPRESSION/ RACISM UPON THE OPPRESSED;

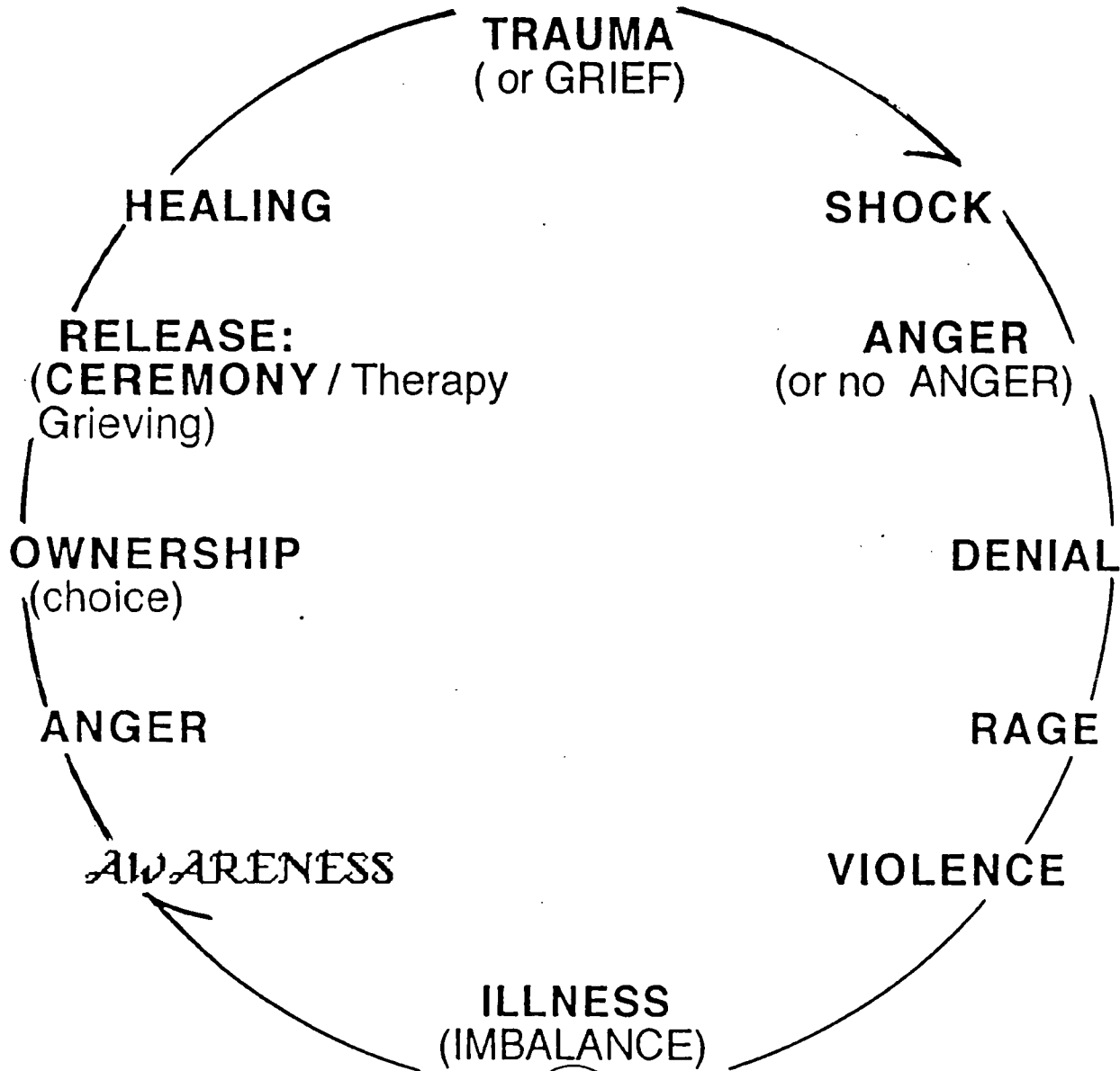
Pain	Generational-grief
Trauma	Embarrassment
Disconnectedness	Shame
Anger	Apathy
Fear	Self-hate
Loneliness	Family disintegration
Isolation	Numbness
Powerlessness	Self-destructiveness
Sadness	Violence

RESULTS OF INTERNALIZED OPPRESSION UPON DOMINANT-CULTURE MEMBERS:

Racism	Denial of the Psychosocial-Historical meaningfulness of the oppressed.
Fear	Deep-seated Guilt/ Shame
Hatred	Violence
Denial of the above	

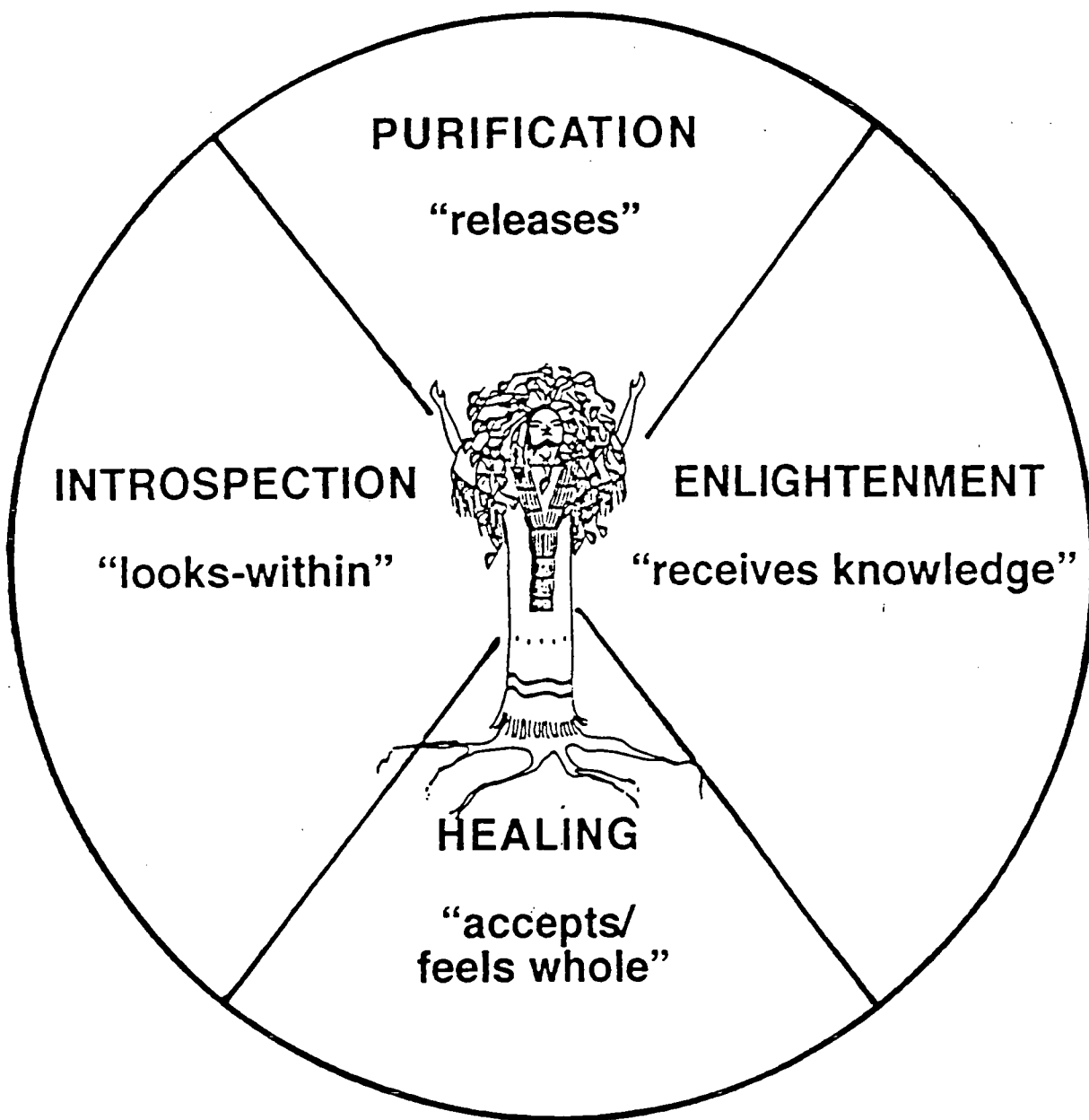


CIRCLE OF HEALING



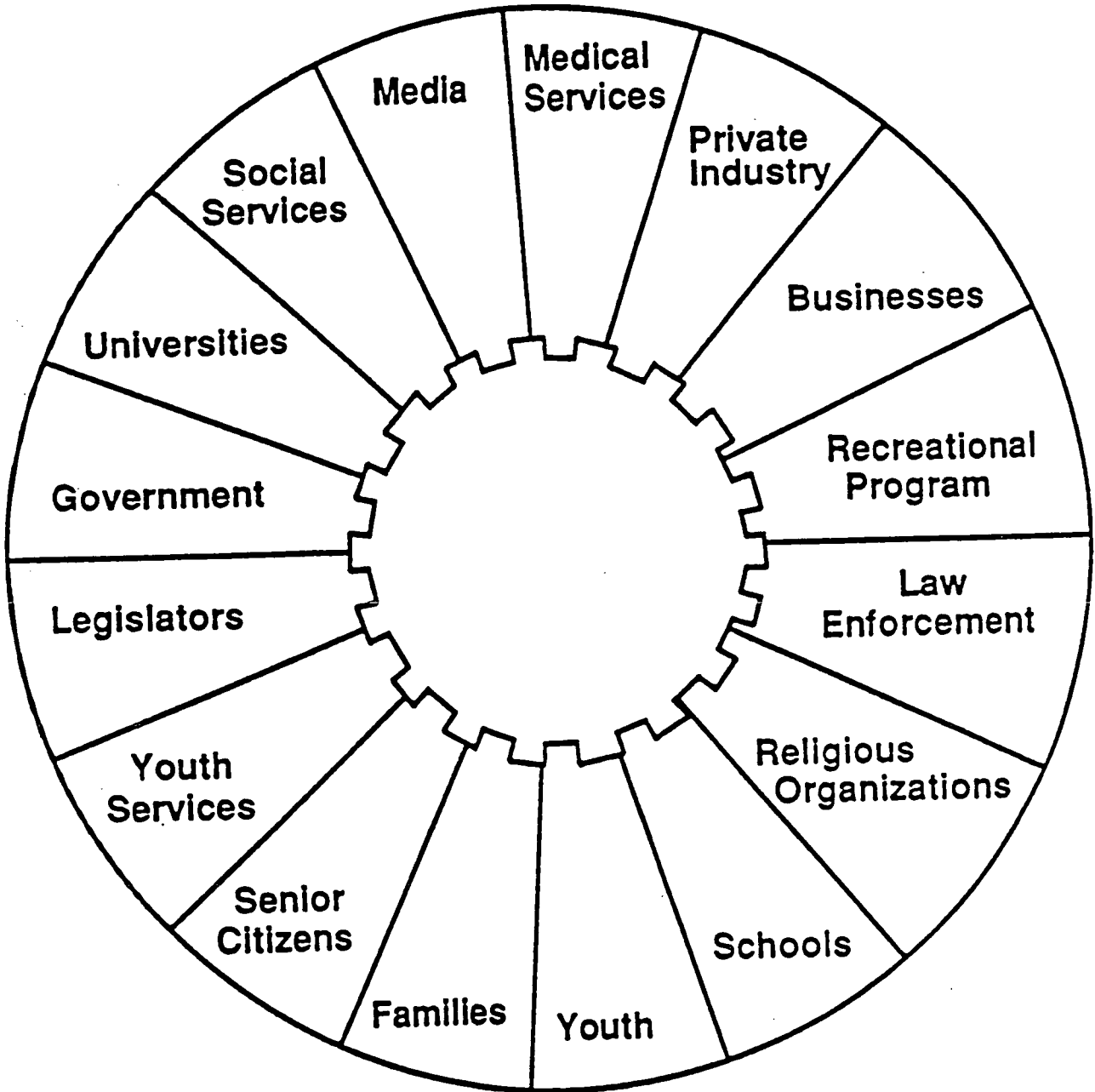
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MEDICINE WHEEL

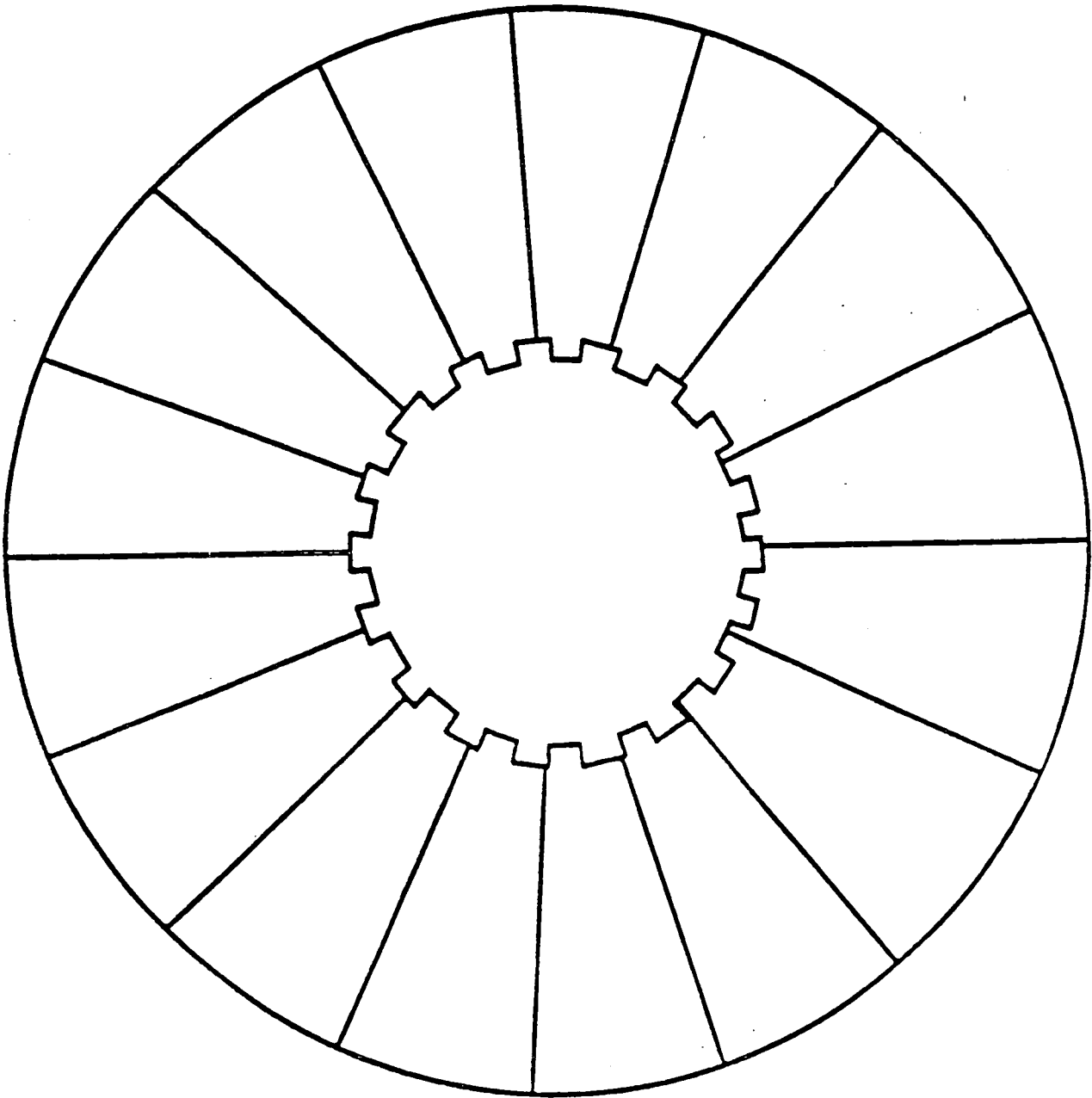


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COMMUNITY WHEEL



COMMUNITY WHEEL



500 Years is Enough!

Oh, little Sioux or Japanese,

Oh, don't you wish that you were me?

--Rudyard Kipling

Five hundred years ago, we are told, Columbus set sail for India and ended up in the Americas.

Five hundred years ago 170,000 Jews were expelled from Catholic Spain.

Five hundred years ago the first trans-Atlantic slave trade was initiated.

Today people prepare in almost every country of the Americas and Europe for the events to come: parades, statues, fireworks, conferences, festivals, exhibits, the world's fair in Seville, the Olympics in Barcelona, a reenactment of the voyage of the Nina, Pinta, and Santa Maria, and many other observances.

In the United States, we have the Christopher Columbus Quincentennial Commission, with \$89 million appropriated by Congress "to plan, encourage, coordinate, and conduct the commemoration of the voyages of discovery of Christopher Columbus."

These celebrations applaud the spirit of the American free enterprise system while ignoring and minimizing the near extermination of the indigenous populations of the Americas, the enslavement of Africans, the marginalization of all people of color, and the rape of Mother Earth.

As activists, we must debunk the myth of a heroic Columbus and look at his voyage not as a "discovery" but as the cataclysmic coming together of three worlds: Europe, Africa, and the Americas.

The word "discover" itself disguises the invasion, theft, and subjugation that actually took place. It is the propaganda of the winners. The continued emphasis on "discovery" is a racist legitimization of the "discoverers" right to dominate.

"You have to understand that from an American Indian perspective, celebrating the Columbus quincentenary is in fact celebrating genocide. Indian people like to remind white Americans that the only thing Columbus discovered was that he was lost. About half a world lost," says George Tinker of the Osage nation, Assistant Professor of cross-cultural ministries at Iliff School of Theology in Denver, Colorado.

Columbus did not discover what we call America because there were people already living here, but he did set into motion an ongoing cycle of violence: enslavement, tor-

ture, rape, exploitation, epidemic disease, and genocide. With the centuries of heinous crimes came a more subtle dehumanization through separation of Native families, deculturalization of children, imposition of foreign languages and religions, and changing of national and personal names.

Columbus landed on what we now call Cuba, Hispaniola, Haiti, Trinidad, South America, Nicaragua, Costa Rica, Panama, and Jamaica. Ten years after Columbus's arrival on the island of San Salvador, the entire Native population, estimated at 100,000, had perished. According to 16th-century priest and historian Bartolme de las Casas, by the mid-1550s the population of Mexico was reduced from 25 million to five million.

As the indigenous people in the Americas were being wiped out, the European conquerors found themselves without an adequate labor force. They turned their sights toward the African continent, where they kidnapped millions of people and brought them as slaves to the Americas to continue the European plunder of its vast resources. It is estimated that two hundred million Africans died in passage alone.

The 1492 legacy reveals the position of today's wealthy and powerful European and American nations as predicated upon the pillaging of indigenous land and forced labor of Native people and African slaves. This double thievery provided the economic power and political base to strengthen and expand the capitalist system that continues to perpetuate racism and inequality today.

I call upon my fellow people of color to celebrate our survival of the past 500 years. I call upon our allies to reflect on the implications of what it means to celebrate the Columbus myth. Let us all join together to challenge the policies and practices of racism and oppression.

Action

- Work on alternative quincentennial projects, in solidarity with Native people whenever possible. WILPF has endorsed Peace and Dignity Journeys 1992, the Hundredth Monkey Project, and Walk Across America for Mother Earth. We are a member of HONOR and are collaborating with the South and Meso-American Indian Information Center to produce a button of their design. For an extensive index of organizations and observances, order our updated 500 Years Is Enough! list (see Resources box).

--Nya Patrinos

WILPF Program Intern

LAKOTA TIMES
REPRINT

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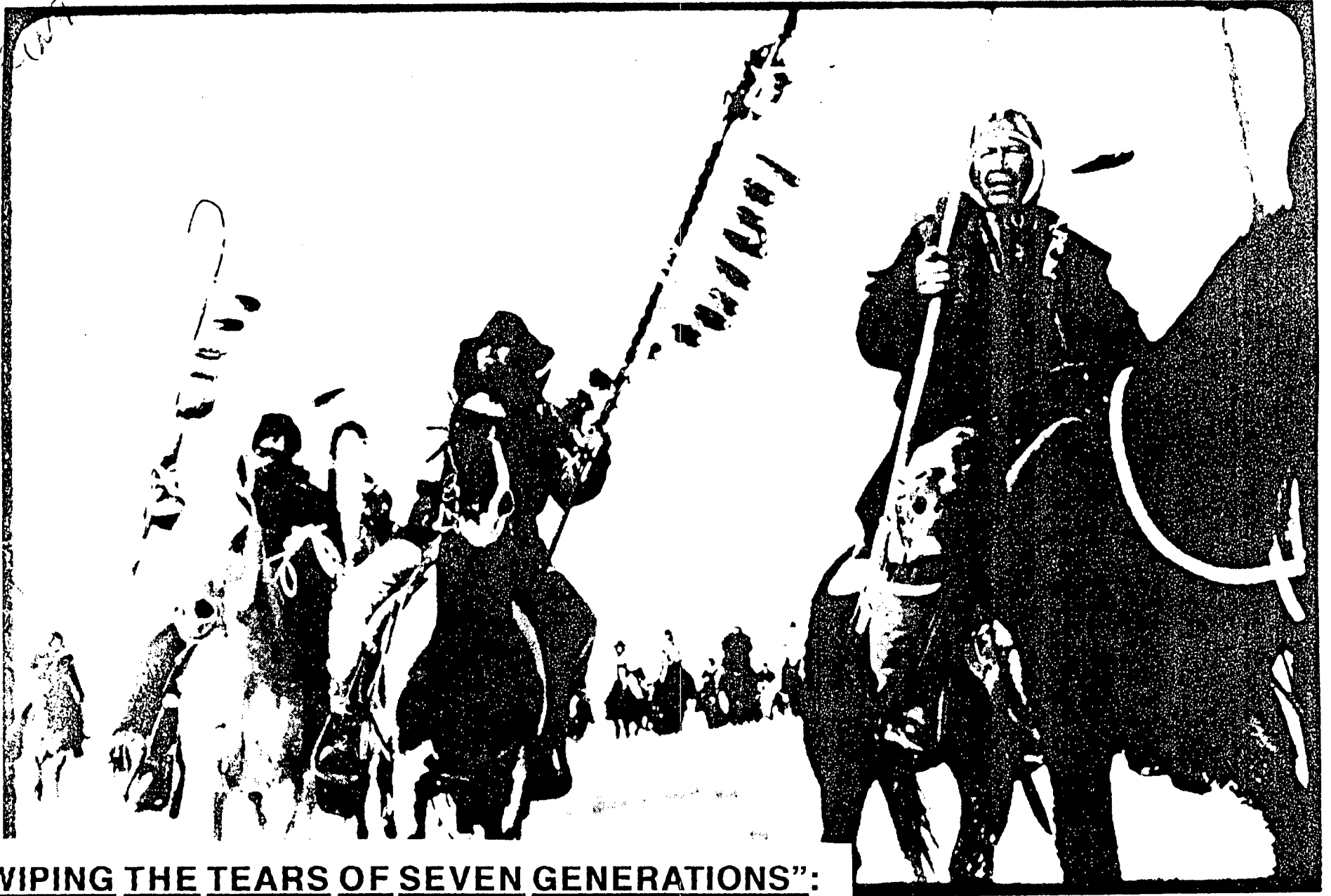
Because of a blizzard, bodies of the dead lay for four days after the massacre; men were hired to gather the dead for burial.

WOUNDED KNEE SO. DAKOTA Dec.1890



LAKOTA TIME
PEEP

(2)



“WIPING THE TEARS OF SEVEN GENERATIONS”:
A 5 year “ride” (& Healing Ceremony) heals Historical Trauma of WOUNDED KNEE, SOUTH DAKOTA. (Led by Arviol Looking-Horse, Keeper of the Sacred Pipe).

Wolakota! The Lakota Nation lives! Mitaku oyasin!



REPRINT

A PUBLIC DECLARATION

TO THE TRIBAL COUNCILS AND TRADITIONAL SPIRITUAL LEADERS OF THE INDIAN AND ESKIMO PEOPLES OF THE PACIFIC NORTHWEST

Dear Brothers and Sisters,

This is a formal apology on behalf of our churches for their long-standing participation in the destruction of traditional Native American spiritual practices. We call upon our people for recognition of and respect for your traditional ways of life and for protection of your sacred places and ceremonial objects. We have frequently been unconscious and insensitive and have not come to your aid when you have been victimized by unjust Federal policies and practices. In many other circumstances we reflected the rampant racism and prejudice of the dominant culture with which we too willingly identified. During the 200th Anniversary year of the United States Constitution we, as leaders of our churches in the Pacific Northwest, extend our apology. We ask for your forgiveness and blessing.

As the Creator continues to renew the earth, the plants, the animals and all living things, we call upon the people of our denominations and fellowship to a commitment of mutual support in your efforts to reclaim and protect the legacy of your own traditional spiritual teachings. To that end we pledge our support and assistance in upholding the American Religious Freedom Act (P.L. 95-134, 1978) and within that legal precedent affirm the following:

- 1) The rights of the Native Peoples to practice and participate in traditional ceremonies and rituals with the same protection offered all religions under the Constitution.
- 2) Access to and protection of sacred sites and public lands for ceremonial purposes.
- 3) The use of religious symbols (feathers, tobacco, sweet grass, bones, etc.) for use in traditional ceremonies and rituals.

The spiritual power of the land and the ancient wisdom of your indigenous religions can be, we believe, great gifts to the Christian churches. We offer our commitment to support you in the righting of previous wrongs: To protect your peoples' efforts to enhance Native spiritual teachings; to encourage the members of our churches to stand in solidarity with you on these important religious issues; to provide advocacy and mediation, when appropriate, for ongoing negotiations with State agencies and Federal officials regarding these matters.

May the promises of this day go on public record with all the congregations of our communions and be communicated to the Native American Peoples of the Pacific Northwest. May the God of Abraham and Sarah, and the Spirit who lives in both the cedar and Salmon People be honored and celebrated.

Sincerely,

Thomas L. Blevins

The Rev. Thomas L. Blevins, Bishop
Pacific Northwest Synod -
Lutheran Church in America

Robert Bradford

The Rev. Dr. Robert Bradford,
Executive Minister
American Baptist Churches of the Northwest

Robert Clarke Brock

The Rev. Robert Brock
N.W. Regional Christian Church

Robert H. Cochrane

The Right Rev. Robert H. Cochrane,
Bishop, Episcopal Diocese of Olympia

W. James Halfaker

The Rev. W. James Halfaker
Conference Minister
Washington North Idaho Conference
United Church of Christ

R. G. Hunthausen

The Most Rev. Raymond G. Hunthausen
Archbishop of Seattle
Roman Catholic Archdiocese of Seattle

Elizabeth B. Knott

The Rev. Elizabeth Knott, Synod Executive
Presbyterian Church
Synod Alaska-Northwest

Lowell E. Knutson

The Rev. Lowell Knutson, Bishop
North Pacific District
American Lutheran Church

Thomas J. Murphy

The Most Rev. Thomas Murphy
Coadjutor Archbishop
Roman Catholic Archdiocese of Seattle

Melvin G. Talbert

The Rev. Melvin G. Talbert, Bishop
United Methodist Church -
Pacific Northwest Conference

REPRINT

THE PHOENIX GAZETTE

Forecast

Low tonight:
Near 78
High tomorrow:
Around 98
Breezy
Details/ A14



Traffic watch
271-5656, #5827

Keating indicted in thrift's sale of ju

Lincoln case sees 1st criminal counts

By Glen Creno
THE PHOENIX GAZETTE

Charles H. Keating Jr., former chairman of American Continental Corp., has been indicted on charges related to the sale of junk bonds by failed Lincoln Savings & Loan, one of his attorneys said. Keating, who controlled Lincoln through his American Continental hold-

ing company, was to be arraigned today in Los Angeles County Superior Court on the charges contained in a county grand jury indictment, attorney John Quinn told *The Orange County (Calif.) Register*. He gave no details.

The indictments would mark the first criminal charges in the Lincoln case. Numerous civil lawsuits have been filed.

Also indicted were Ray Fidel and Robin Symes, former Lincoln presidents; and Judy Wischer, a former president of American Continental, Lincoln's parent company in Phoenix.

Earlier, KCRS-TV in Los Angeles reported the grand jury had indicted Keating last week and that the indictment will be unsealed today. The Associated Press in Los Angeles said an attorney familiar with the case confirmed the report's accuracy. The attorney, who requested anonymity, said the indictment probably will be made public today.

District Attorney Ira Reiner declined to comment on the report, citing grand jury confidentiality rules. However, Reiner issued a statement saying his office had



Included in an indictment expected: Charles H. Keating Jr.; former Lin Robin Symes; and Judy Wischer, fo

Talking Circles

Vision guides woman to revive healing ritual

By Smila Madan Paul
THE PHOENIX GAZETTE

Sitting on a mountain in the Black Hills of South Dakota for four days and nights, Avis Archambault saw the spiritual vision she had gone to receive.

Archambault, a Sioux, had gone to ground sacred to her tribe looking for answers in her life.

"Sacraments and rituals are dramatically underused in this country. We are always looking to science and technology... Real healing comes from your perceptions."

Carl Hammerschlag
Psychiatrist

other tribes, it was almost forgotten and may have died out completely but for her.

The ritual has been revived by a variety of tribes, and its potential for psychological therapy and spiritual healing has led to its use by some non-Indians, including stress-burdened executives.

See ■CIRCLE, Page A2



Nancy Engebretson / THE PHOENIX GAZETTE

Spiritual leader Harrington Luna, a Pima from the Gila River Indian Reservation, uses an eagle feather to spread smoke from smoldering sage and cedar during a recent Talking Circle ceremony in Phoenix. The ritual, almost died out among tribes but is being revived. Its potential for psychological therapy and spiritual healing has led to its use by some non-Indians.

Attacks on 2 teachers force district into defensive steps

Suspect arrested, but safety measures stay in effect

By David Rossmiller
THE PHOENIX GAZETTE

Defensive steps are being taken in the Roosevelt Elementary School District, where two female teachers were assaulted after school hours, knocked unconscious and robbed last week.

Phoenix police have arrested a suspect

Officials also are asking teachers travel around campus in pairs after 4 p.m. and, if possible, leave campus by 3:30 p.m.

In addition, Sandoval said, district officials plan to meet with Phoenix District Council members Calvin Goode and M. Rose Wilcox today to discuss stationing Phoenix police officers at each of the



in as said

one metro-
It doesn't matter that Phoenix spends millions to maintain streets for suburbanites who commute to work into the central city; struggles to cope with

city you have people who are only there because they couldn't afford to leave," Nadolski said. "They require more social services and cost an additional amount of money."

houses than census workers counted. Norris Nordvald, intergovernmental affairs director, continues to solicit phone calls from individuals who may have been

Tom Spratt covers growth issues for THE PHOENIX GAZETTE. His column appears each Tuesday.

CIRCLE

From A1

A1 what idom mber had diers order had -mile hafji wreak gn of raqis t has abah reets, e by y the l-rich profes- 0,000 half a lared and raffic emol- ue of vreign opean lraqi r the lgian, ounds nt of aq to f its com- t off- ed 23 pelled onday go on ip the ing is shing- more sanc- of the eting omats anim- 'rance id the it. All ack a meas- isting risky ithout

And the ceremony has gained a certain legitimacy in mental-health circles — one Arizona psychiatrist has used the ceremony with patients for years and has recommended it to colleagues.

Without judgment

A Talking Circle is simply a group of people and a spiritual or community leader who "runs" the circle. Everyone is allowed a chance to speak, without interruption and without judgment, Archambault said.

Its origins lie in the oral tradition of many tribes who passed traditional stories, songs and philosophies from old to young through such circles.

There is no limit on the size of a Talking Circle, nor is anyone excluded regardless of where they are from or what they have done, Archambault said.

"The Talking Circle has all the elements of good therapy," she said. Its beauty and strength come from the quiet respect and acceptance all participants have for one another.

"We might have a brother right out of prison and an abused family or abused women. And there is always someone with an alcohol or drug abuse problem. All of these people come together.

"We don't separate them. We sit together as a family.

"This teaches them how to cope with problems and everyday life ... that there is a natural way to find balance even among this chaos," Archambault said.

1 woman's quest

Vision quests usually are done by young people to find a path for their lives. Archambault was in the middle of her life but felt compelled to find answers.

A quest, called *hanbleceya* in the Sioux, or Lakota, language, means crying for a vision, Archambault said. Preparation for the quest takes a year of training with a medicine man or woman.

While in the mountains in Bear Butte, S.D., Archambault went without food for four days and nights. When she came down, she relayed her vision to the medicine man.

"He told me, 'Don't tell me everything, some of this is for yourself,'" she said. "I received this vision of how to do this ceremony. I had never seen this myself, but it was communicated to me. I was given the songs for healing."

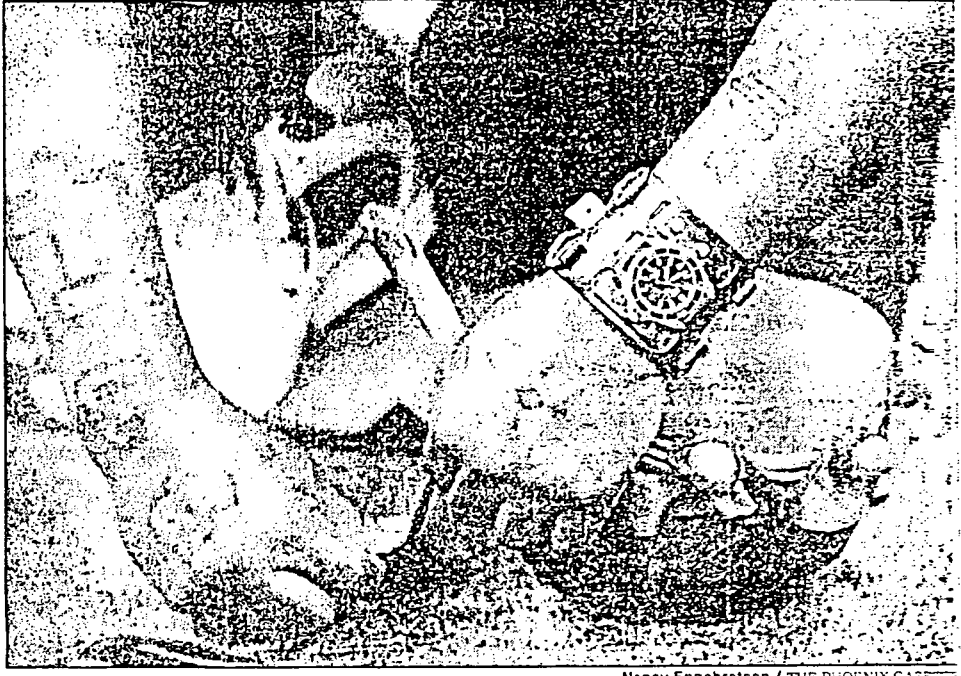
After experiencing the vision, Archambault said, everything in her life changed.

"This is going back to the real empowerment of our people. We don't need to wear feathers and beads and the outward appearance. We need to rediscover our tribal selves and cultural identity and the natural way of life."

She started the circle among Indians living in Phoenix and began traveling to the Perryville prison to conduct circles for Indian inmates.

Six years ago, Archambault began working in social services at the Phoenix Indian Center, a 45-year-old, non-profit Indian agency. Since then, the circle has spread to include organizations from around the country. She has conducted circles for groups as varied as an AIDS prevention convention in Washington, D.C., to the annual National American-Indian Conference on Child Abuse and Neglect.

Archambault conducted a circle for 300 business executives at the American Society of Executive Executives in Chicago last month, and she regularly goes to the Gila River and Navajo reservations to conduct circles for victims of child abuse,



Harrington Luna, a Pima spiritual leader from the Gila River Indian Reservation, ties his drum for the Talking Circle ceremony. The drum consists of a small kettle with deer hide over it and seven stones tied in.

domestic abuse and alcoholism. "There are a lot of victims of incest, or others holding something from childhood. Most of us suffer from not having enough nurturing. This is common in non-Indians, too. All of this gets taken care of in this ceremony," Archambault said.

Ceremony in action

Harrington Luna and his wife, Andrea, who are Pimas from the Gila River Indian Reservation, have served as spiritual leaders for the ceremony. They prepared for a recent Talking Circle with a song and a prayer, and then they walked clockwise around the circle, greeting each of the dozen participants by name.

Starting at the left of the Lunas, the people in the circle followed them around until the circle was turned inside out and everyone had greeted one another twice.

The Lunas sat in the center of the circle and carefully set up the instruments used in the ceremony — a kettle drum, an eagle feather, sacred herbs such as sage and cedar, a large oyster shell and a candle. These represent the different parts of the world. The herbs are the organic, the shell is the inorganic, the eagle feather for the animal kingdom and the flame for the spirit world.

The Lunas took some herbs burning in the shell around the circle. With a feather they waved the smoke into each person's face as a blessing.

"There is a lot of stress and struggle in everyday life," Harrison Luna said. "We need to sit down at times and encourage and support each other. We need to have a good feeling about ourselves, need to understand why we feel the way we feel."

The Lunas then took turns singing, one providing the beat with the drum, the other singing while holding a gourd rattle and the eagle feather.

When they finished, the discussion

around the circle. Each person spoke when the feather came to him.

One woman talked of a nephew killed in an alcohol-related automobile accident during the weekend. Another quietly fingered the feather as she told the circle about a former companion who was killed while staying in a halfway house. She patted herself with the feather repeatedly while speaking, to bless herself with its power.

While telling the stories, some participants wept. "Crying acts as a cleansing," Archambault said.

Others spoke of their personal addictions — alcohol, cigarettes and drugs. One woman spoke of feeling alienated and different from the society she lived in. She said the circle gave her strength and kept her from giving up her job in Phoenix and "running back to the reservation."

After two hours, after everyone had had a chance to speak, the feather returned to Harrington Luna. He ended the ceremony as he started it, with a prayer and a song.

Outside the circle

Carl Hammerschlag, former chief psychiatrist for the Indian Medical Center in Phoenix, said people are attracted to the Talking Circle because it satisfies a cultural need.

"People come to the Talking Circle with a sense that they are coming together as one people. They come with the expectation that something is going to happen that's good."

Every Tuesday night at the Phoenix Indian Center, the circle provides a place for American Indians to re-establish ties to their traditional culture.

"The circle helps by showing all sides to society.

"Maybe by listening to someone else's story, another is moved to do something about it in their lives," Archambault said.

Hammerschlag said he attends the circle regularly and uses it in his practice. He presented a paper on therapeutic use of the ceremony in 1985 to the Arizona Group Psychotherapy Association.

Hammerschlag, who has worked with Indians his entire professional life, said the Talking Circle strengthens links among tribes; it allows people who have a similar world view to come together.

"There are some things all tribes believe in, whether they are agrarian warriors or nomadic. They have similarities that are common to them all," he said.

Among them are belief in the creator, the spiritual harmony of the universe and the responsibility to preserve the Earth for future generations, he said.

It is the conflicting values of these traditional beliefs and Anglo culture that lead to confusion and frustration, Archambault said.

"Take care of number one. You hear that a lot (in Anglo culture)," she said. "We say take care of the people."

While Anglo culture worships youth, wealth and beauty, Indian traditions emphasize the knowledge and wisdom of elders, she said.

While Anglo culture teaches aggressiveness and competition, with religion only one part of life, traditional Indian culture teaches cooperation, patience and respect for the spirituality of an individual, Archambault said.

Hammerschlag said non-Indians can learn the lessons of the Talking Circle.

"Sacraments and rituals are dramatically underused in this country. We are always looking to science and technology to give us the answers. Real healing comes from your perceptions," he said.

THE PHOENIX GAZETTE
(USPS 430-620)
Published weekday evenings by Phoenix Newspapers Inc.
120 E. Van Buren, Phoenix, AZ 85004
P.O. Box 1950, Phoenix, AZ 85001
Telephone 271-8000

MEMBER: AUDIT BUREAU OF CIRCULATIONS
Tues., Sept. 18, 1990 Vol. 109, No. 26

IX GAZETTE articles published since Oct. 1, 1986, available through VU/TEXT, an electronic database. For information, call 1-800-323-2340.

ASTER: Send address changes to Phoenix Gazette, P.O. Box 1950, Phoenix, AZ 85001

All unsolicited items are sent to THE GAZETTE at the sender's risk and the company accepts no responsibility for their return.

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Home Delivery
Daily Gazette \$1.50 per week
Daily Gazette and Sunday Republic \$2.50 per week
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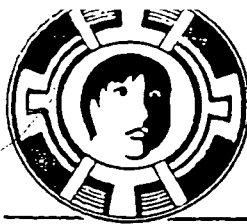
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LINKAGES

FOR INDIAN CHILD WELFARE PROGRAMS

VOLUME V, ISSUE 5

JUNE 1987

Child Abuse/Neglect Survey Indicates Increased Reporting

"Based on assessments and data being provided by BIA and tribal field staff, we can definitely say that the number of

Inside this Issue:

- Committee Reports on Status of Child Abuse in US, p. 2.
- Coordination Cited as Needed for Child Abuse/Neglect Cases, p. 3.

Talking Circle Used to Help Families Avoid Abuse/Neglect

Child abuse and neglect were prime targets when workers at the Phoenix Indian Center, in 1984, began to use the "Talking Circle" as a means of helping urban Indian families. Since that time, more than 5,000 persons have participated in the Indian Center's Circles. Since the beginning, the demand for participation in the circle has been high and has continually increased.

"The Talking Circle is a particularly effective, culturally appropriate therapeutic tool for working with families where child abuse/neglect is a real or potential problem."

Avis Archambault, who initiated the use of the Talking Circle at the Phoenix Indian Center, recently talked with *Linkages* staff. "Indians," says Archambault, "have always come together in a circle to sing, dance, pray, touch the spirit and thus stay well. The circle helps to develop a firm sense of cultural self identity and belonging. Approached in the proper way, it can be a very powerful means of healing the body, mind and spirit. We feel the circle significantly reduces family stress."

One attraction of the Talking Circle, Archambault feels, is that everybody gets attention and everybody may participate. According to the procedures used at the Phoenix Indian Center, the circle leader opens the circle by passing around sweetgrass, cedar or sage so that the participants may "smudge" themselves. This act has a purifying effect.

The circle leader next recites a prayer and may ask participants to shake hands and acknowledge each other. The leader then begins to "talk to the people" without interruption, talking to no one person but to all who are present.

In turn, everyone who sits within the circle -- regardless of age -- is given an opportunity to express him or herself. He may speak. He may bring and share a sacred object -- an eagle feather or perhaps a stone. Or, if he chooses, a participant may simply listen. Each person in the circle is shown an attitude of respect. The circle closes with a prayer.

Although Archambault stresses that no single project or program will answer all the needs in every situation, she says she feels the Talking Circle "is a crucial tool against abuse in Indian families. It fulfills three main needs for Native people. It acts as an extended family; it offers a vehicle for teaching and passing on traditional knowledge; and it provides some degree of healing for the body, mind and spirit."

The Circle, Archambault continues, is based on "the Indian belief of right time, right place, right people hearing right things. With problems of child abuse and neglect, what helps the Circle work, Archambault stresses, is that it brings all concerned together in a caring and supportive environment. "It is an effective means of prevention/intervention/rehabilitation from many of the existing social problems among our Native American people. Because of its cultural, spiritual base, the Circle is considerably more effective with Native Americans than other types of group therapy."

Phoenix Indian Center staff elaborate. The Talking Circle, they say, has all the elements associated with and needed for a good therapeutic tool. In fact, Dr. Carl Hammerschlag, who has worked for 20 years with the Phoenix Indian Medical Center and who is President of the Arizona Group Psychotherapy Association, served as a consultant to the Phoenix Indian Center when it was first initiating use of the Talking Circle.

George McCormick, Social Service Manager for the Center, adds that in families where there is abuse and neglect, "the Talking Circle provides Indian Center staff a base on which to build." Where appropriate, McCormick explains, other services -- including one-to-one counseling -- can be offered.

Another additional service that is often offered to families is provided through a second kind of circle, the presentation circle. In these circles, a tribal leader or community member is invited to address a specific topic. Presentation circles at the Phoenix Indian Center have addressed such subjects as: Self and Cultural Identity; Family Dynamics; Child Development; Traditional Parenting in the Modern World; Decision-Making and Problem Solving; the Family Circle: Interpersonal Relationships; and Native Healing.

More information on the Phoenix Indian Center's use of the Talking Circle may be obtained from Avis Archambault at (602) 256-2000.

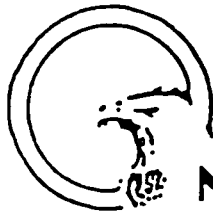
FY 88 Priorities Proposed for Child Abuse/Neglect Research

The National Center on Child Abuse and Neglect (NCCAN) is seeking public comment on its research priorities for FY 88.

Five subject areas have been proposed. These include: the life-course of families at risk of, or involved with, child maltreatment; child fatalities as they relate to abuse/neglect; impact of risk assessment systems used to determine which cases receive services when resources are limited; relationship between child abuse and teen pregnancy; and utilization/impact of videotaped interviews from child victim/witnesses in criminal proceedings. In addition, NCCAN proposes support of field initiated research and solicits specific comment on the appropriateness of such as a priority category for FY 88 funding.

NCCAN also proposes to convene four research symposia during FY 88. The proposed subject areas for these symposia are: child neglect; child sexual abuse; intervention approaches for child maltreatment; and child abuse/neglect systems issues at the community level.

In order to be considered, comments on the above proposed priorities must be received no later than August 5. Comments should be sent to: Commissioner, Administration for Children, Youth and Families, Attn: NCCAN, PO Box 1182, Washington, DC 20013. For more information, refer to pp. 20645-48 of the June 2 *Federal Register* or telephone: Josephine Reifsnnyder at (202) 245-2856.



NATIVE AMERICAN TRAININGS

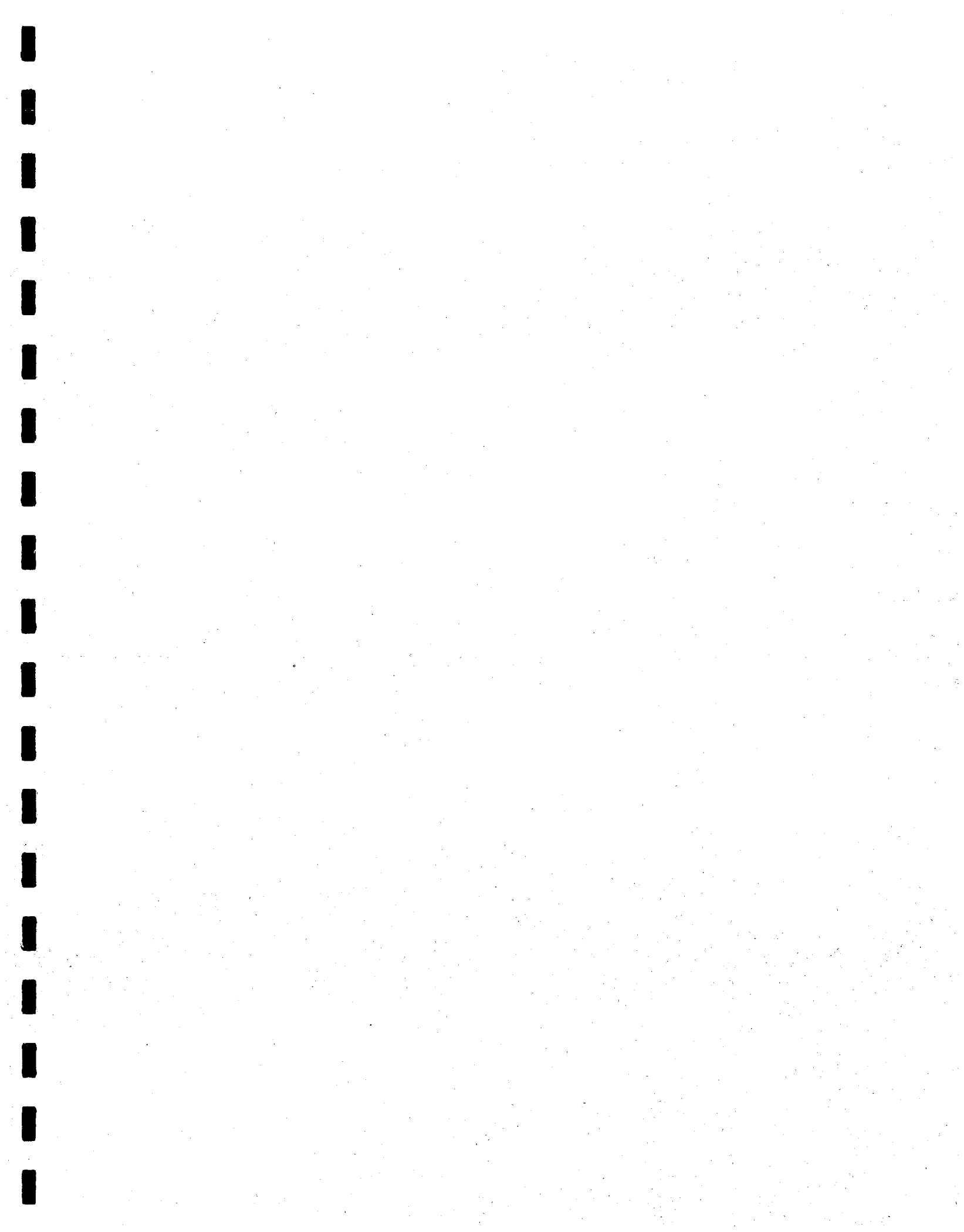
Offered by: Avis Archambault, MA, (Lakota/ Gros Ventre) Native Traditional Treatment Practitioner, International Trainer and Native American Cultural Consultant 2014 N. Pima Rd., Scottsdale, Ariz. 85257 (602) 941-5844 fax; (602) 994-8392

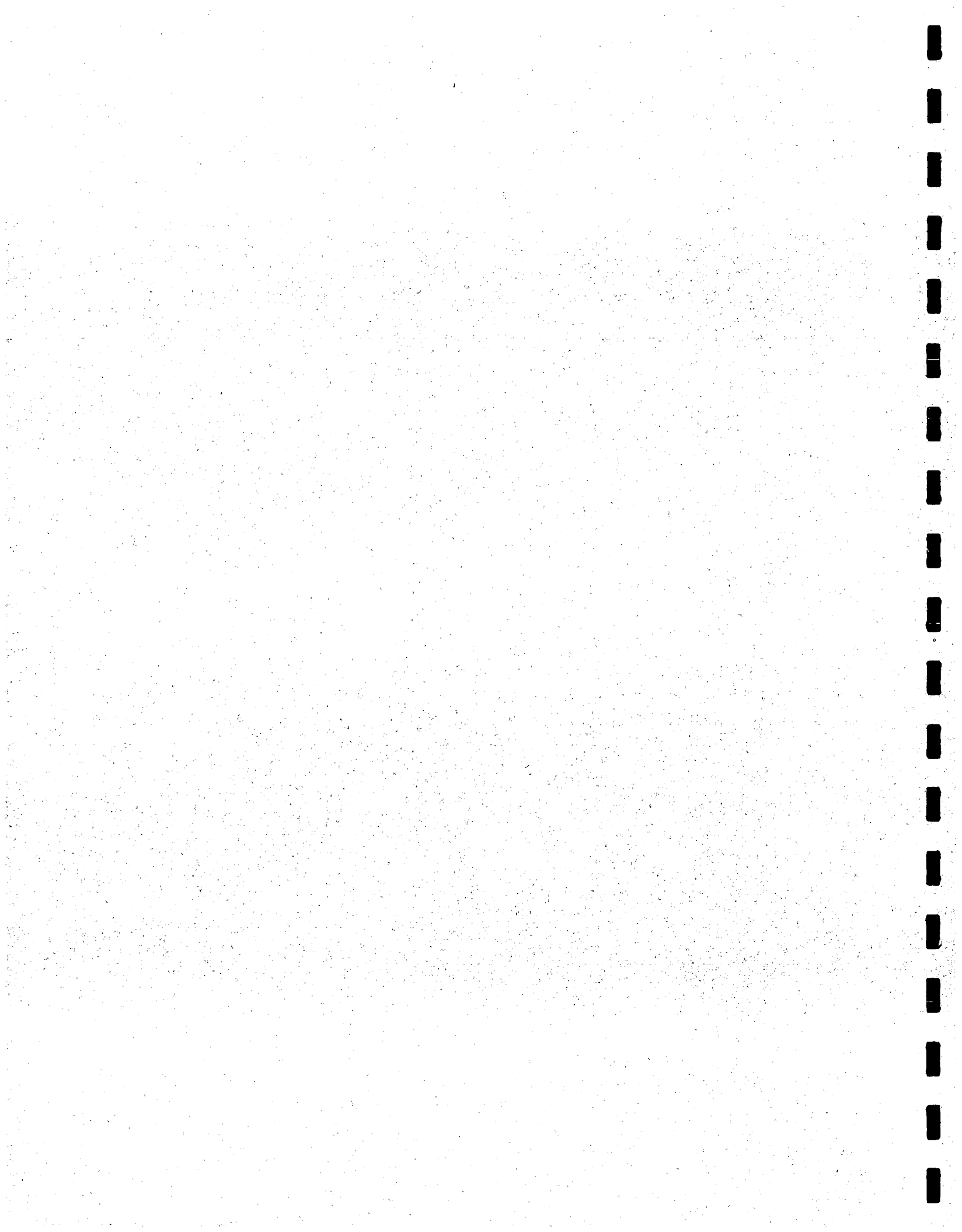
- * Introduction/ Orientation / Participation in the Native American Traditional "Talking-Circle".
- * Defining and Addressing Dysfunction among Native American Peoples.
- * A Psycho-Social Historical Overview of Native American issues obstructing wellness.
- * Native American Psycho-Social-Cultural Assessment
- * Native American Identity Issues related to Historical Meaningfulness
- * Empowerment/ Wellness through Native American Values/ Methods
- * Spiritually Healing Oppression through Traditional Methods/ "Talking-Circle".
- * Empowerment of Native American Women through Traditional Methods.
- * The Four Sacred Gifts of Woman/ and Processing One's Life through the Medicine Wheel.
- * Stress Release and Relaxation Journey from a Native American Perspective.

The Workshops can be focused toward the specific issues of:

Native Traditional Treatment	Self-Esteem/ Identity Issues
Women's Issues	Adult Children of Alcoholics
Family Dysfunction	Assessment/ Evaluation
Child Abuse/Neglect	Inter-Cultural Sensitivity
Alcohol/ Substance Abuse	Multi-Generational Grief

Workshops of 1 to 3 days, to a full week are available and are created for the specific needs of the "host-community". Workshops can include Ceremony/ Traditional Song/ Poetry/ Movement participation.





**Law Enforcement Issues in Indian Country
Workshop**

Jaqulyn Elise Secondine
Criminal Investigator, BIA
Muskogee, Oklahoma

D. J. Dunlap
Special Agent, FBI
Oklahoma City, Oklahoma

**Presented at the 22nd Annual North American Victim Assistance Conference
August 13, 1996
Tulsa, Oklahoma**



JACQULYN ELISE SECONDINE

Jacquelyn Secondine is a member of the Kaw Tribe of Oklahoma as well as being part Shawnee and Delaware Indian. She is currently a Criminal Investigator for the Bureau of Indian Affairs, Muskogee Area Office, Muskogee, Oklahoma. Jacque services 41 counties in Oklahoma; approximately every county east of Interstate 35.

In addition to her investigatory duties with the Bureau of Indian Affairs, Jacque is an instructor at the Indian Police Academy located in Artesia, New Mexico. Jacque has also taught criminal justice courses at the college level.

A native Oklahoman, Jacque earned a Bachelors Degree in Education from Oklahoma State University, a Masters Degree in Counseling Psychology from the University of Tulsa, and has completed twenty hours toward her Doctorate Degree at the University of Tulsa.

Prior to her employment with the Bureau of Indian Affairs, Jacque was employed as a United States Probation Officer for the Northern District of Illinois in Chicago, Illinois. From 1982-1994, Jacque worked as a therapist counseling abusive families.

D. J. DUNLAP

D. J. Dunlap is a Special Agent of the FBI in the Oklahoma City Division, Tulsa office, where she has served since her appointment in 1990. Ms. Dunlap has been investigating and assisting in the prosecution of child abuse in Indian Country cases since mid 1994. She assisted in the preparation of the Memorandum of Understanding concerning child abuse in Indian Country between the 12 Indian tribes in the Northern District of Oklahoma, the FBI, BIA, IHS, DHS and the United States Attorney's Office.

Ms. Dunlap is a native Texan. She earned her BS in Criminal Justice from Sam Houston State University, Huntsville, Texas, and a MS in Sociology from Texas A & M University in College Station, Texas. Prior to her employment with the FBI, Ms. Dunlap was a state certified police officer at Texas A & M University for 6 years.



FACT SHEET

EFFECTS OF DOMESTIC VIOLENCE ON CHILDREN

In homes where domestic violence occurs, children are at high risk of suffering physical abuse themselves. Regardless of whether children are physically abused, the emotional effects of witnessing domestic violence are very similar to the psychological trauma associated with being a victim of child abuse. Each year, an estimated minimum of 3.3 million children witness domestic violence.

- ◆ Children in homes where domestic violence occurs are physically abused or seriously neglected at a rate 1500% higher than the national average in the general population.
- ◆ Research results suggest that battering is the single most common factor among mothers of abused children.
- ◆ A major study of more than 900 children at battered women's shelters found that nearly 70% of the children were themselves victims of physical abuse or neglect. Nearly half of the children had been physically or sexually abused. Five percent had been hospitalized due to the abuse. However, only 20% had been identified and served by Child Protective Services prior to coming to the shelter. The same study found that the male batterer most often abused the children, in about one-fourth of the cases both parents abused the children, and in a few instances only the mother.
- ◆ Lenore Walker's 1984 study found that mothers were 8 times more likely to hurt their children when they were being battered than when they were safe from violence.
- ◆ Although child abuse and neglect are strongly linked to domestic violence, child protection organizations have paid little attention to the concurrence of the two problems. For example, in 1984, only 15 states participating in the American Humane Association's National Study of Child Abuse and Neglect collected data on the mother's abuse. In 1985, this number dropped to 6 states collecting these data.
- ◆ Children in homes where domestic violence occurs may "indirectly" receive injuries. They may be hurt when household items are thrown or weapons are used. Infants may be injured if being held by their mother when the batterer strikes out.
- ◆ Older children may be hurt while trying to protect their mother.
- ◆ Children from violent homes have higher risks of alcohol/drug abuse and juvenile delinquency.
- ◆ Approximately 90% of children are aware of the violence directed at their mother.

WHY WE ASK QUESTIONS

Privacy Act Notification Statement of the Indian Health Service

Benefits

Reasons why Indian Health Service (IHS) and contract health service providers need to collect information from and about you (name, date of birth, mailing address and health information):

- To find out how you feel or what you think is wrong;
- To find out if a member of your family has a condition that could affect your health;
- To locate your medical record among all the others
- To reach you and your family (for follow-up care, or to mail medical test results or future appointments to you) to maintain your health;
- To determine your health condition and the kind of care that is right for you.

It is not necessary to answer these questions to receive medical care. However, if you give complete and correct information to the best of your ability then IHS and contract health service staff will be better able to decide what the proper care is that you need.

Uses

IHS and contract health service personnel will not reveal to anyone what is in your medical record without your written permission, except to:

- State, local or other authorized groups to provide health service to you or to reimburse contractors for the services provided to you;
- Federally approved organizations that evaluate the health care you receive;
- Persons performing health related research where IHS is assured the research will help Native American people and the information will be adequately protected;
- State or local governmental agencies which by law require the information for the purposes of law enforcement, birth and death reporting and communicable disease control;
- Local schools for the purpose of providing health care to the children they teach;
- Organizations (Medicare/Medicaid, insurance companies) for them to reimburse IHS and contract health service providers for services provided to you;
- Agencies acting on behalf of IHS to collect reimbursable payments or to make payments on behalf of the Indian Health Service.

Eligibility

Other information is required if we are to determine:

- Your eligibility to receive health care from the Indian Health Service or contract health service providers (evidence of Indian descent and your residence);
- Your eligibility to have other agencies such as Medicare, Medicaid or private insurance companies pay IHS or contractors for part or all of your health care expenses;
- Your eligibility to receive health care from other organizations (such as the Veterans Administration).

These requirements are contained in 42 CFR Section 36.12 and 42 CFR Section 36.23. These regulations say that IHS is to obtain information on possible use of other health resources which may be used to provide you with health care. This information is to be obtained before health care is provided to you directly by IHS or by contract health providers.

Authority

Records of health care provided to you are maintained by IHS under the following laws:

- Public Health Service Act, Section 321;
- Indian Self-Determination and Education Assistance Act;
- Snyder Act;
- Indian Health Care Improvement Act;
- Construction of Community Hospitals Act;
- Indian Health Service Transfer Act.

IHS employees are required to keep a list of people to whom they release information from your medical record. You have a right to see that list. The list must show what was released, to whom (name and address), for what purpose and the date of release. You may speak with a person at the outpatient or admitting desk to find out how to do this.

The information you provide will be maintained in Health and Medical Records, Systems, HHS/HRSA/IHS, (System Number 09-15-0019).

Thank You For Your Help!

Jurisdiction Chart

Indian Offender

<u>Who is the victim?</u>	<u>What was the crime?</u>	<u>Jurisdiction:</u>
Indian ----->	§ 1153 - murder, manslaughter, kidnapping, maiming, sexual abuse, incest, assault, arson, burglary, robbery, theft	JOINT FEDERAL/ TRIBAL
	Other federal crimes - delivery or possession of drugs with the intent to deliver, felon in possession of a firearm, crimes specific to Indian country	FEDERAL
	All remaining crimes	TRIBAL
Non-Indian ----->	§ 1153 - murder, manslaughter, kidnapping, maiming, sexual abuse, incest, assault, arson, burglary, robbery, theft	JOINT FEDERAL/ TRIBAL
	Other federal crimes - delivery or possession of drugs with the intent to deliver, felon in possession of a firearm, crimes specific to Indian country	FEDERAL
	§ 13 - All remaining crimes	JOINT FEDERAL/ TRIBAL
Victimless ----->	All crimes	JOINT FEDERAL/ TRIBAL

Non-Indian Offender

<u>Who is the victim?</u>	<u>What was the crime?</u>	<u>Jurisdiction:</u>
Indian ----->	§ 1152 - murder, manslaughter, kidnapping, maiming, arson, assault, theft, sexual abuse, robbery, false pretense, receiving stolen property, attempted murder, conspiracy to murder, destruction of building or property	FEDERAL
	§ 13 - All remaining crimes	FEDERAL
Non-Indian ----->	Other federal crimes - delivery or possession of drugs with the intent to deliver, felon in possession of a firearm, crimes specific to Indian country	FEDERAL
	All remaining crimes	STATE
Victimless ----->	Crime creates clear impact on individual Indian or tribal interest	FEDERAL
	All remaining crimes	STATE

CHART OF CRIMINAL JURISDICTION
IN INDIAN COUNTRY BY PARTIES AND CRIMES

<u>CRIME</u>	<u>PARTIES</u>	<u>JURISDICTION</u>	<u>STATUTORY AUTHORITY</u>
Major Crime	Indian against Indian	Federal or Tribal (concurrent)	18 U.S.C.A. §1153
Misdemeanor	Indian against Indian	Tribal (exclusive)	
Major Crime	Indian against Indian	Federal or Tribal (concurrent)	18 U.S.C.A. §1153
Misdemeanor	Indian against non-Indian	Federal or Tribal	18 U.S.C.A. §1152
Victimless	by Indian	Tribal (exclusive)	
Major Crime	Non-Indian against non-Indian	State (exclusive)	
Misdemeanor	Non-Indian against non-Indian	State (exclusive)	
Victimless	by non-Indian	State (exclusive)	
Major Crime	Non-Indian against Indian	Federal (exclusive)	18 U.S.C.A. §1152
Misdemeanor	Non-Indian against Indian	Federal (exclusive)	18 U.S.C.A. §1152

INDIAN COURT SYSTEMS

Courts of Indian Offenses (BIA)

Tribal Courts

Created under: 25 CFR Part 11

Tribal Authority

Laws: 25 CFR Part 11 &
Tribal Ordinances

Tribal Code and
Ordinances

Employees: Court Clerks-BIA staff
Judges-BIA part time
Police-BIA or tribal
Prosecutors-Contracted
F.C.S. workers-Contracted

Court Clerks-Tribal
Judges-Tribal part time
Police-BIA or tribal
Prosecutors-Contracted
-Tribal

Criminal Jurisdiction Misdemeanors
Indian defendants on
Indian Trust land (Indian
Country as defined by 18
U.S.C. 1151.)

Misdemeanors
Indian defendants on Indian
trust lands subject to that
tribe. (Indian Country
as defined by 18 U.S.C.
1151.

Major Crimes
Tribes have concurrent
jurisdiction over major
crimes.

Non Indian
Only if provided by
treaty.

Penalties: Up to 6 months and/or
\$500.00 fine.

Up to 1 year and/or \$5000
fine.

Appeals: CFR Appellate Court

Tribal Supreme Court

Funding: BIA appropriation

Tribal funds and/or BIA
Contract.

Complaints initiated by: Victim and/or police

Victim and/or police.

THE DEFINITION OF "INDIAN COUNTRY"

The lands over which tribal and federal jurisdiction generally control, and over which the Indian nation may exercise its sovereign authority.

18 United States Code, Section 1151(a), (b), & (c):

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country," as used in this chapter, means:

(RESERVATIONS)

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, and

(DEPENDENT INDIAN COMMUNITIES)

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and

(ALLOTMENTS)

(c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"INDIAN" AS A LEGAL STATUS

The special status or rights of Indians are derived from their status as *citizens or members* of an Indian nation, not just from their racial status of possessing some Indian blood

- membership criteria vary from tribe to tribe

e.g.:

- | | |
|------------------------------|--|
| - Kiowa | 1/4 Kiowa blood |
| - Comanche | 1/4 Comanche Blood & Parent enrolled |
| - Ft. Sill Apache | 1/8 |
| - Citizen Band
Potawatomi | no blood quantum, proof of descendency
required from historic tribal roll |

FACTORS AFFECTING CRIMINAL
JURISDICTION IN INDIAN COUNTRY:

- 1) Land Status
- 2) Status of Perpetrator
- 3) Nature of Offense (felony or misdemeanor)
- 4) Status of victim

COURT SYSTEMS having jurisdiction in Indian country:

- 1) Federal
- 2) Tribal
 - a) CFR Courts
 - b) Tribal Courts
- 3) State
 - a) District
 - b) Municipal

FEDERAL CRIMINAL STATUTES FOR INDIAN COUNTRY

Indian Country Crimes Act, 18 U.S.C. § 1152

Federal Criminal Jurisdiction when:

1. In Indian country,
2. Offender is Non-Indian & victim is Indian, OR
3. Offender is Indian & victim is non-Indian
(when crime is not listed in the Major Crimes Act)

Substantive Law Applied:

1. Federal criminal statutes under Federal Enclaves Act, 18 U.S.C. § 1153
OR, if no federal laws,
2. State law pursuant to the Assimilative Crimes Act, 18 U.S.C. § 13

Major Crimes Act, 18 U.S.C. § 1153

Federal Criminal Jurisdiction when:

1. In Indian country,
2. Committed by an Indian, AND,
3. Offense is one of the following:

murder, manslaughter, kidnapping, maiming, a felony under Ch. 109A (sexual offenses), incest, assault w/intent to commit murder, assault w/dangerous weapon, assault resulting in serious bodily injury, arson, burglary, a felony under § 661A.

Substantive Law Applied:

1. Federal criminal statutes (all offenses except for incest & burglary)
2. State law for offenses of incest & burglary

Federal Offenses of General Applicability

* Prosecution may occur regardless of location of the offense, including Indian country (e.g. drug offenses, embezzlement from a tribal organization, bank robbery, child pornography, etc.)

**BASIS FOR FEDERAL CRIMINAL JURISDICTION IN
INDIAN COUNTRY**

1. Indian Country Crimes Act, 18 U.S.C. § 1152
2. Major Crimes Act,
18 U.S.C. § 1153
3. Federal Offenses of General Applicability

**BASIS FOR STATE CRIMINAL JURISDICTION IN
INDIAN COUNTRY**

1. Non-Indian v. Non-Indian crimes

U.S. v. McBratney, 104 U.S. 621 (1882)
2. Outside Oklahoma, federal statutes may authorize state jurisdiction in Indian country (e.g. Kansas Act, P.L. 280)

**BASIS FOR TRIBAL CRIMINAL JURISDICTION IN
INDIAN COUNTRY**

1. Inherent tribal sovereignty

Tribal jurisdiction when:

1. Offender is Indian

Substantive Law Applied:

1. Tribal code
2. 25 C.F.R., Pt. 11 (for tribes served by Court of Indian Offenses)

WHEN THE CRIME COMMITTED IN INDIAN COUNTRY IS A
"MAJOR" CRIME

<u>Persons</u>	<u>Jurisdiction</u>
Indian accused & Indian victim	Federal & Tribal
Indian accused & non-Indian victim	Federal & Tribal
non-Indian accused & Indian victim	Federal only
non-Indian accused & non-Indian victim	State only

WHEN THE CRIME COMMITTED IN INDIAN COUNTRY IS NOT A
"MAJOR" CRIME

<u>Persons</u>	<u>Jurisdiction</u>
Indian accused & Indian victim	Tribal only
Indian accused & non-Indian victim	Federal & Tribal
non-Indian accused & Indian victim	Federal only
non-Indian accused & non-Indian victim	State only

"VICTIMLESS CRIMES"
(victim is the Indian community)

Persons

Jurisdiction

Indian accused

Tribal (& Federal ?)

non-Indian
accused

State
(& Federal ?)

non-Indian
accused &
non-Indian
victim

State only

7-11-10
1169. Reporting of child abuse

a) Any person who—

(1) is a—

(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

(E) psychiatrist, psychologist, or psychological assistant,

(F) licensed or unlicensed marriage, family, or child counselor,

(G) person employed in the mental health profession, or

(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

(2) knows, or has reasonable suspicion, that—

(A) a child was abused in Indian country, or

(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

all be fined under this title or imprisoned for not more than 6 months or both.

(b) Any person who—

(1) supervises, or has authority over, a person described in subsection (a)(1), and

(2) inhibits or prevents that person from making the report described in subsection (a),

all be fined under this title or imprisoned for not more than 6 months or both.

(c) For purposes of this section, the term—

(1) "abuse" includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

(4) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.

(Added Pub.L. 101-630, Title IV, § 404(a)(1), Nov. 28, 1990, 104 Stat. 4547, and amended Pub.L. 103-322, Title XXXIII, §§ 330011(d), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2144, 2147.)

§ 2258. Failure to report child abuse

A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.

(Added Pub.L. 101-647, Title II, § 226(g)(1), Nov. 29, 1990, 104 Stat. 4808.)

(c) Limitation

No funds are authorized to be appropriated for a fiscal year to carry out this subchapter unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(Pub.L. 101-647, Title II, § 224, Nov. 29, 1990, 104 Stat. 4798.)

HISTORICAL AND STATUTORY NOTES

References in Text

This subchapter, referred to in subsec. (a), read in the original, this chapter. Reference to this subtitle was probably intended, meaning subtitle C of Title II of Pub.L. 101-647, Nov. 29, 1990, 104 Stat. 4796, which enacted this subchapter. For complete classification of this Act to the Code, see Short Title Note set out under section 13001 and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c), is

Pub.L. 93-415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (section 5601 et seq.) of this title. Title II of the Act is classified to section 5611 et seq. of this title. For complete classification of this Act to the Code, see Short Title Note set out under section 5601 of this title and Tables.

Legislative History

For legislative history and purpose of Pub.L. 101-647, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

SUBCHAPTER IV—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

§ 13031. Child abuse reporting

(a) In general

A person who, while engaged in a professional capacity or activity described in subsection (b) of this section on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) of this section.

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a) of this section:

- (1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.
- (2) Psychologists, psychiatrists, and mental health professionals.
- (3) Social workers, licensed or unlicensed marriage, family, and individual counselors.
- (4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.
- (5) Child care workers and administrators.
- (6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.
- (7) Foster parents.
- (8) Commercial film and photo processors.

(c) Definitions

For the purposes of this section—

- (1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;
- (2) the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;
- (3) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or

outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or public area of a person or animal;

or

(E) sadistic or masochistic abuse;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a) of this section. By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) Reporting form

In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a) of this section, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) Omitted

(Pub.L. 101-647, Title II, § 226, Nov. 29, 1990, 104 Stat. 4806.)

HISTORICAL AND STATUTORY NOTES

Codification

Subsec. (g) of this section enacted section 2258 of Title 18, Crimes and Criminal Procedure, making failure to report child abuse on Federal land or in a Federally contracted (or operated) facility a Class B misdemeanor.

Legislative History

For legislative history and purpose of Pub.L. 101-647, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

SUBCHAPTER V—CHILD CARE WORKER
EMPLOYEE BACKGROUND CHECKS

§ 13041. Requirement for background checks

(a) In general

(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than May 29, 1991. Except as provided in subsection (b)(3) of this section, no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) Criminal history check

(1) A background check required by subsection (a) of this section shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(3) An agency or facility described in subsection (a)(1) of this section may hire a staff person provisionally prior to the completion of a background check if, at all times prior to receipt of the background check during which children are in the care of the person, the person is within the sight and under the supervision of a staff person with respect to whom a background check has been completed.

(c) Applicable criminal histories

Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2) of this section. In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) Employment applications

(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1) of this section, shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed

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under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) Encouragement of voluntary criminal history checks for others who may have contact with children

Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) of this section and on adult household members in places where child care or foster care services are being provided in a home.

(Pub.L. 101-647, Title II § 231, Nov. 29, 1990, 104 Stat. 4808; Pub.L. 102-190, Div. A, Title X, § 1094(a), Dec. 3, 1991, 105 Stat. 1488.)

HISTORICAL AND STATUTORY NOTES

1991 Amendments

Subsec. (a)(1). Pub.L. 102-190, § 1094(a)(1), substituted "May 29, 1991. Except as provided in subsection (b)(3) of this section, no additional staff" for "6 months after November 29, 1990, and no additional staff".

Subsec. (b)(3). Pub.L. 102-190, § 1094(a)(2), added par. (3).

Legislative History

For legislative history and purpose of Pub.L. 101-647, see 1990 U.S. Code Cong. and Adm. News, p. 6472. See also, Pub.L. 102-190, 1991 U.S. Code Cong. and Adm. News, p. 411.

SUBCHAPTER VI—TREATMENT FOR JUVENILE OFFENDERS WHO
ARE VICTIMS OF CHILD ABUSE OR NEGLECT (REPEALED)

§§ 13051 to 13055. Repealed. Pub.L. 102-556, § 2(i)(2), Nov. 4, 1992, 106 Stat. 5015

HISTORICAL AND STATUTORY NOTES

Section 13051. Pub.L. 101-647, Title II, § 251, Nov. 29, 1990, 104 Stat. 4514, authorized grants for treatment of juvenile offenders who were victims of child abuse and neglect.

Section 13052. Pub.L. 101-647, Title II, § 252, Nov. 29, 1990, 104 Stat. 4515, subjected administration of this subchapter to requirements of sections 5625a, 5673 and 5676 of this title.

Section 13053. Pub.L. 101-647, Title II, § 253, Nov. 29, 1990, 104 Stat. 4515, related to priorities in awarding of grants.

Section 13054. Pub.L. 101-647, Title II, § 254, Nov. 29, 1990, 104 Stat. 4515, authorized appropriations for grant program.

Section 13055. Pub.L. 101-647, Title II, § 255, Nov. 29, 1990, 104 Stat. 4515, defined terms for this subchapter.

Effective Date of Repeal

Section 2(i), (2) of Pub.L. 102-556 provided in part that repeal of sections 13051 to 13055 of this title was to take effect Sept. 30, 1993.

CHAPTER 133—POLLUTION PREVENTION

Sec.		Sec.	
13101.	Findings and policy. (a) Findings. (b) Policy.	13105.	Source Reduction Clearinghouse. (a) Authority. (b) Public availability.
13102.	Definitions.	13106.	Source reduction and recycling data collection. (a) Reporting requirements. (b) Items included in report. (c) SARA Provisions. (d) Additional optional information. (e) Availability of data.
13103.	EPA Activities. (a) Authorities. (b) Functions.	13107.	EPA Report. (a) Biennial reports. (b) Subsequent reports.
13104.	Grants to States for State technical assistance programs. (a) General authority. (b) Criteria. (c) Matching funds. (d) Effectiveness. (e) Information.	13108.	Savings provisions.
		13109.	Authorization of appropriations.

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less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(Pub.L. 101-647, Title II, § 224, Nov. 29, 1990, 104 Stat. 4798; Pub.L. 103-322, Title IV, § 40156(b)(1), Sept. 13, 1994, 108 Stat. 1923.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1990 Acts. House Report Nos. 101-681(Parts I and II) and 101-736, Senate Report No. 101-460, and Statement by President, see 1990 U.S. Code Cong. and Adm. News, p. 6472.

1994 Acts. House Report Nos. 103-324 and 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

References in Text

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c), is Pub.L. 93-415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (section 5601 et seq.) of this title. Title II of the Act is classified to section 5611 et

seq. of this title. For complete classification of this Act to the Code, see Short Title of 1974 Acts note set out under section 5601 of this title and Tables.

Amendments

1994 Amendments. Subsec. (a). Pub.L. 103-322, § 40156(b)(1), completely revised subsec. (a). Prior to revision, subsec. (a) read as follows:

"(a) In general

"There are authorized to be appropriated to carry out this subchapter—

"(1) \$10,000,000 in fiscal year 1991; and

"(2) such sums as may be necessary to carry out this subchapter in each of fiscal years 1992, 1993, and 1994."

LIBRARY REFERENCES

American Digest System

Appropriation and disbursement of federal funds generally, see United States § 82(1) et seq., 85.

Encyclopedias

Appropriation and disbursement of federal funds generally, see C.J.S. United States § 122 et seq.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

SUBCHAPTER IV—REPORTING REQUIREMENTS

§ 13031. Child abuse reporting

(a) In general

A person who, while engaged in a professional capacity or activity described in subsection (b) of this section on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) of this section.

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a) of this section:

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.

(2) Psychologists, psychiatrists, and mental health professionals.

(3) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(5) Child care workers and administrators.

(6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(7) Foster parents.

(8) Commercial film and photo processors.

(c) Definitions

For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(2) the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(3) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a) of this section. By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) Reporting form

In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the

form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a) of this section, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) Omitted

(h) Training of prospective reporters

All individuals in the occupations listed in subsection (b)(1) of this section who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(Pub.L. 101-647, Title II, § 226, Nov. 29, 1990, 104 Stat. 4806.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports
1990 Acts. House Report Nos.
101-681(Parts I and II) and 101-736,
Senate Report No. 101-460, and State-
ment by President, see 1990 U.S. Code
Cong. and Adm. News, p. 6472.

Crimes and Criminal Procedure, making
failure to report child abuse on Federal
land or in a Federally contracted (or op-
erated) facility a Class B misdemeanor.

Codifications

Subsec. (g) of section 226 of Pub.L.
101-647 enacted section 2258 of Title 18.

CROSS REFERENCES

Failure to report child abuse, see 18 USCA § 2258.

LIBRARY REFERENCES

Administrative Law

Child abuse and neglect prevention, see 45 C.F.R. § 1340.1 et seq.

American Digest System

Commitment and placement of dependent, neglected, or delinquent children, see
Infants §131 et seq.

Regulations for protection of children and criminal prosecutions under such
regulations, see Infants §13, 15, 20.

Encyclopedias

Commitment and placement of dependent, neglected, or delinquent children, see
C.J.S. Infants § 31 et seq.

collateral attack, more than three (3) months after its rendition. The minority of the natural parent shall not operate to prevent this time limit from running.

Laws 1968, c. 282, § 133, eff. Jan. 13, 1969. Laws 1977, c. 259, § 19, eff. Oct. 1, 1977. Renumbered from Title 10, § 1133 and amended by Laws 1995, c. 352, §§ 68, 199, eff. July 1, 1995.

Historical and Statutory Notes

The 1977 amendment redesignated former section as subsection A and added subsection B.

Source:

Laws 1909, p. 189.

Comp.Laws 1909, § 600.
R.L.1910, § 4422.
Comp.St.1921, § 8080.
St.1931, § 1738.
10 O.S.1981, § 110.

Law Review Commentaries

Adoption: Rights of putative father. 37 Okl. L.Rev. 583 (1984).

Notes of Decisions

For previous notes of decisions relating to the subject matter of this section, see notes of decisions under Title 10, § 1133.

§ 7006-1.5. Action to adopt not to be combined with action to terminate parental rights

A. Except as otherwise provided for in subsection B of this section, an action to adopt a child shall not be combined with an action to terminate parental rights and when the rights of a parent have been terminated, neither an interlocutory nor a final decree of adoption may be rendered until the decree terminating parental rights has become final.

B. This section shall not apply to:

1. A proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required; or
 2. A proceeding to adopt a child born out of wedlock when the mother of the child is granting consent to the adoption and is a party to the action; or
 3. Proceedings pursuant to the provisions of Section 60.6 of this title.
- Laws 1968, c. 282, § 134, eff. Jan. 13, 1969. Laws 1977, c. 259, § 20, eff. Oct. 1, 1977. Amended by Laws 1988, c. 97, § 1, eff. Nov. 1, 1988. Renumbered from Title 10, § 1134 and amended by Laws 1995, c. 352, §§ 69, 199, eff. July 1, 1995.

Historical and Statutory Notes

The 1977 amendment added "A", but this section does not apply to a proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required".

Source:

Laws 1909, p. 189.

Comp.Laws 1909, p. 600.
R.L.1910, § 4422.
Comp.St.1921, § 8080.
St.1931, § 1738.
10 O.S.1981, § 110.

Law Review Commentaries

Adoption: Rights of putative father. 37 Okl. L.Rev. 583 (1984).

Notes of Decisions

For previous notes of decisions relating to the subject matter of this section, see notes of decisions under Title 10, § 1134.

CHAPTER 71

OKLAHOMA CHILD ABUSE REPORTING AND PREVENTION ACT

Caption added by Laws 1995, c. 353, § 1

Section

- 7101. Short title.
- 7102. Public policy—Protection of children—Definitions.
- 7103. Reporting of physical abuse, sexual abuse, neglect or birth of chemically-dependent child—Retaliation by employer—Contents of report—Violations—Spiritual treatment of child through prayer.
- 7104. Report of criminally inflicted injuries.
- 7105. Immunity from civil or criminal liability.
- 7106. Investigation of child abuse or neglect—Report—Notice to conduct criminal investigation—Temporary restraining order.
- 7107. Confidentiality—Violation—Penalty.
- 7108. Duty to provide summary to person being investigated.
- 7109. Disclosure of information—Transmission of records.
- 7110. Multidisciplinary team—Intervention in reports of abuse—Duties.
- 7111. Central registry for child abuse, sexual abuse and neglect.
- 7112. Appointment of attorney and special advocate for child.
- 7113. Admissibility of evidence.
- 7114. Payment of costs by defendant upon conviction.
- 7115. Abuse or neglect of child—Penalty.

§ 7101. Short title

A. Chapter 71 of Title 10 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Child Abuse Reporting and Prevention Act".¹

B. All statutes hereinafter enacted and codified in Chapter 71 of Title 10 of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Child Abuse Reporting and Prevention Act.

Added by Laws 1995, c. 353, § 1, eff. Nov. 1, 1995.

¹Title 10, § 7101 et seq.

§ 7102. Public policy—Protection of children—Definitions

Text as amended by Laws 1995, c. 231, § 4

A. It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of persons responsible for the care and protection of such children.

B. As used in Sections 846 through 848 of this title:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;
2. "Harm or threatened harm to a child's health or welfare" includes but is not limited to nonaccidental physical or mental injury; sexual abuse, sexual exploitation, or negligent treatment or maltreatment including the failure to provide adequate food, clothing, shelter, or medical care except as provided for in Section 846 of this title;
3. "Child" means a person under the age of eighteen (18) years;
4. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 1 of this act;¹ or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;
5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's welfare; and

6. "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the state law, by a person responsible for the child's welfare.

Laws 1965, c. 43, § 1, emerg. eff. March 18, 1965. Laws 1975, c. 98, § 1, emerg. eff. April 30, 1975. Amended by Laws 1985, c. 90, § 2, eff. Nov. 1, 1985; Laws 1992, c. 265, § 1, emerg. eff. May 25, 1992; Laws 1995, c. 231, § 4, eff. Nov. 1, 1995. Renumbered from Title 21, § 845 by Laws 1995, c. 353, § 20.

¹Title 10, § 175.20.

For text as amended by Laws 1995, c. 353, § 2, see § 7102, post

§ 7102. Public policy—Protection of children—Definitions

Text as amended by Laws 1995, c. 353, § 2

A. 1. It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of persons responsible for the care and protection of such children.

2. It is the policy of this state that in investigating allegations of child abuse and neglect, in any necessary removal of a child from the home, in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act¹ or in any administrative or judicial proceeding held pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act, the best interests of the child shall be of paramount consideration.

B. As used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;

2. "Harm or threatened harm to a child's health or welfare" includes but is not limited to nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or negligent treatment or maltreatment including but not limited to the failure or omission to provide adequate food, clothing, shelter, or medical care or protection from harm or threatened harm;

3. "Child" means a person under the age of eighteen (18) years;

4. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution or facility; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's health or welfare;

6. "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's health or welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the state law, by a person responsible for the child's health or welfare;

7. "Multidisciplinary personnel" means any team established pursuant to Section 10 of this act² of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

8. "Ruled out" means a report which is determined by a child protective services worker:

- a. to be false,
- b. to be unfounded,

c. to be inherently improbable,

d. to involve an accidental injury where neglect was not a factor, or

e. as not constituting child abuse or neglect;

9. "Confirmed report" means a report which is determined by a child protective services worker, based upon some credible evidence, to constitute child abuse or neglect;

10. "Uncertain report" means a report which is not ruled out by a child protective services worker, but which has inconclusive findings and for which there is insufficient evidence to determine whether child abuse or neglect has occurred;

11. "Child protective services worker" means a person employed by the Department of Human Services with sufficient experience or training as determined by the Department in child abuse prevention and identification;

12. "Department" means the Department of Human Services; and

13. "Commission" means the Commission for Human Services.

Laws 1965, c. 43, § 1, emerg. eff. March 18, 1965. Laws 1975, c. 98, § 1, emerg. eff. April 30, 1975. Amended by Laws 1985, c. 90, § 2, eff. Nov. 1, 1985; Laws 1992, c. 265, § 1, emerg. eff. May 25, 1992. Renumbered from Title 21, § 845 and amended by Laws 1995, c. 353, §§ 2, 20, eff. Nov. 1, 1995.

¹Title 10, § 7101 et seq.

²Title 10, § 7110.

For text as amended by Laws 1995, c. 231, § 4, see § 7102, ante

Historical and Statutory Notes

The 1975 amendment added the second and third paragraphs.

Cross References

Beating or injuring of children, penalty, see Title 10, § 7115.

Statute of limitations for civil actions for injury resulting from abuse or exploitation as defined by this section, see Title 12, § 95.

Law Review Commentaries

Child's emotional health—Need for legal protection. 15 Tulsa L.J. 299 (1979).

Protecting abused children: A judge's perspective on public law deprived child proceedings and the impact of the Indian Child Welfare Acts. Edward L. Thompson, 15 Am.Indian L.Rev. 1 (No. 1).

Refusal to consent to emergency medical treatment for minors as child abuse. Gregory S. Taylor. 56 Okl.B.J. 1199 (1985).

Torts: Civil action against physician for failure to report cases of suspected child abuse. Richard Allen McDonald. 30 Okl.L.Rev. 482 (1977).

Notes of Decisions

For previous notes of decisions relating to the subject matter of this section, see notes of decisions under Title 21, § 845.

§ 7103. Reporting of physical abuse, sexual abuse, neglect or birth of chemically-dependent child—Retaliation by employer—Contents of report—Violations—Spiritual treatment of child through prayer

A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,
- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected injury occurred. Such reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

2. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which such birth occurred.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor or administrator shall impede or inhibit the reporting obligations. No employer, supervisor or administrator of a person required to provide information pursuant to this section shall discharge, or in any manner discriminate or retaliate against, any such person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse or neglect; provided, that such person did not perpetrate or inflict such abuse or neglect. Any such employer, supervisor or administrator who discharges, discriminates or retaliates against such person shall be liable for damages, costs and attorney fees. Internal procedures to facilitate reporting and apprise employers, supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this section.

5. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse, sexual abuse, or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, or other records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

B. If the report is not made in writing in the first instance, it shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Commission for Human Services, as soon as may be after it is initially made by telephone or otherwise and shall contain the following information:

1. The names and addresses of the child and the child's parents or other persons responsible for the child's care;

2. The child's age;

3. The nature and extent of the child's injuries, including any evidence of previous injuries;

4. The nature and extent of the child's dependence on a controlled dangerous substance; and

5. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor if such information or any part thereof is known to the person making the report.

C. Any person who knowingly and willfully fails to promptly report any incident as provided in this section may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

2. Nothing contained in this subsection shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

F. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection A of this section.

Laws 1965, c. 43, § 2, emerg. eff. March 18, 1965. Laws 1972, c. 236, § 1, emerg. eff. April 7, 1972; Laws 1975, c. 98, § 2, emerg. eff. April 30, 1975; Laws 1977, c. 172, § 2, eff. Oct. 1, 1977; Laws 1980, c. 107, § 1, eff. Oct. 1, 1980. Amended by Laws 1985, c. 66, § 1, eff. Nov. 1, 1985; Laws 1986, c. 263, § 5, operative July 1, 1986; Laws 1987, c. 88, § 2, operative July 1, 1987; Laws 1987, c. 167, § 1, operative July 1, 1987; Laws 1992, c. 265, § 2, emerg. eff. May 25, 1992; Laws 1993, c. 208, § 4, eff. Sept. 1, 1993; Laws 1994, c. 324, § 1, eff. Sept. 1, 1994. Renumbered from Title 21, § 846 and amended by Laws 1995, c. 353, §§ 3, 20, eff. Nov. 1, 1995.

Historical and Statutory Notes

The 1980 amendment substituted "Department of Human Services" for "Department of Institutions, Social and Rehabilitative Services" throughout the section.

The 1977 amendment lettered the first four paragraphs as subsec. A and added subsec. B.

The 1975 amendment added the third paragraph of present subsec. A.

The 1972 amendment rewrote the present first paragraph and added the second and third (now fourth) paragraphs of present subsec. A. The former first paragraph provided:

"Every physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents, and interns, examining, attending, or treating a child under the age of seventeen (17) years and every registered nurse examining, attending, or treating such a child in the absence of a physician or surgeon, and having reason to believe that such child has had serious injury or injuries inflicted upon him or her as a result of abuse or neglect, shall report the matter promptly to a public child protective agency, to a public welfare official having responsibility for

the enforcement of laws for the protection of children, to the sheriff or the county attorney, or to the police; provided it shall be unlawful for any person to knowingly and willfully fail to promptly report as provided immediately above; and provided further that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution, such staff member shall immediately notify the superintendent, manager, or other person in charge of the institution who shall make the report forthwith. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as may be after it is initially made by telephone or otherwise and shall contain the names and addresses of the child and his or her parents or other persons responsible for his or her care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor."

Cross References

Child Death Review Board, compliance with confidentiality requirements of this section, see Title 10, § 1150.2.

Confidential records relating to children, inspection without court order, see Title 10, §§ 7005-1-7005-1-1

Court-appointed special advocate for any child where juvenile petition has been filed, access to records and reports of examination of child's parent or custodian, see Title 10, § 7003-3.7.

Disclosure of Department of Human Services records without court order, see Title 10, §§ 7005-1-7005-1-1

Record of Infants Born Exposed to Alcohol and Other Harmful Substances, based on information collected pursuant to this section, see Title 63, § 1-550.3.

Law Review Commentaries

Alternative models of legal representation for children. 5 Okl.City U.L.Rev. 561 (1980).

Annual Survey of Oklahoma Law:

Insurance—Retroactive application of attorney fee statutes: Analysis of Cox v. American Fidelity Assurance Company. 4 Okl.City U.L.Rev. 256 (1979).

Legal profession—Determining statutory attorney's fees. 6 Okl.City U.L.Rev. 238 (1981).

Child's emotional health—Need for legal protection. 15 Tulsa L.J. 299 (1979).

Torts: Civil action against physician for failure to report cases of suspected child abuse. Richard Allen McDonald. 30 Okl.L.Rev. 482 (1977).

Threatening person who makes report of abuse under this section punishable as felony, see Title 21, § 455.

Pointing a false finger: Tort recovery for wrongful accusations of child abuse. Tommie J. Fent, 62 Okla.B.J. 3205 (1991).

Privileges. Kenneth N. McKinney. 32 Okl.L.Rev. 307 (1979).

Protecting abused children: A judge's perspective on public law deprived child proceedings and the impact of the Indian Child Welfare Acts. Edward L. Thompson, 15 Am. Indian L.Rev. 1 (1990).

Refusal to consent to emergency medical treatment for minors as child abuse. Gregory S. Taylor. 56 Okl.B.J. 1199 (1985).

Notes of Decisions

For previous notes of decisions relating to the subject matter of this section, see notes of decisions under Title 21, § 846.

Admissibility of evidence 6

Confidentiality of reports 7

Instructions 3

Necessity of report 1.7

Sentence and punishment 5

Sufficiency of evidence 4

1. Construction and application

In prosecution for failure to report injury to minor child, State was not required to prove that bruises on child were actually inflicted by person responsible for child or that defendant knew who that person was; it was sufficient that defendant observed severity of injuries, was aware that child was in exclusive custody of Department of Human Services facility for the benefit of mentally retarded persons, and knew by his observations that bruises could not have resulted from accident. Capaldi v. State, Okla.Crim.App., 763 P.2d 117 (1988).

Under 21 O.S.Supp.1985, § 846, physicians and other health professionals must report injuries to children under 18 to county office of Department of Human Services in county where injury occurred if injury appears to have been caused by physical abuse or neglect; if injury appears to have been product of criminally injurious conduct, as defined by 21 O.S.1981, § 142.3(5), physician or other health professional must also report matter to nearest appropriate law enforcement agency. Op.Atty.Gen. No. 85-116 (Nov. 8, 1985).

1.7. Necessity of report

Pursuant to 21 O.S.Supp.1994, § 846, any person, including a psychotherapist, which includes all forms of professional therapy providers, who has reason to believe a child has been injured as a result of abuse or neglect must report such information, whether the information be current

or historical. Op.Atty.Gen. No. 95-18 (March 20, 1995).

2. Evidence

Testimony of physician who was member of suspected child abuse and neglect team was not admitted in violation of *Miranda* in prosecution for injuring a minor child; members of that team were not the equivalent of law enforcement officers by virtue of reporting requirement, and thus *Miranda* was inapplicable. Boyd v. State, Okla.Crim.App., 743 P.2d 674 (1987).

3. Instructions

Jury instruction, which was in substantial language of this section governing failure to report injury to minor child, fairly and accurately stated elements of offense. Capaldi v. State, Okla.Crim.App., 763 P.2d 117 (1988).

4. Sufficiency of evidence

Evidence was sufficient to demonstrate that defendant had reason to believe that student at Department of Human Services facility operated for benefit of mentally retarded persons had suffered nonaccidental injury resulting from neglect and that defendant willfully failed to report injuries to Department, and thus, was sufficient to sustain conviction for failure to report injury to minor. Capaldi v. State, Okla.Crim.App., 763 P.2d 117 (1988).

5. Sentence and punishment

Defendant convicted of failure to report injury to minor child was not entitled to vacation or reduction of \$250 fine, although defendant had difficulty in finding employment, where defendant owned two cars and some small amount of savings and had an income of \$900 per month. Capaldi v. State, Okla.Crim.App., 763 P.2d 117 (1988).

6. Admissibility of evidence

Photographs of injured child taken at hospital on afternoon of day defendant had examined child were relevant to show bruises on child on morning in question when coupled with hospital doctor's expert opinion of age and appearance of

bruises, and were thus admissible in prosecution for failure to report injury to minor child. Capaldi v. State, Okla.Crim.App., 763 P.2d 117 (1988).

7. Confidentiality of reports

District court did not have authority to issue order allowing defense counsel to examine child abuse records held by Department of Human Services; this section provides that child abuse records shall be confidential and open to inspection only to persons duly authorized by State or United States in connection with performance of their official duties, and public policy required that child abuse records be protected and held confidential. State ex rel. Suttle v. District Court of Jackson County, Okla.Crim.App., 795 P.2d 523 (1990).

Although this section and public policy require that child abuse records be kept confidential, and

therefore precluded allowing defense counsel to examine child abuse records, records were to be turned over to district judge in camera for him to determine if there existed any exculpatory evidence within records that pertained to facts of criminal case, keeping in mind confidentiality of those who might not be parties to criminal proceedings, and if judge found that such evidence existed, he was to turn over copies of it to both defense counsel and district attorney before trial of criminal case commenced. State ex rel. Suttle v. District Court of Jackson County, Okla.Crim.App., 795 P.2d 523 (1990).

Child abuse report was confidential and could not be disclosed to plaintiffs who were not acting as persons authorized by State or United States in connection with official duties. State ex rel. Dept. of Human Services v. Brock, Okla., 771 P.2d 996 (1988).

§ 7104. Report of criminally inflicted injuries

Any physician, surgeon, osteopathic physician, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be criminally injurious conduct including but not limited to child physical or sexual abuse, as defined by the Oklahoma Crime Victims Compensation Act,¹ shall report orally or by telephone the matter promptly to the nearest appropriate law enforcement agency in the county wherein the criminally injurious conduct occurred.

Added by Laws 1984, c. 85, § 1, eff. Nov. 1, 1984. Renumbered from Title 21, § 846.1 and amended by Laws 1995, c. 353, §§ 4, 20, eff. Nov. 1, 1995.

¹ Title 21, § 142.1 et seq.

Cross References

Threatening person who makes report of abuse under this section punishable as felony, see Title 21, § 455.

Law Review Commentaries

Refusal to consent to emergency medical treatment for minors as child abuse. Gregory S. Taylor. 56 Okl.B.J. 1199 (1985).

§ 7105. Immunity from civil or criminal liability

Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of the Oklahoma Child Abuse and Prevention Act,¹ or any person who, in good faith and exercising due care, allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

Laws 1965, c. 43, § 3, emerg. eff. March 18, 1965. Laws 1977, c. 172, § 3, eff. Oct. 1, 1977. Amended by Laws 1984, c. 85, § 2, eff. Nov. 1, 1984; Laws 1989, c. 67, § 1, emerg. eff. April 13, 1989. Renumbered from Title 21, § 847 and amended by Laws 1995, c. 353, §§ 5, 20, eff. Nov. 1, 1995.

¹ So in enrolled bill; probably should read "Oklahoma Child Abuse Reporting and Prevention Act." See Title 10, § 7101 et seq.

Historical and Statutory Notes

The 1977 amendment inserted "and exercising due care".

Law Review Commentaries

Pointing a false finger: Tort recovery for the impact of the Indian Child Welfare Acts. *Tomme J. Edward L. Thompson, 15 Am.Indian L.Rev. 1* Fent, 62 Okla.B.J. 3205 (1991).

Protecting abused children: A judge's perspective on public law deprived child proceedings and

§ 7106. Investigation of child abuse or neglect—Report—Notice to conduct criminal investigation—Temporary restraining order

A. Any county office of the Department of Human Services receiving a child abuse or neglect report as provided in Section 3 of this act¹ shall promptly investigate said report in accordance with priority guidelines established by the Department of Human Services. The Department may assign priorities to investigations based on the severity and immediacy of the alleged harm to the child. The Department shall adopt the priority system pursuant to rules promulgated by the Commission for Human Services. The primary purpose of the investigation shall be the protection of the child.

B. As necessary to complete a thorough investigation, the county office or the Department shall determine:

1. The nature, extent and cause of the abuse or neglect;
2. The identity of the person responsible for the abuse or neglect;
3. The names and conditions of any other children in the home;
4. An evaluation of the parents or persons responsible for the care of the child;
5. The adequacy of the home environment;
6. The relationship of the child to the parents or persons responsible for the care of the child; and
7. All other pertinent data.

C. 1. The investigation shall include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit, and an interview with and examination of the subject child. The interview with and examination of the child may be conducted at any reasonable time and at any place, including but not limited to the child's school. The investigation may include an interview with the child's parents or any other person responsible for a child's health or welfare and an interview with and examination of any child in the home.

2. The investigation may include a medical, psychological, or psychiatric examination of any child in that home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the parents or the persons responsible for the health or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination and the investigation. If the parents or person responsible for the child's health or welfare does not consent to a medical, psychological or psychiatric examination of the child that is requested by the county office or the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation may include an inquiry into the possibility that the child, a parent or a person responsible for the child's health or welfare has a history of mental illness. If a parent or person responsible for the child's health or welfare does not allow the county office or the Department to have access to mental health records or treatment plans, requested by the county office or the Department, which may relate to the abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the county office or the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the parent or person responsible for the child's health or welfare is a parent, guardian, or person in charge of the child, the court shall order the parent, guardian, or person in charge of the child to appear in court and present

the parent or person responsible for the child's health or welfare at the hearing to obtain mental health records.

- b. A parent or person responsible for the child's health or welfare is entitled to notice and a hearing when the county office or the Department seeks a court order to allow a medical, psychological or psychiatric examination or access to mental health records.
- c. Access to mental health records does not constitute a waiver of confidentiality.

5. The investigation of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary approach.

D. If, before the investigation is complete, the opinion of the child protective services worker is that immediate removal of the child is necessary to protect the child from further abuse or neglect, the child protective services worker shall recommend that the child be taken into custody pursuant to the Oklahoma Children's Code.²

E. The county office shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

F. 1. Whenever, after a preliminary inquiry or investigation, the Department of Human Services determines that an alleged abuse or neglect of a child:

- a. was perpetrated by someone other than a person responsible for the child's health and welfare, and
- b. does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by subparagraph 2 of this paragraph. The Commission for Human Services shall promulgate rules for the implementation of the provisions of this subsection. Such rules shall include but not be limited to provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.

2. Any law enforcement agency conducting an investigation of alleged child physical abuse or neglect shall provide the local child welfare office of the Department of Human Services with a copy of the report of its investigation.

3. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately contact the county office for the purpose of an investigation by that office. If the notification is verbal, the notification to the county office shall be followed by a written referral.

G. If the Department has reason to believe that a parent of the child or other person may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court without regard to continuing jurisdiction of the child. After a hearing on the application, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the investigation if the court finds that the county office or the Department has probable cause to conduct the investigation.

Added by Laws 1995, c. 353, § 6, eff. Nov. 1, 1995.

§ 7107. Confidentiality—Violation—Penalty

A. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act,¹ the reports required by Section 3 of this act² or any other information acquired pursuant to the Oklahoma Child Abuse Reporting and Prevention Act shall be confidential and may be disclosed only as provided in the Oklahoma Children's Code.

B. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, any violation of the confidentiality requirements of the Oklahoma Child Abuse Reporting and Prevention Act shall be a misdemeanor punishable by up to six (6) months in jail or by a fine of Five Hundred Dollars (\$500.00) or by both fine and imprisonment.

Added by Laws 1995, c. 353, § 7, eff. Nov. 1, 1995.

¹Title 10, § 7101 et seq.

²Title 10, § 7103.

§ 7108. Duty to provide summary to person being investigated

As soon as possible after initiating an investigation of a parent or other person having responsibility for the health or welfare of a child pursuant to the Oklahoma Child Abuse Reporting and Prevention Act,¹ the county office shall provide to the parent or person a brief and easily understood summary of:

1. The procedures of the Department of Human Services for conducting an investigation of alleged child abuse or neglect, including:

- a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and
- b. an explanation that the law requires the Department to refer all reports of alleged criminal child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

2. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department in the investigation;

3. The person's right to review all records, filed with the court concerning the investigation, provided the review shall not include the name of the person who filed the report specified in Section 3 of this act,² and provided the review would not jeopardize an ongoing criminal investigation or adjudicatory hearing;

4. The person's right to seek legal counsel;

5. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

6. The process the person may use to acquire access to the child if the child is removed from the home.

Added by Laws 1995, c. 353, § 8, eff. Nov. 1, 1995.

¹Title 10, § 7101 et seq.

²Title 10, § 7103.

§ 7109. Disclosure of information—Transmission of records

A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse and neglect. This information may include but is not limited to:

1. The investigative determination; or
2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including but not limited to doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the physical abuse or sexual abuse of a child pursuant to Section 3 of this act,¹ information including the investigative determination and such other

information deemed necessary by the Department. Such information shall be entered and maintained in the child's medical records.

C. 1. The Department of Human Services shall forward to the school principal of the school in which a child is enrolled making a child abuse report pursuant to Section 3 of this act a summary of any confirmed report of sexual abuse or severe physical abuse of the Department concerning the child. The summary shall include a brief description of the circumstances of sexual abuse or serious physical abuse, the name of the parent or person responsible for the child's health or welfare, and the name of a Department employee who serves as a contact person regarding the case.

2. The Department shall not release data that would identify the person who made the initial child abuse or neglect report, other than an employee of the Department, or who cooperated in a subsequent investigation unless a court of competent jurisdiction orders release of the information for good cause shown.

3. The school principal shall forward to the receiving school all confirmed reports of sexual abuse and severe physical abuse received from the Department whenever a child transfers from one school district to another, and shall notify the Department of the child's new school, and address, if known.

4. Records maintained and transmitted pursuant to this section shall be confidential and shall be maintained and transmitted in the same manner as Special Education records or other such records, pursuant to Title 70 of the Oklahoma Statutes. Access to such records may be made available by the principal to a person designated to assist in the treatment of or with services provided to the child. Such records shall be destroyed when the student reaches eighteen (18) years of age.

D. The transmission of and access to such records shall not constitute a waiver of confidentiality.

E. This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any federal law applicable to the reports or records relevant to the reports of child abuse.

F. It shall be unlawful pursuant to the Oklahoma Child Abuse Reporting and Prevention Act² for the Commission for Human Services, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any court-appointed special advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

G. Any person to whom disclosure is made shall not disclose to any other person reports or other information obtained pursuant to this section.

H. The Department shall submit the summary of confirmed sexual abuse or severe physical abuse of a child on forms developed by the Department. Such forms shall contain a warning that the information contained therein is confidential and may only be released to a person designated by the principal to assist in the treatment of or with services provided to a child.

Added by Laws 1995, c. 353, § 9, eff. Nov. 1, 1995.

¹Title 10, § 7103.

²Title 10, § 7101 et seq.

§ 7110. Multidisciplinary team—Intervention in reports of abuse—Duties

A. By July 1, 1997, in coordination with the Child Abuse Training and Coordinating Council, the district attorney's office in counties having fifty or more incidents of confirmed child sexual abuse or physical abuse reported to the Department of Human Services in the preceding year shall be responsible for convening a meeting of a coordinated multidisciplinary team, if such a team is not already in existence. If it is feasible to establish such a team, the lead agency shall be chosen by the members of the team. The team shall intervene in reports involving sexual abuse or severe physical abuse and neglect in order to make responsible efforts to minimize the number of interviews necessary with a child-victim.

B. The coordinated multidisciplinary team may include but need not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;
2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse investigation;
3. Medical personnel with experience in child abuse identification;
4. Child protective services workers within the Department of Human Services;
5. Multidisciplinary team coordinators, or a Child Advocacy Center Director; and
6. A county district attorney or a designee.

C. 1. To the extent that resources are available to each of the various multidisciplinary child abuse and neglect teams throughout the state, the functions of the team shall include, but not be limited to, the following specific functions:

- a. review investigations, assess service delivery, and facilitate efficient and appropriate disposition of cases through the criminal justice system,
- b. develop a written protocol for investigating child sexual and serious physical abuse cases and for interviewing child abuse victims. In addition, each team shall develop agreements signed by member agencies that specify the role of the team,
- c. increase communication and collaboration among the professionals responsible for the reporting, investigation, prosecution and treatment of child abuse and neglect cases,
- d. eliminate duplicative efforts in the investigation and the prosecution of child abuse cases,
- e. identify gaps in service or all untapped resources within the community to improve the delivery of services to the victim and family,
- f. encourage the development of expertise with discipline-specific training and cross-discipline training,
- g. formalize a case review and case tracking process for all or problematic cases of child abuse and neglect, and
- h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and serious physical abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or the Department of Human Services, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

D. Nothing in this section shall preclude the use of:

1. Hospital or treatment-based team reviews for client-specific purposes; and
2. Teams in existence prior to July 1, 1995, and coordination of such teams.

E. Such multidisciplinary service team shall have full access to any service or treatment plan and any personal data known to the Department which is directly related to the implementation of this section.

Added by Laws 1995, c. 353, § 10, eff. Nov. 1, 1995.

§ 7111. Central registry for child abuse, sexual abuse and neglect

A. There is hereby established within the Department of Human Services a statewide central registry for child abuse, sexual abuse, and neglect made pursuant to the Oklahoma Child Abuse Reporting and Prevention Act.¹ Any additional requirements required by this section that are not already within the existing statewide central registry for child abuse, sexual abuse, and neglect shall be fully implemented by January 1,

B. The Child Welfare Division of the Department of Human Services shall be responsible for maintaining the registry, which shall be suitably cross-indexed, of all such reported findings.

C. The central registry shall contain, but shall not be limited to:

1. All information in the written report required by Section 3 of this act;²
2. A record of the final disposition of the report including services offered and services accepted;
3. The plan for rehabilitative treatment;
4. The names and identifying data, dates, and circumstances of any persons requesting or receiving information from the registry; and
5. Any other information which might be helpful in furthering the purposes of this section.

D. Data and information related to individual cases in the central registry shall be confidential and shall be made available only as authorized by state or federal law.

E. The Commission for Human Services shall promulgate rules governing the availability of such data and information.

F. Rules promulgated by the Commission shall encourage cooperation with other states in exchanging reports in order to effect a national registration system.

G. Any person employed in the central registry who permits the data and information stored in the registry to be released without authorization to persons or agencies other than those specified by law shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than two and one-half (2½) years, or by both such fine and imprisonment.

Added by Laws 1995, c. 353, § 11, eff. Nov. 1, 1995.

¹ Title 10, § 7101 et seq.

² Title 10, § 7103.

§ 7112. Appointment of attorney and special advocate for child

A. In every case filed pursuant to the Oklahoma Child Abuse Reporting and Prevention Act,¹ the judge of the district court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse or neglect in such case. The attorney may be allowed a reasonable fee for such services to be paid from the court fund to be fixed by the district court. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, the attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the child.

B. A court-appointed special advocate as defined by the Oklahoma Children's Code² and the Oklahoma Juvenile Code³ may be appointed to represent a child who is the alleged subject of child abuse or neglect. The court-appointed special advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.

C. At such time as the information maintained by the statewide registry for child abuse, sexual abuse, and neglect is indexed by perpetrator and the necessary and appropriate due process procedures are established by the Department of Human Services, a court-appointed special advocate organization, in accordance with the policies and rules of the Department, may utilize the registry for the purpose of completing background screenings of volunteers with the organization.

Added by Laws 1995, c. 353, § 12, eff. Nov. 1, 1995.

¹ Title 10, § 7101 et seq.

² Title 10, § 7001-1:1 et seq.

³ Title 10, § 7301-1:1 et seq.

INDIANS

UNITED STATES CODE

TITLE 25

**INDIAN CHILD PROTECTION AND
FAMILY VIOLENCE PREVENTION**

CHAPTER 34—INDIAN CHILD PROTECTION AND FAMILY
VIOLENCE PREVENTION

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§ 3201. Findings and purpose

(a) Findings

The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and 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; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) Purpose

The purposes of this chapter are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse;

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

(Pub.L. 101-630, Title IV, § 4544, Nov. 28, 1990, 104 Stat. 4544)

Historical and Statutory Notes

References in Text. This chapter, referred to in subsec. (b), was in the original "this title", meaning Title IV of Pub.L. 101-630, Nov. 28, 1990, 104 Stat. 4544, which enacted this chapter and section 1169 of Title 18, Crimes and Criminal Procedure. For complete classification of Title IV to the Code, see Short Title note set out under this section and Tables.

Short Title. Section 401 of Pub.L. 101-630 provided that: "This title [enacting this chapter and section 1169 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Indian Child Protection and Family Violence Prevention Act'."

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3202. Definitions

For the purposes of this chapter, the term—

(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes but is not limited to—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" includes but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

- (5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—
- (A) results, or threatens to result, in physical or mental injury, and
 - (B) is committed by an individual against another individual—
 - (i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or
 - (ii) with whom such person is, or was, residing;
- (6) "Indian" means any individual who is a member of an Indian tribe;
- (7) "Indian child" has the meaning given to such term by section 1903(4) of this title;
- (8) "Indian country" has the meaning given to such term by section 1151 of Title 18;
- (9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
- (10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 450b of this title;
- (11) "inter-tribal consortium" means a partnership between—
- (A) an Indian tribe or tribal organization of an Indian tribe, and
 - (B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;
- (12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;
- (13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved;
- (14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—
- (A) any employee or volunteer of a children's residential facility, and
 - (B) any person providing out-of-home care, education, or services to children;
- (15) "related assistance"—
- (A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and
 - (B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;
- (16) "Secretary" means the Secretary of the Interior;
- (17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and
- (18) "Service" means the Indian Health Service of the Department of Health and Human Services.

Pub.L. 101-630, Title IV, § 403, Nov. 28, 1990, 104 Stat. 4545.)

Historical and Statutory Notes

References in Text. This chapter, referred to in text, was in the original "this title", meaning Title IV of Pub.L. 101-630, Nov. 28, 1990, 104 Stat. 4544, which enacted this chapter and section 4509 of Title 18, Crimes and Criminal Procedure. For complete classification of Title IV to the Code, see Short Title note set out under section 201 of this title and Tables.

The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), referred to in par. (9), is Pub.L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (section 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3203. Reporting procedures

(a) [Omitted]

(b) Notification of child abuse reports

(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of—

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) of this section to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) Written report of child abuse

(1) Within 36 hours after receiving an initial report described in subsection (b) of this section, the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 3202(3) of this title shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) Confidentiality of informant

The identity of any person making a report described in subsection (b)(1) of this section shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

(Pub.L. 101-630, Title IV, § 404, Nov. 28, 1990, 104 Stat. 4547.)

Historical and Statutory Notes

Codification. Subsec. (a) of this section has been codified as "Omitted" because subsec. (a) of section 404 of Pub.L. 101-630, which enacted this

section, enacted section 1169 of Title 18, Crimes and Criminal Procedure.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S.Code Cong. and Adm. News, p. 6336.

§ 3204. Central registry

(a) Preparation of study

The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian country.

(b) Content of study

The study conducted pursuant to subsection (a) of this section shall include, but shall not be limited to—

- (1) the need for, and purpose of, a Central Register;
- (2) the examination of due process implication of the maintenance of such a register;
- (3) the extension of access to information contained in the register;
- (4) the need and process for expunging information from the register;
- (5) the types, and duration of maintenance, of information in the register; and
- (6) the classes of persons who should be covered by such register.

(c) Submission to Congress

The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after November 28, 1990.

(Pub.L. 101-630, Title IV, § 405, Nov. 28, 1990, 104 Stat. 4549.)

Historical and Statutory Notes

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S.Code Cong. and Adm. News, p. 6336.

§ 3205. Confidentiality

Pursuant to section 552a of Title 5, section 1232g of Title 20, or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

(Pub.L. 101-630, Title IV, § 405, Nov. 28, 1990, 104 Stat. 4550.)

Historical and Statutory Notes

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S.Code Cong. and Adm. News, p. 6336.

§ 3206. Waiver of parental consent

(a) Examinations and interviews

Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

1 Interviews by law enforcement and child protective services officials

In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been

subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) Protection of child

Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits shall be conducted with the advice, or under the guidance, of a local multidisciplinary team established pursuant to section 3210 of this title or, in the absence of a local team, a multidisciplinary team established pursuant to section 3209 of this title.

(d) Court orders

Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

(Pub.L. 101-630, Title IV, § 407, Nov. 28, 1990, 104 Stat. 4550.)

Historical and Statutory Notes

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3207. Character investigations

(a) By Secretary of the Interior and the Secretary of Health and Human Services

The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) Criminal records

The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) of this section have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

(c) Investigations by Indian tribes and tribal organizations

Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act [25 U.S.C.A. § 450 et seq.] or the Tribally Controlled Schools Act of 1988 [25 U.S.C.A. § 2501 et seq.] shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a) of this section, as the Indian tribe or tribal organization shall establish.

(Pub.L. 101-630, Title IV, § 408, Nov. 28, 1990, 104 Stat. 4551.)

Historical and Statutory Notes

References in Text. The Indian Self-Determination and Education Assistance Act, referred to in subsection (c), is Pub.L. 93-638, Jan. 4, 1975, §§

Stat. 2203, as amended, which is classified principally to subchapter II (section 450 et seq.) of chapter 14 of this title. For complete classifica-

tion of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (c), is part B (sections 5201 to 5212) of Title V of Pub.L. 100-297, Apr. 28, 1988, 102 Stat. 385, which is classified generally

to chapter 27 (section 2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3208. Indian Child Abuse Treatment Grant Program

(a) Establishment of Grant Program

The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or inter-tribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) Grant applications

(1) Any Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a) of this section.

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) Maximum grant amount

The maximum amount of any grant awarded under subsection (a) of this section shall not exceed \$500,000.

(d) Grant administration and final report

Each recipient of a grant awarded under subsection (a) of this section shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(e) Authorization of appropriations

there¹ is hereby authorized to be appropriated to carry out the provisions of this section \$10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

(Pub.L. 101-630, Title IV, § 409, 104 Stat. 4551.)

¹ So in original.

Historical and Statutory Notes

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3209. Indian Child Resource and Family Services Centers

(a) Establishment

The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) Memorandum of Agreement

The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) Center staffing

Each Center established under subsection (a) of this section shall be staffed by a multidisciplinary team of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) Center responsibilities and functions

Each Center established under subsection (a) of this section shall—

- (1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;
- (2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;
- (3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;
- (4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and
- (5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) Multidisciplinary team personnel

Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

- (1) law enforcement,
- (2) child protective services,
- (3) juvenile counseling and adolescent mental health, and
- (4) domestic violence.

(f) Center advisory board

The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Chapter. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) Application of the Indian Self-Determination Act to Centers

Indian Child Resource and Family Services Centers established under subsection (a) of this section shall be subject to the provisions of the Indian Self-Determination

Act [25 U.S.C.A. § 450f et seq.]. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) Appropriations

There are authorized to be appropriated to carry out the provisions of this section \$3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

(Pub.L. 101-630, Title IV, § 410, Nov. 28, 1990, 104 Stat. 4552.)

Historical and Statutory Notes

References in Text. This chapter, referred to in subsec. (f), was in the original "this Act", meaning Pub.L. 101-630, Nov. 28, 1990, 104 Stat. 4531, which, in addition to enacting this chapter, enacted chapter 33 (section 3101 et seq.) of this title, sections 1621h, 1637, 1659, and 1660 of this title, and section 1169 of Title 18, Crimes and Criminal Procedure, amended sections 415, 1653, 1657, and 2474 of this title, and enacted provisions set out as notes under sections 1601, 1621h, 1653, and 2415 of this title. For purposes of codification "Act" was translated as "chapter" to reflect the probable intent of Congress. For com-

plete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act and such Act, referred to in subsec. (g), is Pub.L. 93-638, Title I, § 101 et seq., Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to sections 450f to 450n of this title. For complete classification of this Act to the Code, see section 101 of Pub.L. 93-638, set out as a Short Title note under section 450 of this title and Tables.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

3210. Indian Child Protection and Family Violence Prevention Program

(a) Establishment

The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention Program.

(b) Indian Self-Determination Act agreements

The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act [25 U.S.C.A. § 450f et seq.] for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) Investigation and treatment and prevention of child abuse and family violence

An Indian tribe operating an Indian Child Protection and Family Violence Prevention Program established under this section shall designate the agency or officials which shall be responsible—

- (1) for the investigation of reported cases of child abuse and child neglect; and
- (2) for the treatment and prevention of incidents of family violence; and
- (3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) Program responsibilities and functions

Funds provided pursuant to this section may be used for—

- (1) the establishment of a child protective services program which may include—
 - (A) the employment of child protective services staff to investigate cases of child abuse and child neglect,
 - (B) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

- (C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;
- (2) the establishment of a family violence prevention and treatment program which may include—
- (A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,
 - (B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,
 - (C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and
 - (D) construction or renovation of facilities for the establishment of family violence shelters;
- (3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—
- (A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,
 - (B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and
 - (C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;
- (4) the development of tribal child protection codes and regulations;
- (5) the establishment of training programs for—
- (A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,
 - (B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or
 - (C) educational, identification, prevention and treatment services for child abuse and child neglect in cooperation with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 1801 of this title);
- (6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and
- (7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—
- (A) parental awareness and self-help,
 - (B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or
 - (C) home health visitor programs,
- that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) Secretarial regulations: base support funding

(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention Programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

- (A) projected service population of the program;
- (B) projected service area of the program;
- (C) projected number of cases per month; and
- (D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

- (A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and
- (B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention Programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) Maintenance of effort

Services provided under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

- (1) treatment, including, but not limited to—
 - (A) individual counseling,
 - (B) group counseling, and
 - (C) family counseling;
- (2) social services and case management;
- (3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and
- (4) law enforcement services, including investigations and prosecutions.

(h) Contract evaluation and annual report

Each recipient of funds awarded pursuant to subsection (a) of this section shall—

- (1) furnish the Secretary with such information as the Secretary may require to—
 - (A) evaluate the program for which the award is made, and
 - (B) ensure that funds are expended for the purposes for which the award was made; and
- (2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) Appropriations

There are authorized to be appropriated to carry out the provisions of this section \$30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

(Pub.L. 101-630, Title IV, § 411, Nov. 28, 1990, 104 Stat. 4553.)

Historical and Statutory Notes

References in Text. The Indian Self-Determination Act, referred to in subsec. (b), is Pub.L. 93-638, Title I, § 101 et seq., Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to sections 450f to 450n of this title. For

complete classification of this Act to the Code, see section 101 of Pub.L. 93-638, set out as a Short Title note under section 450 of this title and Tables.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

§ 3211. Report

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this chapter during the calendar year preceding the calendar year in which such report is submitted.

(Pub.L. 101-630, Title IV, § 412, Nov. 28, 1990, 104 Stat. 4556.)

Historical and Statutory Notes

References in Text. This chapter, referred to in text, was in the original "this title", meaning Title IV of Pub.L. 101-630, Nov. 28, 1990, 104 Stat. 4544, which enacted this chapter and section 1169 of Title 18, Crimes and Criminal Procedure.

For complete classification of Title IV to the Code, see Short Title note set out under section 3201 of this title and Tables.

Legislative History. For legislative history and purpose of Pub.L. 101-630, see 1990 U.S. Code Cong. and Adm. News, p. 6336.

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Government-to-Government Relations With Native American Tribal Governments

Memorandum for the Heads of Executive Departments and Agencies

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

(a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

William Clinton

THE WHITE HOUSE,
Washington, April 29, 1994.



Office of the Attorney General

Washington, D. C. 20530

DEPARTMENT OF JUSTICE POLICY ON INDIAN SOVEREIGNTY AND GOVERNMENT-TO-GOVERNMENT RELATIONS WITH INDIAN TRIBES

PURPOSE: To reaffirm the Department's recognition of the sovereign status of federally recognized Indian tribes as domestic dependent nations and to reaffirm adherence to the principles of government-to-government relations; to inform Department personnel, other federal agencies, federally recognized Indian tribes, and the public of the Department's working relationships with federally-recognized Indian tribes; and to guide the Department in its work in the field of Indian affairs.

I. INTRODUCTION

From its earliest days, the United States has recognized the sovereign status of Indian tribes as "domestic dependent nations." Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831). Our Constitution recognizes Indian sovereignty by classing Indian treaties among the "supreme Law of the land," and establishes Indian affairs as a unique area of federal concern. In early Indian treaties, the United States pledged to "protect" Indian tribes, thereby establishing one of the bases for the federal trust responsibility in our government-to-government relations with Indian tribes. These principles continue to guide our national policy towards Indian tribes.

A. THE EXECUTIVE MEMORANDUM ON GOVERNMENT-TO-GOVERNMENT RELATIONS BETWEEN THE UNITED STATES AND INDIAN TRIBES

On April 29, 1994, at a historic meeting with the heads of tribal governments, President Clinton reaffirmed the United States' "unique legal relationship with Native American tribal governments" and issued a directive to all executive departments and agencies of the Federal Government that:

As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty.

President Clinton's directive requires that in all activities relating to or affecting the government or treaty rights of Indian tribes, the executive branch shall:

- 1) operate within a government-to-government relationship with federally recognized Indian tribes;
- 2) consult, to the greatest extent practicable and permitted by law, with Indian tribal governments before taking actions

that affect federally recognized Indian tribes;

3) assess the impact of agency activities on tribal trust resources and assure that tribal interests are considered before the activities are undertaken;

4) remove procedural impediments to working directly with tribal governments on activities that affect trust property or governmental rights of the tribes; and

5) work cooperatively with other agencies to accomplish these goals established by the President.

The Department of Justice is reviewing programs and procedures to ensure that we adhere to principles of respect for Indian tribal governments and honor our Nation's trust responsibility to Indian tribes. Within the Department, the Office of Tribal Justice has been formed to coordinate policy towards Indian tribes both within the Department and with other agencies of the Federal Government, and to assist Indian tribes as domestic dependent nations within the federal system.

B. FEDERAL INDIAN SELF-DETERMINATION POLICY

President Clinton's executive memorandum builds on the firmly established federal policy of self-determination for Indian tribes. Working together with Congress, previous Presidents affirmed the fundamental policy of federal respect for tribal self-government. President Johnson recognized "the right of the first Americans . . . to freedom of choice and self-determination." President Nixon strongly encouraged "self-determination" among the Indian people. President Reagan pledged "to pursue the policy of self-government" for Indian tribes and reaffirmed "the government-to-government basis" for dealing with Indian tribes. President Bush recognized that the Federal Government's "efforts to increase tribal self-governance have brought a renewed sense of pride and empowerment to this country's native peoples."

II. PRINCIPLES OF INDIAN SOVEREIGNTY AND THE TRUST RESPONSIBILITY

Though generalizations are difficult, a few basic principles provide important guidance in the field of Indian affairs: 1) the Constitution vests Congress with plenary power over Indian affairs; 2) Indian tribes retain important sovereign powers over "their members and their territory," subject to the plenary power of Congress; and 3) the United States has a trust responsibility to Indian tribes, which guides and limits the Federal Government in dealings with Indian tribes. Thus, federal and tribal law generally have primacy over Indian affairs in Indian country, except where Congress has provided otherwise.

III. DEPARTMENT OF JUSTICE RECOGNITION OF INDIAN SOVEREIGNTY AND THE FEDERAL TRUST RESPONSIBILITY

The Department resolves that the following principles will guide its interactions with the Indian tribes.

A. THE SOVEREIGNTY OF INDIAN TRIBES

The Department recognizes that Indian tribes as domestic dependent nations retain sovereign powers, except as divested by the United States, and further recognizes that the United States has the authority to restore federal recognition of Indian sovereignty in order to strengthen tribal self-governance.

The Department shall be guided by principles of respect for Indian tribes and their sovereign authority and the United States' trust responsibility in the many ways in which the Department takes action on matters affecting Indian tribes. For example, the Department reviews proposed legislation, administers funds that are available to tribes to build their capacity to address crime and crime-related problems in Indian country, and in conjunction with the Bureau of Indian Affairs and tribal police, provides essential law enforcement in Indian country. The Department represents the United States, in coordination with other federal agencies, in litigation brought for the benefit of Indian tribes and individuals, as well as in litigation by Indian tribes or individuals against the United States or its agencies. In litigation as in other matters, the Department may take actions and positions affecting Indian tribes with which one or more tribes may disagree. In all situations, the Department will carry out its responsibilities consistent with the law and this policy statement.

B. GOVERNMENT-TO-GOVERNMENT RELATIONSHIPS WITH INDIAN TRIBES

In accord with the status of Indian tribes as domestic dependent nations, the Department is committed to operating on the basis of government-to-government relations with Indian tribes.

Consistent with federal law and other Departmental duties, the Department will consult with tribal leaders in its decisions that relate to or affect the sovereignty, rights, resources or lands of Indian tribes. Each component will conduct such consultation in light of its mission. In addition, the Department has initiated national and regional listening conferences and has created the Office of Tribal Justice to improve communications with Indian tribes. In the Offices of the United States Attorneys with substantial areas of Indian country within their purview, the Department encourages designation of Assistant U.S. Attorneys to serve as tribal liaisons.

In order to fulfill its mission, the Department of Justice endeavors to forge strong partnerships between the Indian tribal governments and the Department. These partnerships will enable the Department to better serve the needs of Indian tribes, Indian people, and the public at large.

C. SELF-DETERMINATION AND SELF-GOVERNANCE

The Department is committed to strengthening and assisting Indian tribal governments in their development and to promoting Indian self-governance. Consistent with federal law and Departmental responsibilities, the Department will consult with tribal governments concerning law enforcement priorities in Indian country, support duly recognized tribal governments, defend the lawful exercise of tribal governmental powers in coordination with the Department of the Interior and other federal agencies, investigate government corruption when necessary, and support and assist Indian tribes in the development of their law enforcement systems, tribal courts, and traditional justice systems.

D. TRUST RESPONSIBILITY

The Department acknowledges the federal trust responsibility arising from Indian treaties, statutes, executive orders, and the historical relations between the United States and Indian tribes. In a broad sense, the trust responsibility relates to the United States' unique legal and political relationship with Indian tribes. Congress, with plenary power over Indian affairs, plays a primary role in defining the trust responsibility, and Congress recently declared that the trust responsibility "includes the protection of the sovereignty of each tribal government." 25 U.S.C. § 3601.

The term "trust responsibility" is also used in a narrower sense to define the precise legal duties of the United States in managing property and resources of Indian tribes and, at times, of individual Indians.

The trust responsibility, in both senses, will guide the Department in litigation, enforcement, policymaking and proposals for legislation affecting Indian country, when appropriate to the circumstances. As used in its narrower sense, the federal trust responsibility may be justiciable in some circumstances, while in its broader sense the definition and implementation of the trust responsibility is committed to Congress and the Executive Branch.

E. PROTECTION OF CIVIL RIGHTS

Federal law prohibits discrimination based on race or national origin by the federal, state and local governments, or individuals against American Indians in such areas as voting,

education, housing, credit, public accommodations and facilities, employment, and in certain federally funded programs and facilities. Various federal criminal civil rights statutes also preserve personal liberties and safety. The existence of the federal trust responsibility towards Indian tribes does not diminish the obligation of state and local governments to respect the civil rights of Indian people.

Through the Indian Civil Rights Act, Congress selectively has derived essential civil rights protections from the Bill of Rights and applied them to Indian tribes. 25 U.S.C. § 1301. The Indian Civil Rights Act is to be interpreted with respect for Indian sovereignty. The primary responsibility for enforcement of the Act is invested in the tribal courts and other tribal fora. In the criminal law context, federal courts have authority to decide habeas corpus petitions after tribal remedies are exhausted.

The Department of Justice is fully committed to safeguarding the constitutional and statutory rights of American Indians, as well as all other Americans.

F. PROTECTION OF TRIBAL RELIGION AND CULTURE

The mandate to protect religious liberty is deeply rooted in this Nation's constitutional heritage. The Department seeks to ensure that American Indians are protected in the observance of their faiths. Decisions regarding the activities of the Department that have the potential to substantially interfere with the exercise of Indian religions will be guided by the First Amendment of the United States Constitution, as well as by statutes which protect the exercise of religion such as the Religious Freedom Restoration Act, the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, and the National Historic Preservation Act.

The Department also recognizes the significant federal interest in aiding tribes in the preservation of their tribal customs and traditions. In performing its duties in Indian country, the Department will respect and seek to preserve tribal cultures.

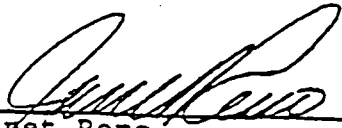
IV. DIRECTIVE TO ALL COMPONENTS OF THE DEPARTMENT OF JUSTICE

The principles set out here must be interpreted by each component of the Department of Justice in light of its respective mission. Therefore, each component head shall make all reasonable efforts to ensure that the component's activities are consistent with the above sovereignty and trust principles. The component heads shall circulate this policy to all attorneys in the Department to inform them of their responsibilities. Where the activities and internal procedures of the components can be

reformed to ensure greater consistency with this Policy, the component head shall undertake to do so. If tensions arise between these principles and other principles which guide the component in carrying out its mission, components will develop, as necessary, a mechanism for resolving such tensions to ensure that tribal interests are given due consideration. Finally, component heads will appoint a contact person to work with the Office of Tribal Justice in addressing Indian issues within the component.

V. DISCLAIMER

This policy is intended only to improve the internal management of the Department and is not intended to create any right enforceable in any cause of action by any party against the United States, its agencies, officers, or any person.



Janet Reno
Attorney General

Date: June 1, 1995



BJA Bureau of Justice Assistance Fact Sheet

Nancy E. Gist, Director

Local Law Enforcement Block Grants Program

The Omnibus Fiscal Year 1996 Appropriations Act, Public Law 104-134, provides \$503 million for the implementation of the *Local Law Enforcement Block Grants Program*, to be administered by the Bureau of Justice Assistance (BJA), U.S. Department of Justice. The purpose of the Local Law Enforcement Block Grants Program is to provide units of local government with funds to underwrite projects to reduce crime and improve public safety. These projects must be funded in accordance with the seven purpose areas described below.

Program Purpose Areas

Local Law Enforcement Block Grants Program funds may be used for one or more of the following seven purpose areas:

- ☐ Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel (if funds are used for hiring law enforcement officers, there must be a net gain over the unit of local government's current appropriated budget, in the number of law enforcement officers who perform nonadministrative public safety service); paying overtime to presently employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel; and/or procuring equipment, technology, and other material directly related to basic law enforcement functions.
- ☐ Enhancing security measures in and around schools, and in and around any other facility or location that the unit of local government considers a special risk for incidents of crime.
- ☐ Establishing or supporting drug courts. To be eligible for funding, a drug court program must include the following:
 - Continuing judicial supervision over offenders with substance abuse problems, but who are not violent offenders.
 - Integrating the administration of other sanctions and services, which shall include: (i) mandatory, periodic testing of each participant for the use of controlled substances or other addictive substances during any period of supervised release or probation; (ii) substance abuse treatment for each participant; (iii) probation or other supervised release involving possible prosecution, confinement, or incarceration because of noncompliance with program requirements or failure to show satisfactory progress; and (iv) programmatic, offender management and aftercare services such as relapse prevention, vocational job training, and job and housing placement.
- ☐ Enhancing the adjudication of cases involving violent offenders, including cases involving violent juvenile offenders. For the purposes of this program, violent offender means a person charged with committing a Part I violent crime under the Uniform Crime Reports.

- ❑ Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government; this task force will work with Federal law enforcement officials to prevent and control crime.
- ❑ Establishing crime prevention programs involving cooperation between community residents and law enforcement personnel to control, detect, or investigate crime or the prosecution of criminals.
- ❑ Defraying the cost of indemnification insurance for law enforcement officers.

Prohibition on Use of Funds

Funds are not to be used to purchase, lease, rent, or acquire tanks or armored vehicles, fixed-wing aircraft, limousines, real estate, yachts, consultants, or any vehicle not used primarily for law enforcement. In addition, Federal funds cannot be used to supplant State or local funds, but instead to increase the amount of funds that would be available otherwise from State and local sources.

Eligibility for Program Funds

Units of local government are eligible to apply for an award. Units of local government are counties, towns and townships, villages, cities, and Puerto Rico. Indian tribes and Alaskan Native villages that carry out substantial governmental duties and powers are also eligible.

Matching Funds Requirement

This program has a 10-percent cash matching requirement which will not be waived. Matching funds may be provided from the following sources: State and local government funds, the Housing and Community Development Act of 1974, the Appalachian Regional Development Act, the Equitable Sharing Program (Federal assets forfeiture distributions), and private funds. All recipients must maintain records clearly showing the source, the amount, and the timing of all matching contributions.

Application Requirements for Units of Local Government

An application must be signed and submitted by the chief executive of the jurisdiction (i.e., mayor, county executive, tribal chief, etc.), who must:

- ❑ Establish an advisory board to review the application. This board must be designated to make nonbinding recommendations for the proposed use of funds received under this program. The advisory board must include a member from at least each of the following: the local law enforcement agency; prosecutor's office; court system; school system; and a nonprofit group (e.g., educational, religious, or community) active in crime prevention or drug use prevention or treatment.
- ❑ Hold at least one public hearing regarding the proposed use of funds.
- ❑ Forward the application to the Governor or designated representative at least 20 days prior to submission to BJA, as required by statute.

The first two bulleted items above need not occur prior to applying for funds, but must occur prior to the obligation of funds.

An additional requirement is that units of local government give suitable preference in the employment of persons as additional law enforcement officers or support personnel to members of the Armed Forces who were involuntarily separated or retired due to the reductions in the Department of Defense.

Distribution of Awards

The Director of BJA will set aside funds for units of local government within a State. The amounts will be proportionate to the State's average annual amount of Part 1 violent crimes, compared to that for all other States for the three most recent calendar years of data from the Federal Bureau of Investigation. However, each State will receive a minimum award of .25 percent of the total amount available for formula distribution under the Local Law Enforcement Block Grants Program.

Awards to units of local government will be proportionate to each local jurisdiction's average annual amount of Part 1 violent crimes compared to all other local jurisdictions in the State for the three most recent calendar years.

- ❑ BJA will make awards directly to units of local government when award amounts are at least \$10,000. Each unit of local government eligible to apply for an award of \$10,000 or more will be notified by BJA.
- ❑ Each State will receive the remainder of the State's allocation for local applicants whose award amounts

are less than \$10,000. BJA will make one aggregate award directly to the State. The State will distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government whose allotment is less than such amount in a manner which reduces crime and improves public safety.

Each recipient must establish a trust fund to deposit program funds, which may accrue interest. All Federal funds (including interest) not expended 2 years from the date of the initial award by BJA are to be returned to BJA within 90 days of project termination.

Section 104(b)(9) contains the following provision in an attempt to accommodate potential funding disparities within jurisdictions:

(A) Notwithstanding any other provision of this title, if —

(i) the attorney general of a State certifies that a unit of local government under the jurisdiction of the State bears more than 50 percent of the costs of prosecution or incarceration that arise with respect to Part 1 violent crimes reported by a specified geographically constituent unit of local government, and

(ii) but for this paragraph, the amount of funds allocated under this section to —

(I) any one such specified geographically constituent unit of local government exceeds 200 percent of the amount allocated to the unit of local government certified pursuant to clause (i), or

(II) more than one such specified geographically constituent unit of local government (excluding units of local government referred to subclause I and in paragraph (7)), exceeds 400 percent of the amount allocated to the unit of local government certified pursuant to clause (i) and the attorney general of the State determines that such allocation is likely to threaten the efficient administration of justice.

then in order to qualify for payment under this title, the unit of local government certified pursuant to clause (i), together with any such specified geographically constituent units of local government described in clause (ii), shall submit to the Director a joint application for the aggregate of funds allocated to such units of local government. Such application shall specify the amount of such funds that are to be distributed to each of the units of local government and the purposes for which such funds are to be used. The units of local government involved may establish a joint local advisory board for the purposes of carrying out this paragraph.

(B) In this paragraph, the term 'geographically constituent unit of local government' means a unit of local government that has jurisdiction over areas located within the boundaries of an area over which a unit of local government certified pursuant to clause (i) has jurisdiction.

Administration of Block Grant Funds by the States

The Governor shall designate a State agency to administer these funds. The designated State agency will be responsible for submitting the State's application, selecting subrecipients to receive funds, disbursing funds, and performing other administrative functions.

Deadline for Application Submission

BJA will distribute application kits for both those local jurisdictions eligible for direct awards and State applicants no later than June 15, 1996. All applications must be received by August 9, 1996. BJA will begin making awards in mid-September 1996. ←

For Further Information

For more information about the Local Law Enforcement Block Grants Program, call the U.S. Department of Justice Response Center at 1-800-421-6770; or access the BJA home page at <http://www.ojp.usdoj.gov/BJA>.

NEWS RELEASE



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR IMMEDIATE RELEASE - May 10, 1996

Contact Persons:

Teresa Black, Asst. U.S. Attorney
Arvo Mikkanen, Asst. U.S. Attorney
& Special Asst. for Tribal Relations

HOUSTON WISE TALAMASEY SENTENCED TO TEN YEARS IN PRISON FOR SEXUALLY ABUSING A CHILD

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced today, May 10, 1996, that United States District Judge David L. Russell sentenced Houston Wise Talamasey of White Eagle, Oklahoma to ten years incarceration for sexually abusing a minor child.

Talamasey plead guilty to the federal charge of abusive sexual contact with a child under twelve (12) years old on Indian country lands under the jurisdiction of the Ponca Tribe and the United States. Talamasey was prosecuted by the United States under a statute that makes it a federal felony to sexually abuse a child on Indian land. The investigation was conducted jointly by the Stillwater Resident Agency of the Federal Bureau of Investigation ("FBI") and the Bureau of Indian Affairs' Pawnee Agency Branch of Criminal Investigations located in Ponca City. The initial report was received by the Ponca Tribal Police Department.

Talamasey was arrested following the incident and has been detained since January 22, 1996. He was indicted by a federal grand jury on February 6, 1996. In addition to the sentence of incarceration, Talamasey will be placed on supervised release for three years following his release from prison. Talamasey appeared before Judge Russell this morning in federal court in Oklahoma City and was remanded to the custody of U.S. Marshals for transfer to the U.S. Bureau of Prisons.

According to U.S. Attorney Patrick M. Ryan, "our office continues to make it a priority to prosecute cases involving child abuse on Indian lands subject to the jurisdiction of the federal government." He also said, "a key to successful prosecution is the prompt reporting of sexual abuse incidents to federal authorities."

In November of 1994, the U.S. Attorney's Office signed a historic Memorandum of Understanding ("MOU") with the FBI, the Bureau of Indian Affairs ("BIA"), the Oklahoma Department of Human Services, the Indian Health Service, and eighteen Indian tribes located in the Western District of Oklahoma. The Memorandum of Understanding sets forth a reporting procedure for child abuse crimes. Ryan has indicated that since adoption of the MOU, designed to clarify jurisdiction and investigation responsibilities in Indian country cases, the number of reports of child abuse to FBI and BIA law enforcement officials has increased.

**NEWS
RELEASE**



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR IMMEDIATE RELEASE - February 7, 1996

**HOUSTON WISE TALMASEY
INDICTED BY FEDERAL GRAND JURY
FOR AGGRAVATED SEXUAL ABUSE OF A CHILD**

OKLAHOMA CITY, OKLAHOMA - Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on February 6, 1996, HOUSTON WISE TALMASEY was indicted by the Grand Jury for the United States District Court for the Western District of Oklahoma. TALMASEY appeared before Magistrate Judge Doyle W. Argo today, February 7, 1996, for his arraignment on charges of Aggravated Sexual Abuse of a Child. He entered a plea of "not guilty" to the charges.

On January 19, 1996, a complaint was filed by the United States Attorney's Office alleging that TALMASEY committed aggravated sexual abuse by engaging in a sexual act with a minor child while on Indian land under the jurisdiction of the federal government. On January 23, 1996, TALMASEY was detained in jail pending trial and he remains in custody. Trial has been set for March 11, 1996 before United States District Judge David L. Russell.

Upon conviction of aggravated sexual abuse of a child, TALMASEY may be put in prison for a term of years up to life imprisonment. In addition to a sentence of imprisonment, TALMASEY may be required to pay a fine of up to \$250,000.00 and may be subject to a term of supervised release of up to five (5) years after the completion of any jail sentence.

An indictment does not constitute evidence of guilt. An indictment is a method of bringing formal charges against the defendant. A defendant is presumed innocent of the charges and may be found not guilty unless evidence establishes guilt beyond a reasonable doubt.

END

NEWS RELEASE



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR IMMEDIATE RELEASE - February 6, 1996

TWO SENTENCED IN FEDERAL COURT FOR OPERATING GAMBLING MACHINES ON INDIAN LANDS

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced today in two separate cases that OWEN TILLMAN of Ponca City, Oklahoma and DIANE TILLMAN ROW-OF-LODGES of Red Rock, Oklahoma were sentenced on federal charges of operating gambling machines on two separate parcels of Indian land in Kay County, Oklahoma.

OWEN TILLMAN, 51, was sentenced to serve 15 months in prison on his November 13, 1995 plea of guilty to a violation of the Johnson Act, 15 U.S.C. § 1175, which prohibits the transportation, use, or possession of gambling devices on certain lands, including Indian country. TILLMAN was charged with possession or use of 15 video poker machines and 2 slot machines in connection with his operation of the Stateline Smokeshop, north of Newkirk, Oklahoma in 1992 and 1993. He appeared before U.S. District Judge Robin Cauthron in Oklahoma City for sentencing today.

In addition to the charges for the gaming machines, TILLMAN was also charged with a violation of 26 U.S.C. § 7201 for willfully attempting to evade and defeat federal income tax that was due. TILLMAN owed the Internal Revenue Service \$ 29,591.00 in taxes for the calendar year 1990 and was charged with failing to pay the tax and file an income tax return for that year. TILLMAN received a sentence of 15 months in prison for that count which will run concurrently with his other sentence. In addition to the term of incarceration, TILLMAN is subject to a term of supervised release of 3 years after he gets out of prison and he must serve 204 hours of community service. He must also pay a special assessment to the court of \$ 100.00.

In a separate case before U.S. District Judge Ralph Thompson, DIANE ROW-OF-LODGES, 48, was sentenced today for a gambling violation for transporting, possessing, and using illegal gambling devices on Indian land. ROW-OF-LODGES was ordered to wear an electronic monitoring device and serve 90 days of home confinement for her September 25, 1995 plea of guilty to a one count information charging her with a violation of the Johnson Act.

ROW-OF-LODGES was charged with operating slot machines and video poker machines at Diane's Smoke Shop south of Ponca City, Oklahoma in 1992 and 1993. ROW-OF-LODGES must also pay a fine of \$ 2,000.00 and must pay the costs of the electronic monitoring device for the 90 day sentence of home confinement. She will be placed on supervised release for 2 years and was required to pay a special assessment of \$ 50.00. END

NEWS RELEASE



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR IMMEDIATE RELEASE
JANUARY 23, 1996

HOUSTON WISE TALAMASEY CHARGED IN FEDERAL COURT FOR AGGRAVATED SEXUAL ABUSE OF A CHILD

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on January 22, 1996, HOUSTON WISE TALAMASEY was arrested in Ponca City, Oklahoma on an arrest warrant issued by the United States District Court sitting in Oklahoma City. Today, January 23, 1996, TALAMASEY appeared before Magistrate Judge Ronald Howland to answer to felony charges of Aggravated Sexual Abuse of a Child.

On January 19, 1996, a complaint was filed by the United States Attorney's Office alleging that TALAMASEY committed aggravated sexual abuse by engaging in a sexual act with a minor child while on Indian land under the jurisdiction of the federal government. Magistrate Judge Howland set a Preliminary Hearing for Thursday, January 25, 1996 at 1:30 p.m. in federal court in Oklahoma City.

Upon conviction of aggravated sexual abuse of a child, TALAMASEY may be put in prison for a term of years up to life imprisonment. In addition to a sentence of imprisonment, TALAMASEY may be required to pay a fine of up to \$ 250,000.00 and may be subject to a term of supervised release of up to five (5) years after the completion of any jail sentence.

TALAMASEY was ordered detained in jail pending further order of the court. A trial date has not yet been set.

A complaint does not constitute evidence of guilt. A complaint is a method of bringing formal charges against the defendant. A defendant is presumed innocent of the charges and may be found not guilty unless evidence establishes guilt beyond a reasonable doubt.

NEWS RELEASE



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR IMMEDIATE RELEASE: January 9, 1996

ANTHONY PRIMEAUX, JR. SENTENCED TO THREE YEARS & FIVE MONTHS IN STABBING INCIDENT

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on January 9, 1996 ANTHONY PRIMEAUX, JR. was sentenced to serve forty one months for a felony assault charge in the U.S. District Court for the Western District of Oklahoma. Primeaux, 19, was sentenced following a hearing this morning before U.S. District Judge Robin Cauthron.

On November 6, 1995 PRIMEAUX plead guilty to the federal charge of assault resulting in serious bodily injury. PRIMEAUX was charged in a one count indictment with the stabbing of Craig Louis Silver at the White Eagle community south of Ponca City, which is on Indian land under the jurisdiction of the federal government.

PRIMEAUX was indicted by a federal grand jury on September 20, 1995 and as a condition of his release was placed in an alcohol treatment facility. Because he left the treatment facility without court authorization on or about December 31, 1995, a warrant was issued and he was arrested by United States Marshals in Oklahoma City on January 4, 1996. On January 5, 1996, Judge Cauthron revoked PRIMEAUX's placement for violating his terms of release and he was jailed until sentencing today.

In addition to the sentence of forty one months incarceration, PRIMEAUX was ordered to pay \$ 800.00 of restitution to the victim, and was ordered to pay a special assessment of \$ 50.00 to the court. Upon completion of his sentence, PRIMEAUX will be placed on supervised release for three years.

* END *

**NEWS
RELEASE**



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR RELEASE November 15, 1995

**ERNEST GENE LOGAN
SENTENCED TO OVER 8 YEARS IN PRISON
FOR AGGRAVATED SEXUAL ABUSE OF A MINOR CHILD**

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on November 15, 1995 United States District Judge Ralph Thompson sentenced ERNEST GENE LOGAN of Jones, Oklahoma to ninety-seven months incarceration for aggravated sexual abuse.

Logan plead guilty to sexually abusing a minor child on Indian country lands under the jurisdiction of the Kickapoo Tribe and the United States government. Logan was prosecuted by the United States under a statute that makes it a federal felony to sexually abuse a minor child on Indian lands.

Logan was indicted by a federal grand jury on June 22, 1995 and has been detained since he was formally charged. In addition to the sentence of incarceration, Logan will be placed on supervised release for five years following his release.

**NEWS
RELEASE**



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR RELEASE November 6, 1995

**ANTHONY PRIMEAUX, JR.
PLEADS GUILTY TO FELONY ASSAULT CHARGE**

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on November 6, 1995 ANTHONY PRIMEAUX, JR. plead guilty to a felony assault charge in the U.S. District Court for the Western District of Oklahoma. Primeaux was set to begin his jury trial at 9:00 a.m. this morning before U.S. District Judge Robin Cauthron. Primeaux entered his plea of guilty before Judge Cauthron at about 10:30 this morning.

PRIMEAUX was charged by the federal grand jury in a one count felony indictment for assault resulting in serious bodily injury. The indictment alleged that on or about August 24, 1995, PRIMEAUX assaulted Craig Louis Silver, by stabbing him at the White Eagle community south of Ponca City, which is on Indian land under the jurisdiction of the federal government.

Under the federal statutes, on his plea of guilty PRIMEAUX may be imprisoned for a term of up to ten years and may be required to pay a fine of up to \$ 250,000.00, or both.

Sentencing will be set at a later date.

**NEWS
RELEASE**



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR RELEASE JUNE 26, 1995

**VICKI YVONNE LECLAIR
INDICTED BY FEDERAL GRAND JURY
FOR FELONY ASSAULT**

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on June 22, 1995 the United States Grand Jury for the Western District of Oklahoma, meeting in Oklahoma City, returned an indictment against VICKI YVONNE LECLAIR of the Fort Oakland Indian Reserve located near Tonkawa, Oklahoma, in Kay County.

LECLAIR, an enrolled member of the Ponca Tribe, was charged in a one count felony indictment by the Grand Jury for assault resulting in serious bodily injury. The charges are that on or about May 16, 1995, LECLAIR assaulted FRANCIS LEE CHALEPAH, an enrolled member of the Kiowa Tribe, by stabbing him at Fort Oakland which is within Indian country under the jurisdiction of the Tonkawa Tribe and the United States government.

Upon conviction of assault resulting in serious bodily injury, LECLAIR may be imprisoned for up to ten years, may be required to pay a fine of up to \$ 250,000.00. or both.

A grand jury indictment does not constitute evidence of guilt. A grand jury indictment is a method of bringing formal charges against the defendant. A defendant is presumed innocent of the charges and may be found not guilty unless evidence establishes guilt beyond a reasonable doubt.

**NEWS
RELEASE**



U.S. Department of Justice
PATRICK M. RYAN
United States Attorney
Western District of Oklahoma
405/231-5281

FOR RELEASE JUNE 26, 1995

**ERNEST GENE LOGAN
INDICTED BY FEDERAL GRAND JURY
FOR AGGRAVATED SEXUAL ABUSE**

OKLAHOMA CITY, OKLAHOMA- Patrick M. Ryan, United States Attorney for the Western District of Oklahoma, announced that on June 22, 1995 the United States Grand Jury for the Western District of Oklahoma, meeting in Oklahoma City, returned a felony indictment against ERNEST GENE LOGAN of Jones, Oklahoma.

LOGAN, an enrolled member of the Kickapoo Tribe, was charged in a four count felony indictment by the Grand Jury for aggravated sexual abuse. The charges are that on four occasions in late 1994 and in 1995, within Indian country under the jurisdiction of the Kickapoo Tribe and the United States government, Logan sexually abused a minor child.

Upon conviction of aggravated sexual abuse, LOGAN may be imprisoned for a term of years up to life, may be required to pay a fine of \$ 250,000.00, or both.

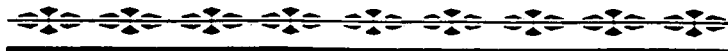
A grand jury indictment does not constitute evidence of guilt. A grand jury indictment is a method of bringing formal charges against the defendant. A defendant is presumed innocent of the charges and may be found not guilty unless evidence establishes guilt beyond a reasonable doubt.

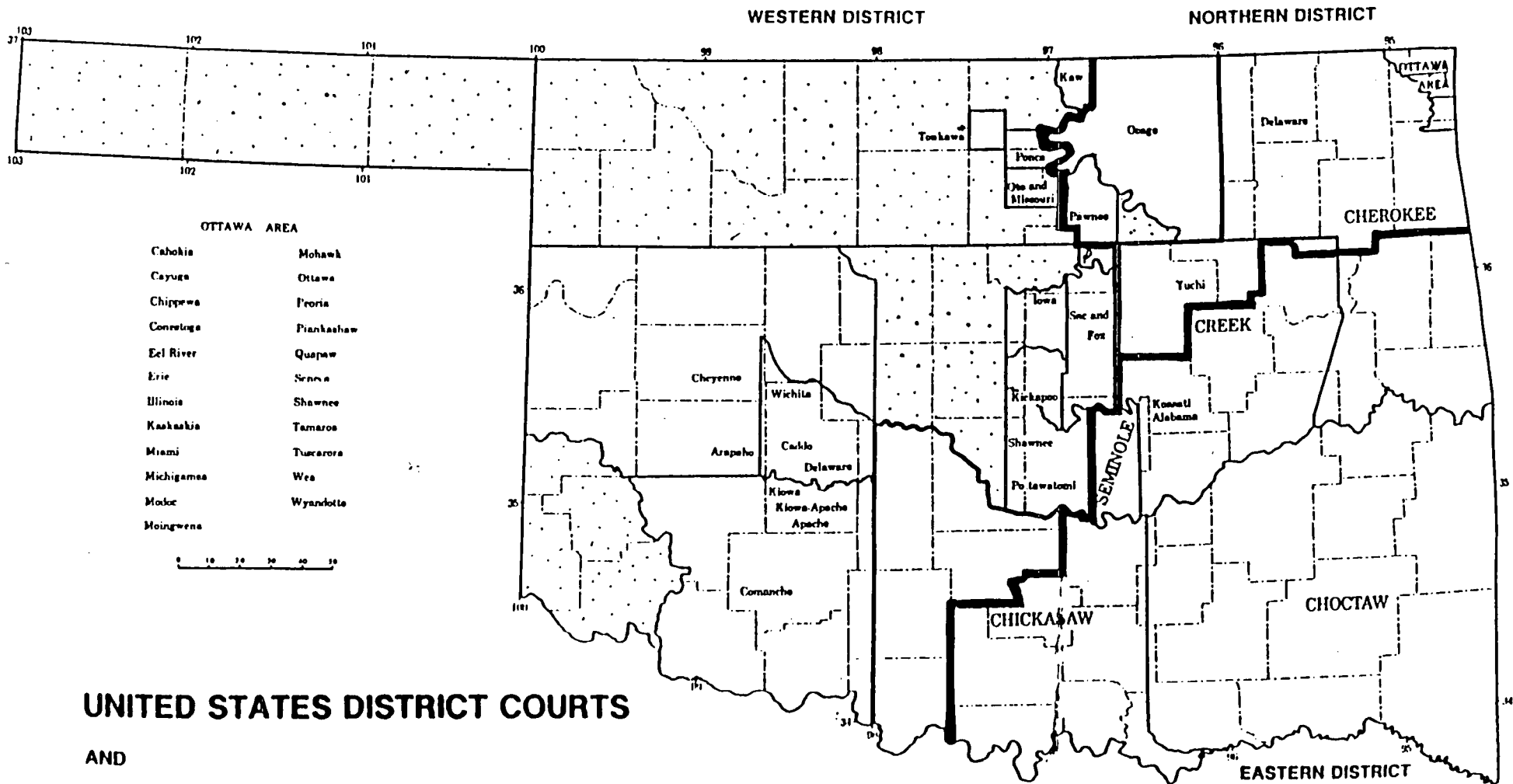
LOGAN is currently detained pending trial.



Guidelines for
Reporting and Investigating
Child Abuse in
Indian Country

These guidelines should be used any time an Indian child appears to be the victim of physical or sexual abuse or if the suspected perpetrator appears to be Indian, regardless of the race of the child victim.





UNITED STATES DISTRICT COURTS

AND

INDIAN NATIONS IN OKLAHOMA

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made by and between the United States Attorney's Office for the Western District of Oklahoma; the Federal Bureau of Investigation (FBI); the State of Oklahoma Department of Human Services (DHS); the Bureau of Indian Affairs (BIA); the Indian Health Service (IHS); the Absentee Shawnee Tribe of Oklahoma, the Apache Tribe of Oklahoma, the Caddo Tribe of Oklahoma, the Cheyenne-Arapaho Tribes of Oklahoma, the Chickasaw Nation, the Citizen Band of Potawatomi Tribe, the Comanche Tribe of Oklahoma, the Fort Sill Apache Tribe, the Iowa Tribe of Oklahoma, the Kaw Nation, the Kickapoo Tribe of Oklahoma, the Kiowa Tribe of Oklahoma, the Otoe-Missouria Tribe of Oklahoma, the Pawnee Tribe of Oklahoma, the Ponca Tribe of Oklahoma, the Sac & Fox Nation, the Tonkawa Tribe of Oklahoma, and the Wichita and Affiliated Tribes.

Pursuant to 25 U.S.C. § 2801 *et seq.*, 25 U.S.C. § 3201 *et seq.*, and the memorandum of understanding between the United States Department of the Interior - Bureau of Indian Affairs, and the United States Department of Justice - Federal Bureau of Investigation, the United States Attorney's Office for the Western District of Oklahoma has prepared the following guidelines for the investigation of child sexual/physical abuse in Indian country as defined by 18 U.S.C. § 1151.

I. GOALS

The goals of these guidelines are the protection and safety of the child victims and the identification and prosecution of the perpetrator. This MOU shall not alter or amend any existing agreements, memoranda of understanding, treaties, regulations or statutes between the tribes and/or agencies named herein.

II. GUIDELINES TO BE USED

These guidelines are to be used in all reported cases in which incidents of child sexual or physical abuse occur in Indian country involving:

- A. an Indian child, or
- B. an Indian perpetrator, including a minor, or
- C. a non-Indian perpetrator involving Indian child victims.

III. CHILD PROTECTION TEAMS & MULTIDISCIPLINARY TEAMS

The investigation of all child sexual or physical abuse cases shall be undertaken by law enforcement and a Child Protection Team (CPT) with input from a Multidisciplinary Team (MDT), when feasible. An MDT, as defined in 25 U.S.C. § 3209 and 18 U.S.C § 3509, shall include, but is not limited to, personnel with a background in:

- A. law enforcement,
- B. child protection services,
- C. juvenile counseling and adolescent mental health, and
- D. domestic violence.

IV. INITIAL REPORT

When an initial report of child sexual or physical abuse involving an Indian child and/or an Indian perpetrator is received by the Oklahoma Department of Human Services (DHS), the Indian Health Service (IHS), the Indian Child Welfare Program of an Indian tribe (ICW), the Social Services program of an Indian tribe (SS), or the Child Protection Services agency of an Indian tribe (CPS), each relevant agency/person within Sections A, B, and C must be notified by phone immediately (within 12 hours):

A. The local law enforcement agency having jurisdiction over the Indian country involved:

1. Absentee Shawnee Tribal Police, 405/275-3200, telefax: 405/273-7193 (notify prior to faxing);
2. Apache Tribe (Bureau of Indian Affairs, Anadarko Agency, Law Enforcement Services - 405/247-6712, 405/247-6673, Ext. 425, telefax: 405/247-9232);
3. Caddo Tribe (Bureau of Indian Affairs, Anadarko Agency, Law Enforcement Services - 405/247-6712, 405/247-6673, Ext. 425, telefax: 405/247-9232);
4. Cheyenne-Arapaho Tribal Police, 405/262-4814, 800/767-4814, telefax: 405/262-7901;
5. Chickasaw Nation (Bureau of Indian Affairs, Chickasaw Agency, Law Enforcement Services, 405/436-1166, telefax: 405/436-4704);

6. Citizen Band Potawatomi Tribal Police, 405/275-3121, telefax: 405/275-0198;
7. Comanche Nation Police, 405/492-3789; telefax, 405/492-4981;
8. Fort Sill Apache Tribe (Bureau of Indian Affairs, Anadarko Agency, Law Enforcement Services, 405/247-6712, 405/247-6673, Ext. 425, telefax: 405/247-9232);
9. Iowa Tribal Police, 405/547-2403, telefax: 405/547-5294;
10. Kaw Nation Police, 405/269-2552, telefax: 405/762-2389;
11. Kickapoo Tribal Police, 405/964-5941, telefax: 405/964-2745;
12. Kiowa Tribe (Bureau of Indian Affairs, Anadarko Agency, Law Enforcement Services, 405/247-6712, 405/247-6673, Ext. 425, telefax: 405/247-9232);
13. Otoe-Missouria Tribal Police, 405/723-4540, telefax: 405/723/4273;
14. Pawnee Tribal Police, 918/762-3013, telefax: 918/762/2389;
15. Ponca Tribal Police, 405/765-3587, telefax: 405/762-7436;
16. Sac & Fox Nation Police, 918/968-2098, telefax: 918/968-3887;
17. Tonkawa Tribal Police, 405/628-4132;
18. Wichita Tribe (Bureau of Indian Affairs, Anadarko Agency, Law Enforcement Services - 405/247-6712, 405/247-6673, Ext. 425, telefax: 405/247-9232).

- and -

B. The Child Protection Services agency having jurisdiction over the Indian country involved, or the BIA Child Abuse Hotline (800/633-5155) if unable to contact a Child Protection Services agency:

1. Absentee Shawnee Tribe, Child Protection Worker, 405/275-4030, telefax: 405/275-1922;

2. Apache Tribe (Bureau of Indian Affairs, Anadarko Agency, Child Protection Worker - 405/247-6673, Ext. 422; telefax: 405/247-9232);
3. Caddo Tribe (Bureau of Indian Affairs, Anadarko Agency, Child Protection Worker - 405/247-6673, Ext. 422; telefax: 405/247-9232);
4. Cheyenne-Arapaho Tribes, Child Protection Worker, 405/262-0185, telefax: 405/262-0745;
5. Chickasaw Nation, Child Protection Worker, 405/436-2603, telefax: 405/436-4287;
6. Citizen Band Potawatomi Tribe, Child Protection Worker, 405/275-3125, telefax: 405/275-0198;
7. Comanche Tribe, Child Protection Worker, 405/492-3771, telefax: 405/492-4981;
8. Fort Sill Apache Tribe (Bureau of Indian Affairs, Anadarko Agency, Child Protection Worker - 405/247-6673, Ext. 422; telefax: 405/247-9232);
9. Iowa Tribe, Child Protection Worker - 405/275-3125; telefax: 405/275-0198;
10. Kaw Nation (Bureau of Indian Affairs, Pawnee Agency, Child Protection Worker - 918/762-2585, telefax: 918/762-3201);
11. Kickapoo Tribe, Child Protection Worker, 405/964-2075, telefax: 405/964-2745;
12. Kiowa Tribe, Child Protection Worker, 405/654-2300, telefax: 405/654-2188;
13. Otoe-Missouria Tribe (Bureau of Indian Affairs, Pawnee Agency, Child Protection Worker - 918/762-2585, telefax: 918/762-3201);
14. Pawnee Tribe (Bureau of Indian Affairs, Pawnee Agency, Child Protection Worker - 918/762-2585, telefax: 918/762-3201);

15. Ponca Tribe (Bureau of Indian Affairs, Pawnee Agency, Child Protection Worker - 918/762-2585, telefax: 918/762-3201);
16. Sac & Fox Nation, Child Protection Worker, 918/968-2031, telefax: 968-3887;
17. Tonkawa Tribe (Bureau of Indian Affairs, Pawnee Agency, Child Protection Worker - 918/762-2585, telefax: 918/762-3201);
18. Wichita Tribe (Bureau of Indian Affairs, Anadarko Agency, Child Protection Worker - 405/247-6673, Ext. 422; telefax: 405/247-9232);

- and -

C. The Federal Bureau of Investigation (office nearest to location of offense) or the FBI Hotline (405/879-3175) if unable to contact a local office:

1. Ardmore, 405/223-2018;
2. Elk City, 405/225-6000;
3. Enid, 405/237-6322;
4. Lawton, 405/353-3090;
5. Norman, 405/364-5137;
6. Oklahoma City, 405/842-7471; telefax: 405/879-3185
7. Stillwater, 405/372-1645;
8. Woodward, 405/372-1645;

Initial notification must occur irrespective of the location of the child, perpetrator or the alleged crime. Failure to report to a law enforcement officer is a federal criminal offense.

Attorney assigned to the matter, separation of the child from the offender is necessary for the child's protection and cannot be accomplished and maintained without incarceration of the perpetrator, the Assistant United States Attorney may initiate the filing of a complaint or an indictment, where probable cause exists, and request the detention of the offender. This should be done only in cases where the child cannot be removed from an unsafe environment and the investigation can reasonably be expected to be completed and the case prepared for trial in federal court in compliance with the Speedy Trial Act. In this regard, where necessary, cases of this nature should be given priority by all concerned since detention of the offender may be the only practical way to protect the child.

XII. MEDICAL EXAMINATION

An immediate medical examination shall be arranged by the investigative agency or agencies, or the CPT: 1) if there is an injury to the child which requires medical attention, 2) to preserve evidence through the preparation of a rape kit or other examination, or 3) where existing conditions make it advisable. Otherwise, a medical examination will be arranged in the normal course of business.

XIII. FORENSIC PSYCHOLOGICAL EVALUATION

Where appropriate, a forensic psychological evaluation will be arranged during the investigation process, unless special circumstances such as threatened suicide or perceived danger to the child or others exist necessitating immediate evaluation.

XIV. FOLLOW-UP SERVICES

Counseling and other follow-up services will be arranged for the victim and family members as necessary or advisable by the investigative agency or agencies, the CPT, or the MDT.

XV. FEDERAL PROSECUTION

The completed investigation will be presented to the United States Attorney's Office by the investigative agency or agencies. The United States Attorney's Office will determine if the matter will be prosecuted in federal court. If a matter is declined for

prosecution, the BIA law enforcement, tribal law enforcement, the tribal prosecutor, and the Oklahoma District Attorney's office (where appropriate) will be notified in writing.

XVI. LIAISON WITH VICTIM

After presentation of a matter to the United States Attorney's Office, the investigating FBI agent or U. S. Attorney victim/witness coordinator will act as liaison with the victim and the family, the service providing agencies, and others as necessary concerning the prosecution of the matter in federal court.

XVII. CRIMINAL JUSTICE PROCESS

The investigating FBI agent, the Assistant United States Attorney assigned to the matter, or victim/witness coordinator, with the assistance of the other service providers, shall assist in familiarizing the victim with the criminal justice process, the courtroom, travel and lodging arrangements during court appearances, counseling, victim impact statements, entry into the Bureau of Prisons Victim/Witness notification program, and other needs as they are determined.

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding (MOU) is made by and between the United States Attorneys' Offices for the Northern and Eastern Districts of Oklahoma, Federal Bureau of Investigation (FBI), Oklahoma Department of Human Services (DHS), Bureau of Indian Affairs (BIA), Indian Health Services (IHS), the Cherokee Nation and through the Cherokee Nation the leaders of the Delaware and Loyal Shawnee citizens of the Cherokee Nation, the Muscogee (Creek) Nation, the Osage Nation, the Pawnee Tribe, and the Miami Agency, which includes Quapaw, Wyandotte, Eastern Shawnee, Seneca-Cayuga, Miami, Peoria, Modoc and Ottawa Tribes, the Chickasaw Nation of Oklahoma, the Choctaw Nation of Oklahoma, the Seminole Nation of Oklahoma, and the Thlopthlocco Tribal Town.

Pursuant to 25 U.S.C. § 2801 *et seq.*, 25 U.S.C. § 3201 *et seq.*, and the memorandum of understanding between the United States Department of the Interior, Bureau of Indian Affairs, and the United States Department of Justice, Federal Bureau of Investigation, the United States Attorneys' Offices for the Northern and Eastern Districts of Oklahoma have prepared the following guidelines for the investigation of child sexual/physical abuse or neglect in Indian Country as defined by 18 U.S.C. § 1151.

I. GOALS

The goals of these guidelines are the protection and safety of the child victims and the identification and prosecution of the perpetrator. This MOU shall not alter or amend any existing agreements, memoranda of understanding, treaties, regulations or statutes between tribes and/or agencies named herein.

II. GUIDELINES TO BE USED

These guidelines are to be used in all reported cases in which incidents of child sexual or physical abuse or neglect occur in Indian Country involving:

- A. an Indian child, or
- B. an Indian perpetrator, including a minor, or
- C. a non-Indian perpetrator involving Indian child victims.

III. MULTIDISCIPLINARY TEAMS

The investigation of all child sexual/physical abuse or neglect cases shall be undertaken by a Multidisciplinary Team (MDT), when feasible. An MDT, as defined in 25 U.S.C. § 3209 and 18 U.S.C § 3509 shall include, but is not limited to personnel, with a background in:

- A. law enforcement
- B. child protection services
- C. juvenile counseling and adolescent mental health, and
- D. domestic violence.

IV. INITIAL REPORT

When an initial report of child sexual/physical abuse or neglect involving an Indian child and/or an Indian perpetrator is received by the Oklahoma Department of Human Services (DHS), the Indian Health Services (IHS) or the Child Protection Services agency of an Indian Tribe (CPS), each relevant agency/person within Sections A, B, C and D must be notified by phone immediately (within 12 hours):

A. Law enforcement agencies:

- 1. Osage Agency (918) 287-1847
- 2. Miami Agency (918) 542-6921
- 3. Cherokee Nation (918) 456-9224
- 4. Muscogee (Creek) Nation (918) 756-8700 ext. 382
- 5. Pawnee Tribe (918) 762-3013
- 6. Chickasaw Nation (405) 436-1166
- 7. Choctaw Nation (405) 286-3977
- 8. Seminole Nation (405) 382-0045
- 9. Thlopthlocco Tribal Town (918) 623-2620 or (918) 623-0419

- or -

In the event that the above law enforcement agencies cannot be reached, call:

- 1. Muskogee BIA (918) 687-2266
- 2. Anadarko BIA for Pawnee Tribe (405) 762-2335
- 3. BIA Child Abuse Hotline 1-800-633-5155, if unable to contact the Muskogee or Anadarko offices

- and -

- B. United States Attorney's Office
(918) 581-7463 (Tulsa) or (918) 687-2543 (Muskogee)

- and -

- C. Child Protection Services for the tribal affiliation of the victim
1. Cherokee Nation (918) 456-0671
 2. Muscogee (Creek) Nation (918) 756-2112
 3. Osage Nation (918) 287-4615
 4. Quapaw Tribe (918) 542-1853
 5. Seneca-Cayuga Tribe (918) 542-6637
 6. Pawnee Agency (918) 762-2585 or 1-800-521-5432
 7. Chickasaw Nation (405) 436-7253
 8. Choctaw Nation (405) 924-8280
 9. Seminole Nation (405) 257-6259
 10. Thlopthlocco Tribal Town (918) 623-2620 or (918) 623-0419

- and -

D. FBI: (918) 664-3300 (Tulsa); (918) 687-7500 (Muskogee); (405) 223-2018 (Ardmore); (405) 924-4382 (Durant); (918) 423-1413 (McAlester); (405) 842-7471 (Oklahoma City); (405) 879-3175 (Hotline)

Initial notification must occur irrespective of the location of the child, perpetrator or the alleged crime. **Failure to report is a federal criminal offense.**

V. 36-HOUR REPORTS

Within 36 hours of the initial report, the agency (State or Local law enforcement, DHS, IHS or CPS) which received the report shall follow the telephone report with a written report to the agencies/persons notified under Section IV which contains the following:

- A. The name, address, age and sex of the child that is the subject of the report, including current whereabouts;
- B. The grade and the school in which the child is currently enrolled;
- C. The name and address of the child's parents or other person responsible for the child's care and the current whereabouts of the parents or other person responsible for care;
- D. The name and address of the alleged offender and whereabouts;
- E. The name and address of the person who made the report to the agency;

F. A brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse;

G. Any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse, i.e. emergency room reports, previous court cases, etc...

VI. INDIAN COUNTRY JURISDICTION

Upon receipt of the initial report, if possible, or the 36-hour report, BIA or Tribal Law Enforcement will take immediate action to determine if it is probable that the alleged offense occurred in Indian Country. For the purpose of further investigation it shall be presumed, unless otherwise established, that if the child or the perpetrator resides in Indian Country, the probability exists that the offense occurred in Indian Country.

VII. COORDINATION OF LAW ENFORCEMENT

If it is determined by BIA or Tribal Law Enforcement that the probability exists that the offense occurred in Indian Country, BIA or Tribal Law Enforcement shall notify the local Resident Agency of the FBI. The law enforcement agencies will make a determination as to which agency will conduct the investigation or if they will conduct a joint investigation together with each other or any other federal, state or local law enforcement agency, and a matter will be opened in the United States Attorney's Office.

VIII. DETERMINATION OF NEED FOR REMOVAL

The investigative agency or agencies working together with the MDT, shall make an initial assessment to determine the following:

- A. The probable facts;
- B. The need for protection;
- C. The need for removal;
- D. What other actions need to be taken for the safety and the protection of the child.

This information shall be conveyed in writing to all members of the MDT, the United States Attorney's Office, and the prosecutorial agency responsible for emergency removal.

IX. EMERGENCY REMOVAL

If immediate removal is necessary, the responsible law enforcement agencies and/or child protection service will follow the appropriate procedures for emergency removal.

X. TEMPORARY OR PERMANENT REMOVAL

If temporary or permanent removal is necessary, the appropriate child protection service worker and/or law enforcement officer will prepare the necessary information and present to the proper prosecutorial agency for the filing of appropriate court documents.

XI. NEED FOR INCARCERATION OF PERPETRATOR

On a case by case basis, where in the judgment of the investigative agency or agencies in consultation with the MDT, and the Assistant United States Attorney assigned to the case, separation of the child from the offender is necessary for the child's protection, and cannot be accomplished and maintained without incarceration of the perpetrator, the Assistant United States Attorney may initiate the filing of a complaint or an indictment, where probable cause exists, and obtain the detention of the offender. This should be done only in cases where the investigation can reasonably be expected to be completed and the case prepared for trial in compliance with the Speedy Trial Act. In this regard, where necessary, cases of this nature should be given priority by all concerned since detention of the offender may be the only practical way to protect the child.

XII. MEDICAL EXAMINATION

An immediate medical examination will be arranged if there is an acute need, such as injury to the child, which requires medical attention, or the need to preserve evidence, such as the preparation of a rape kit or other examination, or existing conditions make it advisable. Otherwise, a medical examination will be arranged in the normal course of business.

XIII. FORENSIC PSYCHOLOGICAL EVALUATION

A forensic psychological evaluation will be arranged during the investigation process, unless special circumstances such as threatened suicide or perceived danger to the child or others exist necessitating immediate evaluation.

XIV. FOLLOW-UP SERVICES

Counseling and other follow up services will be arranged for the victim and family members as necessary or advisable by the MDT.

XV. FEDERAL PROSECUTION

The completed investigation will be presented to the U.S. Attorney's Office by the investigative agency or agencies with the assistance of the MDT.

XVI. LIAISON WITH VICTIM

After presentation to the U. S. Attorney's Office, the investigating officer or victim/witness coordinator will act as liaison with the victim and the family, the service providing agencies, and others as necessary.

XVII. CRIMINAL JUSTICE PROCESS

The investigating agent, Assistant U.S. Attorney, or victim/witness coordinator, with the assistance of the other service providers, shall assist in familiarizing the victim with the criminal justice process, the courtroom, travel and lodging arrangements during court appearances, counseling, victim impact statements, entry into the Bureau of Prisons Victim/Witness notification program, and other needs as they are determined.

OKLAHOMA CITY AREA CHILD SEXUAL ABUSE

EXAMINATION SITES AND REFERRAL SITES

OFFICE OF HEALTH PROGRAM SERVICES

SERVICE UNIT	RAPE KITS	TRAINED PROVIDERS	REFERRAL SITE(S)
ADA HOSP.	YES	YES	NA
CLAREMORE HOSP.	YES	YES	NA
CLINTON HOSP.	YES	YES	NA
HASKELL, KS	NO	NO	LOCAL HOSPITAL
HOLTON, KS	NO	NO	LOCAL HOSPITAL
LAWTON HOSP.	YES	YES	NA
PAWNEE CLINICS	NO	NO	STILLWATER, PONCA CITY, TULSA HOSPITALS
SHAWNEE CLINIC	YES	YES	NA
TAHLEQUAH (W.W.HASTINGS HOSP.)	YES	YES	NA
TALIHINA HOSP. (CHOCTAW NATION HOSPITAL)	YES	YES	NA
WEWOKA CLINIC	NO	NO	CARL ALBERT HOSPITAL, ADA
OTHER FREE STANDING CLINICS	NO	NO	TO SERVICE UNIT HOSPITAL
TULSA URBAN	NO	YES	OUHSC-TULSA
OKC URBAN	NO	NO	OUHSC-OKC
CREEK NATION HOSPITAL	YES	YES	NA

WILLIAM P. GIDEON, M. D., M.P.H., DIRECTOR MATERNAL AND CHILD
HEALTH STAFF, SEPTEMBER 8, 1995

V. 36-HOUR REPORTS

Within 36 hours of the initial report, the agency (DHS, IHS, ICW, SS or CPS) which received the report shall follow the telephone report with a written report to the agencies/persons notified under Section IV which contains the following:

- A. The name, address, age and sex of the child that is the subject of the report, including current whereabouts;
- B. The grade and the school in which the child is currently enrolled;
- C. The name and address of the child's parents or other person responsible for the child's care and the current whereabouts of the parents or other person responsible for care;
- D. The name and address of the alleged offender and whereabouts;
- E. The name and address of the person who made the report to the agency;
- F. A brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse;
- G. Any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse, i.e. emergency room reports, previous court cases, etc.

VI. INDIAN COUNTRY JURISDICTION

Upon receipt of the initial report, if possible, or upon receipt of the 36-hour report, BIA or Tribal Law Enforcement will take immediate action to determine if it is probable that the alleged offense occurred in Indian country. For the purpose of further investigation it shall be presumed, unless otherwise established, that if the child or the perpetrator resides in Indian country, the probability exists that the offense occurred in Indian country.

VII. COORDINATION OF LAW ENFORCEMENT

When it is determined by BIA or Tribal Law Enforcement that the probability exists that the offense occurred in Indian country, BIA or Tribal Law Enforcement shall

immediately notify the local Resident Agency of the FBI concerning the Indian country status of the land. The law enforcement agencies will make a determination as to which agency will conduct the investigation or if they will conduct a joint investigation together with each other or any other federal, state or local law enforcement agency. The FBI shall contact the United States Attorney's Office concerning opening a matter for review.

VIII. EMERGENCY REMOVAL OF A CHILD

If immediate removal is necessary, the responsible law enforcement agencies, Indian child welfare worker, and/or child protection services will follow the appropriate procedures for emergency removal of the child.

IX. ASSESSMENT CONCERNING PROTECTION OF A CHILD

The investigative agency or agencies, working together with ICW and the CPT, with input from the MDT, shall make an assessment to determine the following:

- A. the probable facts,
- B. the need for protection of the child,
- C. the need for removal of the child, or continued protective placement,
- D. what other actions need to be taken for the safety and the protection of the child.

This information shall be conveyed to the responsible ICW programs, all members of the CPT, the United States Attorney's Office, and the appropriate tribal or state prosecutorial agency.

X. TEMPORARY OR PERMANENT REMOVAL OF A CHILD

If temporary or permanent removal is necessary, the responsible Indian child welfare worker, child protection service worker and/or law enforcement officer will prepare the necessary information and present it to the proper tribal or state prosecutorial agency for the filing of appropriate court documents.

XI. NEED FOR INCARCERATION OF PERPETRATOR

On a case-by-case basis where, in the judgment of the investigative agency or agencies in consultation with the CPT and/or the MDT, and the Assistant United States

1. VIOLENCE AGAINST WOMEN ACT

The Violence Against Women Act (VAWA) is part of the Violent Crime Control and Law Enforcement Act of 1994 which provides federal tools for the purpose of prosecuting domestic violence, in situations involving firearms or interstate travel or activity.

VAWA allocated funds to the Department of Justice (DOJ) with the intent that such funds be distributed to various communities and used to address issues involving domestic violence in each respective community.

2. CRIMINAL PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT

A. 922(d)(8) and (g)(8)

Prohibits disposal of firearms to, or receipt or possession of firearms by, persons who are subject to domestic violence protection orders.

922(d)(8) Prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.

922(g)(8) Prohibits the receipt or possession of a firearm or ammunition by such person.

Violation of 922(d) or (g) carries maximum 10 year penalty.

1. EVIDENTIARY ISSUES:

Violation of 922(d)(8) must be knowing. Knowledge may be difficult to establish as there is no central registry for protective orders.

"Intimate partner" 18 U.S.C. 921(a)(32) includes spouse or former spouse, but does not include girl/boyfriend with whom defendant has not resided. Includes girl/boyfriend if past or present cohabitation. Also includes parent of a child of the person.

Evidentiary hearing required, in which defendant had notice and an opportunity to appear. Order must include a specific finding that the defendant represents a credible threat to the physical safety of the victim.

Constitutional challenges?

B. Title 18 U.S.C. 2261(a)(1): Crossing a state line

Prohibits travel across state lines, or leaving or entering Indian country, with the intent to injure, harass or intimidate one's spouse or intimate partner where, in the course or as a result of such travel, the defendant intentionally commits a violent crime and thereby causes bodily injury.

1. EVIDENTIARY ISSUES:

Requires specific intent at the time of crossing the state line. Difficult to prove that criminal activity was contemplated at the time the state line was crossed.

Requirement of "intimate partner"

Bodily injury for prosecution under this statute. Ie. Kidnaping with no resulting physical injuries would not fall under this statute.

C. Title 18 U.S.C. 2261(a)(2): Causing the Crossing of a State Line

Prohibits causing a spouse or intimate partner to cross state lines, or leave or enter Indian country, by force, coercion, duress or fraud, during which or as a result of which, there is bodily injury to the victim.

1. EVIDENTIARY ISSUES:

No specific intent requirement. Requires force, coercion, duress or fraud and therefore consent will be a common defense.

The crime of violence must be committed during the course of, or as a result of the travel

"Intimate partner"

Bodily injury

D. Title 18 U.S.C. 2262: Interstate violation of a protective order

Prohibits interstate travel with intent to violate a valid protective order that protects against credible threats of violence, repeated harassment, or bodily injury

1. EVIDENTIARY ISSUES:

2262(a)(1) Specific intent at the time of crossing the state line must be proved.

2262(a)(2) Specific intent not required. Sufficient to prove a defendant caused the crossing of the state line and intended to injure the victim in violation of a valid protective order.

Mutual restraining orders may not conform to the statutory requirements.

Full faith and credit, 18 U.S.C. 2265 provides that protective orders issued by state or tribal officials shall be accorded full faith and credit by the courts of other states and tribes. (Arguably also applies to the federal courts according full faith and credit to other states and tribes)

Police may be unable to quickly determine if a valid order in fact exists. No national data centers for such information. Police may arrest for any underlying crimes and then determine if valid order exists. However, most problematic if there is no underlying crime and time is needed to determine if valid order exists.

E. Related Civil Provisions

1. TITLE 18 U.S.C. 2265 FULL FAITH AND CREDIT

Provides that a civil or criminal domestic protective order issued by the courts of one state or Indian tribe, which is consistent with protective orders as described in the statute, shall be accorded full faith and credit by the courts of another state or tribe, and are to be enforced as if it were the order of the court of the second state or tribe.

Law applies to permanent, temporary and ex parte protective orders, as defined in 18 U.S.C. 2262.

2. EVIDENTIARY ISSUES

Law requires issuing court to have had personal and subject matter jurisdiction over the dispute.

Issuing court must have provided the respondent reasonable notice and opportunity to be heard, consistent w/due process. In the case of ex parte orders, such notice and an opportunity to be heard must have been provided within reasonable time sufficient to protect the respondent's due process rights.

Assault
18 USC 113

Reporting

Every child has the right to be safe, nurtured and protected.

As a result of a listening conference between the tribes and Janet Reno, the MOU was signed on August 29, 1994, between almost every tribe in Oklahoma, the US Attorney's office, FBI, BIA, DHS and IHS. The goal of the MOU is the protection and safety of the child victims and the identification and prosecution of the perpetrator. The cornerstone of the MOU are the reporting requirements and procedures. The number of reports has increased dramatically in the Northern district as in other districts. However, we are still not receiving reports from many incidents of child abuse.

For example, a child suffered severe brain damage when she was violently shaken by the father. The incident wasn't reported to law enforcement because the father agreed to move out. The child abuse criminal investigator found out about the abusive act by an accident. Just because the perpetrator walked out of that child's life, is it any guarantee that another child will not become his victim.

Several statutes require/mandate reporting

18 U.S.C. § 1169 criminal statute
lists persons who have duty to report
Punishment up to six months imprisonment and/or a fine
for anyone who knows or has reasonable suspicion
who fails to report child abuse
to any law enforcement or local child protection services
Any person who supervises, has authority over another person and
inhibits or prevents that person from reporting
shall be fined and/or imprisoned for not more than 6 months

25 U.S.C. § 3201 Indian Child Protection and Family Violence Prevention
Incidents of abuse of children on Indian country is grossly
under reported
There is not resource that is more vital to the continued
existence and integrity of Indian tribes than their children
and the US has a direct interest, as trustee, in protecting
Indian children who are members of, or are eligible for
membership in an Indian tribe
Purpose:
1. require that reports of abused Indian children are made to
the appropriate authorities in an effort to prevent further
abuse
2. establish a reliable data base for statistical purposes and to
authorize a study to determine the need for a central registry
for reported incidents of abuse

3. authorize such other actions as are necessary to ensure effective child protection in Indian country
4. provide for the treatment and prevention of incidents of family violence

§ 3203 Reporting procedures (MOU)

§ 3210 Multidisciplinary teams

1. coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services;
2. develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and
3. provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities

42 U.S.C. § 13031 Public Health and Welfare: Fed. Victims' Protections & Rights

Lists persons who are required to report child abuse:

When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received should be promptly investigated.

Victim-Witness Issue

Prosecutions in Indian country pose special problems, particularly in cases involving witnesses and victims of violent crime. In a small community and within the tightly knit culture of a Reservation, victims and witnesses may weigh the consequences of coming forward. They may be afraid, or reluctant to testify against a friend or relative, or they may not want to risk being ostracized. They may not trust the federal government and the criminal justice system, given its history, and its predominantly non-Indian participants. An most important they may not believe coming forward will make a difference.

III. COMPETENCY EXAMINATIONS

- A. PRESUMPTION - A child witness is presumed to be competent.
- B. COMPETENCY EXAMS - are conducted by the court only upon written motion and proof of incompetency by a party if: compelling reasons exist, a child's age alone is not a compelling reason.
 - 1. PERSONS PERMITTED TO BE PRESENT AT AN EXAM:
 - (a). The judge
 - (b). The attorney for the government;
 - (c). The attorney for the defendant;
 - (d). A court reporter;
 - (e). A person to support the child
 - 2. DIRECT EXAMINATION OF A CHILD
 - (a) Shall not be conducted in the presence of a jury.
 - (b) Examination questions will be provided to the judge by the prosecutor, defense attorney, a party acting as an attorney pro se;
 - (c) a party acting as an attorney pro se cannot directly examine a child on competency unless the court is satisfied it will not cause trauma;
 - (d) Questions asked of a child shall be appropriate to the age and development level of the child and shall not be related to issues at trial;
 - (e) The focus shall be on determining the child's ability to understand and answer simple questions;
 - 3. PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATION - shall not be ordered without showing compelling need.

IV. PRIVACY AND PROTECTION ISSUES OF CHILD VICTIMS & WITNESSES

- A. CONFIDENTIALITY OF INFORMATION - The attorney for the government and all others connected with a criminal proceeding involving a child shall:
 - 1. KEEP ALL DOCUMENTS - That disclose the name or any other information concerning a child secure and from general or public access;
 - 2. DISCLOSE DOCUMENTS OR INFORMATION - only to persons who by reason of their participation in proceedings have reason to know such information:
 - (a) Government employees connected with the case; DOJ employees and law enforcement
 - (b) Employees of the court;
 - (c) The defendant, the defense attorney, and persons hired by the defendant or attorney for the case;
 - (d) Members of the jury;

3. FILING UNDER SEAL - All papers filed in court that disclose the name or any other information concerning a child shall be filed under seal without court order
 - (a). The complete paper to be kept under seal;
 - (b). The paper with information on the child redacted for the public record;
4. PROTECTIVE ORDERS - On motion by any person the court may issue an order protecting a child's name or any other information concerning a child in the course of court proceedings if disclosure would be detrimental.
5. DISCLOSURE OF INFORMATION DOES NOT INCLUDE;
 - (a) The defendant or attorney for the defendant;
 - (b) Multidisciplinary child abuse team;
 - (c) Guardian ad litem or adult attendant;
 - (d) Others necessary to the well being of the child;

V. NON-TRADITIONAL ALTERNATIVES TO AID CHILDREN IN COURT

- A. CLOSING THE COURTROOM - When a child testifies, the court may order exclusion of all persons, including members of the press, who do not have a direct interest in the case. If the court determines on record to do so would result in the child's inability to testify or cause psychological harm to the child.
- B. SPEEDY TRIAL - Upon motion by the government or guardian ad litem, or on its own motion, the court may designate a case involving children as being of special public importance and expedite the proceedings over any other;
 1. MINIMIZE TIME - the child is involved with the criminal process;
 2. CONTINUANCE - The court must consider the age and potential impact a delay may have on the child;
- D. MULTIDISCIPLINARY TEAMS - The court shall work with State and local governments that have teams to assist children throughout the court process. Professional services are:
 1. Medical diagnoses and evaluation services;
 2. Telephone consultations in emergencies;
 3. Psychological and psychiatric diagnoses & evaluation;
 4. Expert medical, psychological, and related testimony;
 5. Case service coordination, assistance and referrals;
 6. Training for judges, litigators, and court officers;



APSAC

AMERICAN PROFESSIONAL SOCIETY ON THE ABUSE OF CHILDREN

PRACTICE GUIDELINES

Photographic Documentation of Child Abuse

STATEMENT OF PURPOSE

The APSAC Guidelines for Photodocumentation of Child Abuse are designed to inform the clinician of current relevant photographic techniques and principles. Not all aspects of the guidelines will be applicable to every practice setting; this document is not presented as a rigid standard of practice. As in all aspects of medical practice, clinical judgment must be utilized in determining the practicality and applicability of the guidelines in each individual case.

Photographic documentation of significant findings is an important part of any child abuse evaluation. The American Medical Association diagnostic and treatment guidelines for the abused child recommend that all visible lesions be photographed. Many state child abuse statutes require that reasonable efforts be made by the reporting health care institution to take or cause to be taken color photographs of any visible trauma. Whenever possible, practitioners evaluating abused children should assure adequate photographic documentation of visible lesions either by taking the photographs themselves or by seeing that they are taken by someone competent in photographic techniques.

Since photographs preserve often fleeting physical findings they serve several useful purposes. Photographs can be reviewed after the examination to confirm findings or to discover previously unnoticed findings. If the magnification is precisely known, measurements can be obtained directly from the photograph. Photographs taken during an initial examination can provide a standard for subsequent comparison. Likewise, should a second opinion be required, photographs may save the child from the trauma of a repeat examination. In court, photographs can provide a powerful and convincing statement where a simple verbal description might fail. High quality photographs of significant physical findings may be important in influencing courts to adjudicate that child abuse has taken place. Even when not directly used in court, photographs may serve to enhance testimony by jogging the examiner's memory of specific findings. Photographic findings can be discussed among colleagues and consultants or can be compared to recent published data, enhancing technical and interpretive skills.

The following discussion outlines critical principles of photographic documentation of child abuse. More detailed reviews are noted in the accompanying bibliography. The principles outlined here apply equally to the physically and the sexually abused child. In addition, photographs can be useful in documenting neglect and failure to thrive. Some examiners routinely photograph even normal genital colposcopic examinations. Though not required, this practice may have comparative value if the same child is reexamined later.

Important as photographs are, they should never be relied upon exclusively. Both color and size can be distorted in the photograph; film can be destroyed or lost. Medical records should always contain clearly written and detailed descriptions of the dimension, shape, color, size and location of lesions. Detailed drawings of the lesions are always useful, and are necessary if photographs can't be taken.

EQUIPMENT

Necessary equipment includes an adequate camera, lens, lighting, and film.

CAMERA AND LENS

The most important part of the camera for photographic documentation of abuse is the lens. Although new technologies are emerging, such as video-colposcopy and computer-based digital imaging, practitioners need not have access to such expensive equipment to provide adequate photographic documentation of abuse. The standard camera needed is a well-made 35mm single lens reflex. The ideal lens for medical photography should have good optics, macro or close-up capability up to 1x (the image on the negative or transparency is magnified to life-size), and medium telephoto focal length to minimize distortion (85-105mm). Attached to a 35mm camera, a macro lens allows photographs of fine anatomic detail otherwise not easily documented.

An acceptable, inexpensive alternative is the "bridge" camera, which combines the ease of use of automatic cameras with the flexibility of manual cameras. "Bridge" cameras incorporate telephoto (generally in a "zoom" range from 35mm to 70mm, 90mm, even 110mm) and limited macro capability (up to 0.25x), built in flash, auto focus, motor drive, and databack options. The databack imprints the time, date, and an identifying code on each frame of a roll of film. If you purchase a "bridge" camera, be sure to consult the documentation for information on the camera's focusing range.

Camera features of value when photographing children include motor driven film advance and fast recycle flash (under five seconds is preferable). These features expedite a photographic session which, under the best circumstances, might be uncomfortable or embarrassing for the child. A remote shutter control for the child to use can give the child an increased sense of control over a strange situation.

Inexpensive fixed-focus (as opposed to variable manual or auto focus) cameras should be avoided. Likewise, instant processing cameras provide poor resolution and poor color rendition when compared to 35mm cameras and film. Instant processing cameras should be used only when there is a need for immediate documentation; when instant processing photos are taken, 35mm photographs should always be taken as well. Close-up adapters, often called "close-up kits," can be used on 35mm lenses if a macro lens is unaffordable; adapters are less desirable, however, because they darken the image through the viewfinder, and can result in grainier images and lost shadow details.

LIGHTING

A flash should always be used when shooting indoors with daylight film. Without a flash, pictures taken under fluorescent lighting on daylight slide film will come out green; pictures taken under tungsten lighting without flash will be orange-brown. Although three-source studio-style lighting is the ideal, it is often impracticable. The best alternative for indoor, color, medical photography is the electronic flash. Modern through-the-lens metering systems combined with automatic exposure control are easy to use and versatile. A ring flash is best for shadowless, uniform illumination.

FILM

The standard for medical use is 35mm color slide film, sometimes called color transparency or color reversal film. ISO 100 or 200 film offers the best combination of speed and resolution. Because duplicating slides or prints sometimes alters color and resolution, at least two photographs should be taken of each view, and a commercial processing laboratory should be used to assure quality control and standardization.

PHOTOGRAPHING CHILDREN

It is important to explain to children who are being photographed what is going to happen in language they can understand. Allowing children to try out the camera and flash often aids in gaining their trust. A remote shutter control, which the child activates at the photographer's direction, can give the child an increased sense of control.

Children being photographed should be allowed to assume a position of comfort. It is far better to have a cooperative child, somewhat out of optimal photographic position yet not moving, than an uncomfortable or moving child.

Some children may refuse photographic documentation despite the photographer's best efforts to put them at their ease. Sexually abused children may be more likely to perceive ano-genital photography as invasive and express a desire not to be photographed. This desire should be respected. Any concerns which a child or parent has should be discussed openly.

LEGAL CONSIDERATIONS

STATE STATUTE

The laws of a number of states address photographic documentation in suspected cases of abuse. Many states require that reasonable efforts be made by the reporting hospital staff member to take or cause to be taken color photographs of any areas of visible trauma on the child. Many states provide for immunity from civil or criminal prosecution for the institution reporting and the person arranging for or taking photographs if these steps are taken in good faith. Many child abuse laws state that permission is not needed for photographing evidence of suspected abuse. All practitioners responsible for taking photographs or causing them to be taken should be thoroughly familiar with relevant state law.

CHAIN OF EVIDENCE

Each institution should have a policy for the handling, storage and release of photographs. An unbroken chain of evidence is important in a criminal proceeding; in a civil case, where the photographer's testimony can verify that the photographs are representative of a particular subject, such a chain of evidence may be less critical. For an unbroken chain of evidence, film should change hands as infrequently as possible. With each transfer, the signature of an authorized recipient should be affixed to a list of the materials received and include date, time and place. Outside lab processing is acceptable even if the lab does not sign for the film if sending film out is the normal business procedure for the institution. Courts usually accept films sent to a standard commercial processing laboratory for processing via first class mail as an unbroken chain of custody. In order for photographs to be used as court evidence they must be (1) relevant to the issue, and (2) properly verified. Relevance is a judicial decision. Photographs may have evidentiary value yet be deemed prejudicial to the defendant. Whether the probative value outweighs the prejudicial danger remains a decision the trial judge must make with each case. Photographs are generally considered admissible, however, if they shed light on the issue, enable a witness to describe better the objects portrayed, permit the jury to understand better the testimony, or corroborate testimony.

ADMISSIBILITY

Verification requires that the photographer or practitioner testify that the pictures accurately portray the findings (i.e., are of the specific child on a specific date and time). From a medico-legal perspective, photographs of abused children should convey a fair and accurate representation of the scene. Medical photography must show injuries as realistically as possible and should not be used to enhance or exaggerate trauma. Photographs should demonstrate both the scale and the anatomic location of the trauma.

DOCUMENTATION

To help verify that the photographs are actually of a particular child, one picture can be taken of the child's name and one of the child's face. Likewise, an identifying sign may be placed in the frame for each picture. An alternative for identification of the film is the use of a camera databack which imprints the time, date, and an identifying code on each frame.

Once processed, the slides or prints should be reviewed and labeled. At a minimum, the slide should be labeled with a medical record number and the date the photographs were taken. For full documentation, each print or slide should be labeled with the name of the child, age, date of birth, date and time of photograph, hospital number, name of photographer, and name of practitioner. The description, dimensions and coloration of significant findings, which have been noted in the original medical record, can also be noted on each photo. Any discrepancies between photos and the written description and drawing should be noted.

The photographer should be able to state how the photograph was taken. Practitioners should not, however, portray themselves as photography experts. This might lead to questions on obscure optic and film concepts and potentially discredit the medical witness.

COMPOSITION

All recommendations regarding the composition of photographs are contingent upon concerns about the child's physical and emotional comfort. The ideal composition is an aim that may be unattainable in the real world.

At least two types of photos should be taken of each finding: one which includes identifying anatomic landmarks, and one close-up with the lesion filling the frame. Magnification should be accomplished by varying camera distance and/or focal length; do not depend upon the print- or slide-making process for obtaining the close-up details you need.

Taking a number of shots from different angles and distances is quite useful, since electronic flash may produce unpredictable reflections. It is desirable but not always possible to have a standard set of views for each area of the body photographed. The four cardinal anatomic positions anterior-posterior, posterior-anterior, right and left lateral, should be kept in mind when photographing children. However, young children may not cooperate with such positioning plans. In that event, take pictures from as many different angles as is useful and practicable.

Insofar as possible, the anatomical area should be photographed from a normal viewing angle. In most cases, the camera lens should be perpendicular to the finding being photographed. The texture of abrasions or bites can best be delineated by

offsetting the camera to subject axis by 15 degrees. This allows the light source to glance off the lesion creating contour shadowing. The background wall should be nonreflective, ideally a matte finish neutral gray, green or blue.

The size of lesions should be documented on the photograph by including a measuring device such as a metric ruler in the field of the photograph. Though awkward, a standardized color bar may be placed in the photographic plane for comparison to the subject color as well. Because color photography can be difficult, if coloration is important take detailed notes about the color. It is sometimes useful to photograph burns, dirty abrasions, even unkempt children both before and after cleaning.

Forensic bite mark photography is a specialized branch of medical photography and best left to a forensic dentist or pathologist. Similarly, photography of retinal hemorrhages and other eye injuries should be requested from ophthalmologic consultants.

CONCLUSION

Photographically documented corroborative physical evidence of the abused child can be important. However, a normal examination, particularly of a sexually abused child, does not exclude the possibility of abuse. Indeed, most cases of sexual abuse present without current physical evidence. Important as they are, photographs cannot substitute for a sensitive medical-legal history, or for scrupulous recording of every aspect of physical findings.

BIBLIOGRAPHY

Cordell, W., Zollman, W., and Karlson, H. (1980). A photographic system for the emergency department. *Annals of Emergency Medicine*, 9, 210-214.

Flower, M.S. (1974). Photographs in the Courtroom: Getting it Straight Between You and Your Professional Photographer. *North Kentucky State Law Forum*, 2, 184-211.

Myers, J.E.B., and Carter, L.E. (1988). Proof of physical child abuse. *Missouri Law Review*, 53, 189-224.

Reeves, C. (1986). Pediatric photography. *Journal of Audiovisual Media Medicine*, 9, 131-134.

Ricci, L.R. (1988). Medical forensic photography of the sexually abused child. *Child Abuse and Neglect*, 2, 305-310.

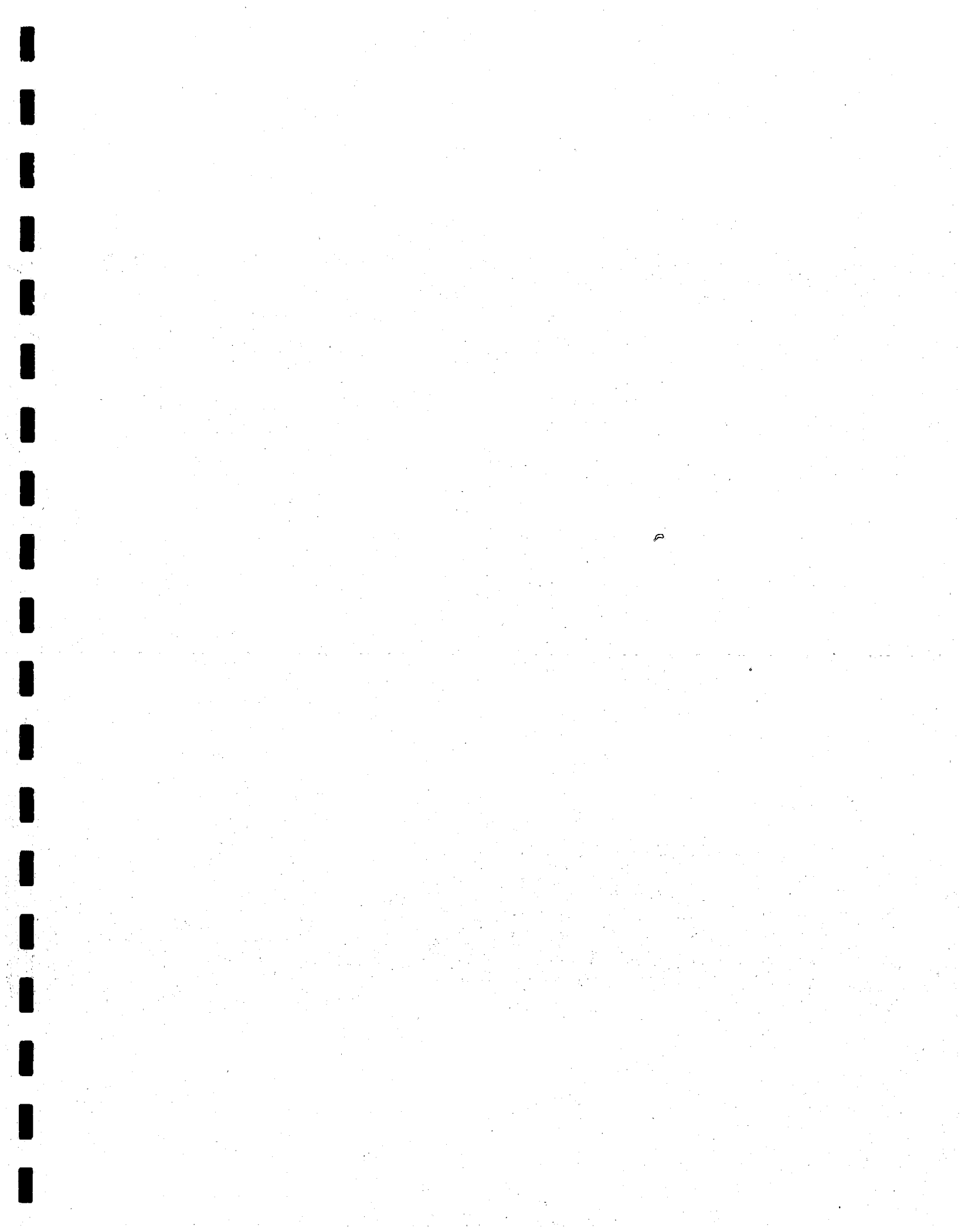
Ricci, L.R. (1991). Photographing the physically abused child: Principles and practice. *American Journal of Diseases of Children*, 145, 275-281.

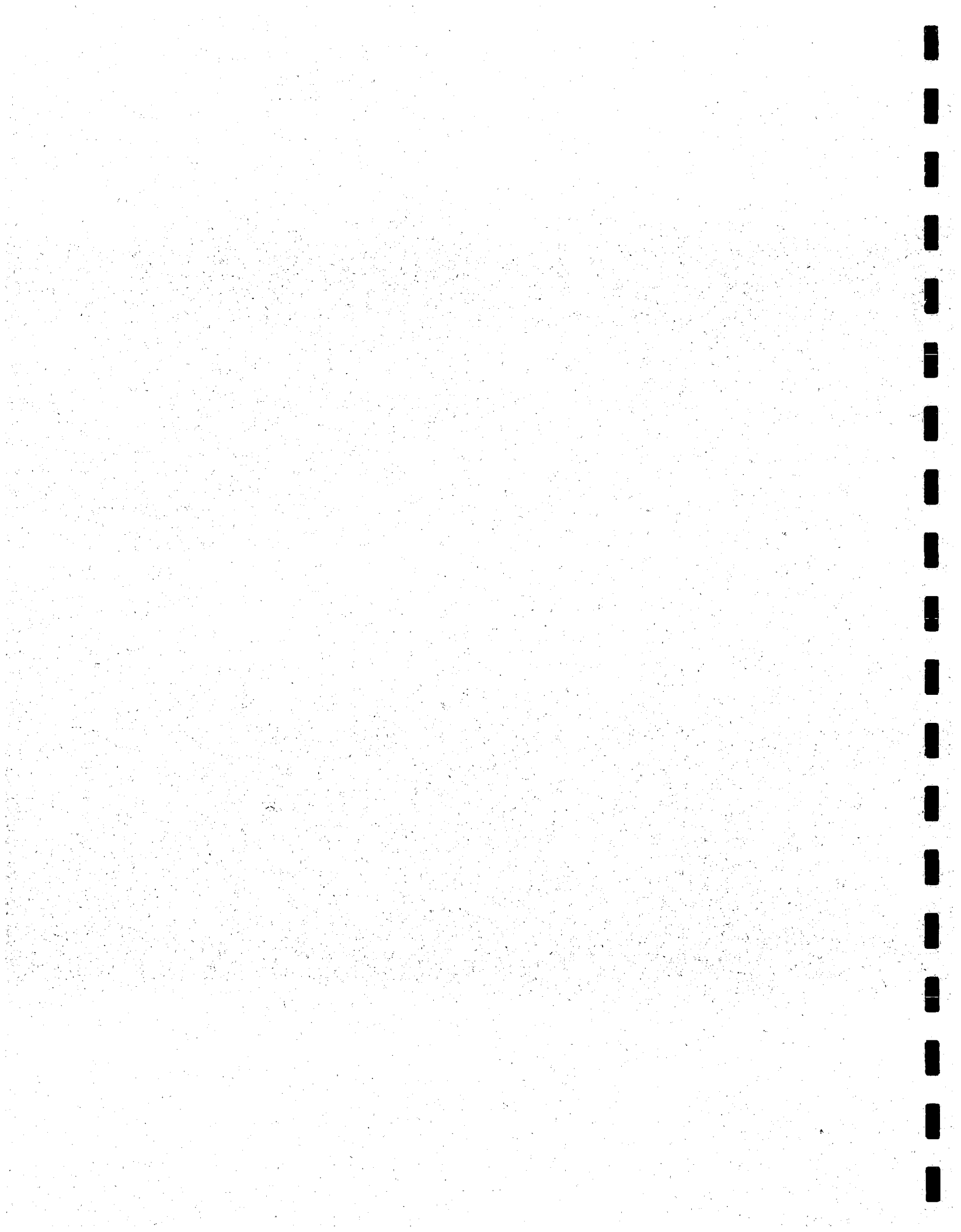
Smistek, B.S. (1991). Photography of the abused and neglected child. In Ludwig, S., and Kornberg, A.E., eds, *Child Abuse: A Medical Reference*. New York: Churchill Livingstone.

Woodling, B.A., and Heger, A. (1986). The use of the colposcope in the diagnosis of sexual abuse in the pediatric age group. *Child Abuse and Neglect*, 10, 111-114.

ACKNOWLEDGEMENTS

These Guidelines are a product of the Photodocumentation Subcommittee of the APSAC Task Force on Medical Evaluation of Suspected Child Abuse. Lawrence R. Ricci, MD, Chaired the Subcommittee. These Guidelines have been through several drafts, which were reviewed by members of the Task Force on Medical Evaluation, by APSAC's general membership through publication in *The APSAC Advisor*, and by APSAC's Board of Directors. Like all APSAC Guidelines, these will be updated periodically as new information becomes available. Comments and Suggestions should be directed to Lawrence R. Ricci, MD, c/o APSAC, 407 South Dearborn, Suite 1300, Chicago, IL 60605.





**TO HONOR CHILDREN:
CHILD ABUSE
INTERVENTION IN INDIAN
COUNTRY**

Dolores Subia BigFoot, Ph.D.

Director

PROJECT: MAKING MEDICINE

IHS-Training In Treatment of Child Physical And Sexual Abuse

Center on Child Abuse and Neglect

University of Oklahoma Health Sciences Center

P. O. Box 26901

Oklahoma City, Oklahoma 73190

405-271-8858

Presented at the 22nd Annual North American Victim Assistance Conference

August 15, 1996

Tulsa, Oklahoma

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Biographical Statement

Dolores Subia BigFoot, Ph.D., is an Assistant Professor in the Department of Pediatrics at the University of Oklahoma Health Sciences Center and was a Visiting Professor at the University of Oklahoma Native American Studies Program. Dr. BigFoot is the Director of Project: Making Medicine. She is a consultant to tribes, state, and federal agencies in child abuse, traditional American Indian parenting, and historical trauma and grief. She has been very instrumental in including American Indian traditional teachings and beliefs in the delivery of services to American Indian communities.

ABSTRACT

The presentation describes Project: Making Medicine, a program to train Indian Health Service and Tribal Mental Health Professionals in the treatment of child physical and sexual abuse. Project: Making Medicine is part of the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center and is funded by the Indian Health Service through an interagency agreement with the National Center on Child Abuse and Neglect. Project: Making Medicine consist of four training components:

- (1) 40 hours of training in the treatment of child physical and sexual abuse;
- (2) 40 hours of training in supervision and consultation on child physical and sexual abuse;
- (3) weekly phone consultation with Core Faculty Members; and
- (4) on-site visits for training and consultation to community members, agency personnel, and professionals (medical, social work, education, law enforcement, etc.) by the Core Faculty Members. Project: Making Medicine integrates traditional western psycho-therapeutic techniques and research with traditional American Indian teachings and healing practices. As part of the training curricula, the participants are exposed to and participate in different orientations on mental health from various American Indian perspectives. Historical influences are explored as it impacts child abuse, family violence, substance abuse, and cultural oppression in contemporary Indian communities. Community involvement and child advocacy are re-defined from an American Indian worldview.



PROJECT: MAKING MEDICINE

Indian Health Service: Training in Treatment
of
Child Physical and Sexual Abuse
Center on Child Abuse and Neglect
University of Oklahoma Health Sciences Center

COMPONENTS OF PROJECT: MAKING MEDICINE

Core Faculty

Consulting Faculty

National Advisory Board

Five-days reference based training seminars

- (1) Clinical Training in Treatment of Child Physical and Sexual Abuse
- (2) Supervision and Consultation Training in Clinical Treatment of Child Physical and Sexual Abuse

Trainer's Manuals

Ongoing Consultation and Technical Assistance

Evaluation

- (1) training,
- (2) weekly consultation; and
- (3) on-site visits.

American Indian/Native American Orientation
THERAPEUTIC APPROACHES

Dolores Subia BigFoot, Ph.D.

Project: Making Medicine

IHS- Training in Treatment of Child Physical and Sexual Abuse

Talking Circle/Healing Circle/Sacred Circle/Talking Stick

Medicine Wheel - teachings, worldview, color, direction, animals, instruction

Sacred Tree

Sweat Lodge - song, fire, heat, cold, prayers, teachings, offerings, drumming, water, whistle

Long House - song, prayers, drum

Smudging - cedar, sweetgrass, sage, herbs, medicine, roots, berries

Ceremonies/Rituals - Sundance, Arrow Renewal, Green Corn Dance, naming ceremonies,
piercing ceremonies,

Vision Quest - prayer, teaching, guidance, fasting, visions, animals, birds, feathers

Rites of Passage - Pledge, Dance, Sweat, initiation

Medicine Man/Medicine Woman/ Traditional Healers

Elders - teachings, stories, family history, tribal history, social mores, kinships

Traditional teachings - symbols, colors, direction, stories, legends, tribal history

Spirit Guides - feathers, birds, animals, bones, fans, clothing, nature, earth, sky

Native/Traditional Language - songs, music, words

Prayer - music, songs, chanting, words, smoke, tobacco, smudging

Drumming/Singing - prayers, song, kinship, offerings, colors, social mores

Pipe Ceremony

Pottery, Weaving, Beading, Quilling, Basketry

Fasting/Mediation

Offerings - tobacco, cloth, colors, food, water, bones, beads, shawls, shirts, horses

Painting Ceremony

Sacred sites - burial grounds, ceremonial grounds,

Green Corn

Gourd Dance

Feast Days

Clan Ceremonies

Annual Gatherings: PowWows, Benefits, Memorials

Annual, renewal, and/or healing ceremonies that are tribal, clan, village, band, or pueblo specific may have special requirements and may be by invitation only.

TO HONOR CHILDREN

Dolores Subia BigFoot, PhD

PROJECT: MAKING MEDICINE

IHS-Training In Treatment of Child Physical And Sexual Abuse
Center on Child Abuse and Neglect
University of Oklahoma Health Sciences Center

The purpose of this section is to help parents understand the basis for a behavioral approach and how that can increase their confidence as caregivers and caretakers of their children. Children are the center of the circle for the family. Honoring the child has been a long tradition for many tribes, and Chief Dan George captures the feeling toward children with the words "touch a child--they are my people." Children need and desire the warmth, concern, and encouragement parents, grandparents, aunts, uncles, brothers, and sisters can give them. The nurturance and guidance by caregivers was the "planting of good seeds" within the child to direct the child's thoughts and actions in helpful ways. When an Indian woman discovered she was carrying a child within her, she would actively engage in song and conversation with the yet unborn child so she may touch the unborn spirit with words and intent. This was to ensure that the infant knew it was welcome and that a foundation was being laid for planting the seeds of respect and love. This new life was viewed as being eager to learn and a willing seeker of those traits that would help in knowing and in understanding self and others. One assumption that Indian people made about childhood was that each infant possessed the qualities to develop into a worthwhile individual.

The caregivers were many - they were all members of the clan, band, society, or guild that made up the extended family system. The caregiver's responsibility was to nurture and expand the positive nature of the child, to touch the child with honor and respect. Because a child was considered a gift from the Creator, the caretakers had the responsibility to return to the Creator an individual who respected self and others.

Within the family, children, parents, and grandparents were secure in their relationships with each other because adults would consistently tell children who they were and where they came from and who they belong to. Children respected their parents, but just as important was the parents' respect for the children. Children knew they were the center of existence for all family members. They were honored by celebrations and feasts given by relatives that left no doubt as to the children's worth and value. Today some children continue to be honored by first laugh or birthday celebrations, graduation dinners, first tribal dance, first sweat, school or athletic achievements, or for other kinds of accomplishments.

Children were valued because few survived infancy and fewer reached adulthood. Until recently, the American Indian infant mortality rate was one of the highest in the nation.

Children were not granted unlimited freedom and total permissiveness. Discipline was important and was used both directly and indirectly. Ignoring behavior or eventual removal of the infant from the family surroundings were practices the caregivers used to discourage undesirable behavior while attention and praise was given to encourage desirable behavior from the child. As the child grew into adolescence and adulthood, shunning became an extension of ignoring and removing behaviors; it was the negative reaction by the community to inappropriate behavior or violation of cultural practices. An extreme form of disapproval would be banishment from the tribe. As the child developed, additional boundaries were set by increased use of community pressure in the form of shaming, teasing, ridicule, disowning, throwing away, and

shunning. Teasing, shaming, ridiculing, and being laughed at were powerful deterrents to actions that were considered inappropriate, harmful, shameful, or of little value. Some tribes used other methods such as scratching or physical exercise, for instance, scratching long marks down the arms or being a runner between villages. Physical punishment was an extreme form of discipline but used if the situation seemed to call for it. Teaching was situational bound; thus, when a learning situation presented itself, the caregiver took advantage of it. Caregivers also used threats of the supernatural or other powerful mystical figures from the tribal legends to control behavior. Most tribes had tricksters, clowns, or whipper men who were used as threats to scare children. Boundaries and limitations would consistently be reinforced by all the members of the family. Clearly defined tribal norms and customs governed how the child was to act, in fact, governed how all members were to act. Expectations about what was appropriate behaviors were clear and practiced by everyone. Kinds and degrees of punishments were known for the various infractions that could occur. Retribution was known and expected.

Chastisement was the duty of aunts, uncles, or other adults, rather than the parent. This was to promote the parent/child bond and not to strain or create conflict in the relationship between the parent and the child. Discipline was structured toward increasing the child's understanding of what effect his/her behavior had on others and what was desirable or good behavior. Inappropriate actions on the part of the child was not interpreted as the child being a "bad" child. Instead, it was assumed that misbehavior was due to not knowing, or not understanding what was expected, or the child had not learned sufficiently, or the child was not taught correctly, or the child need to learn more wisdom. The message given to the child was that behavior could be beneficial and helpful or the behavior could be distrustful and harmful. therefore, what the child did affected those around him, either in a good way or a bad way.

Caregivers were more likely to follow the principle of non-interference in guiding the behavior of children. Children were told what behavior was expected using direct and indirect instruction and examples by tribal stories they listen to, by watching others, or by the teaching of the caregivers. Rather than restrict the child, he or she was allowed the freedom to be interested in things about them as long as custom was not violated nor danger imminent. Children were informed on acceptable custom and actions and why certain behavior was to be avoided. For example, if an infant just learning to crawl would approach a fireplace, he was removed again and again without reprimand. The caretaker would seek to distract the child from his initial focus. Interesting items would be placed in the opposite direction to draw the child's attention away from the fire. The caregiver would try to divert the child's attention to other sounds, colors, or objects. If the child continued to approach the fire, the caretaker would watchfully let the child experience the heat and use the opportunity to impress upon the child the gift from the fire with the need also to respect it. Though young in years, an explanation by the caregiver would be given to the child about the dangers associated with fire when it is not respected. If persistent, the child was allowed to experience the natural outcome of his/her behavior. This was considered being responsible for one's actions, but yet, the caregiver did not intervene. Children, as they grew, knew the behaviors they were supposed to engage in and those behaviors that would be signal disrespect. Disrespect was viewed as disregarding the fundamental principles that helped the whole tribe to exist. Each individual was responsible for the traditional teachings that benefited the entire community with those principles governing the social order to made it work. Patience would be exhibited by the caregiver for it was his or her duty to help the child comprehend his/her responsibilities. Lengthy explanations by the caregiver were expected to be given over and over again for the child to appreciate the teachings and the necessary behavior. It was understood that nothing was separated out - actions, thoughts, beliefs, practices, attitudes took time to be taught.

Indian parents knew they could encourage behavior by acknowledging those traits that would be helpful as the child grew into adulthood. Desirable traits, behaviors, and actions were described by various family members as they interacted with the child on a daily basis. Examples would be a parent saying the following to a child: "My son brings me pride because he helps me with the fire." Or, "My daughter is considerate of my old bones because when I move about, she watches and helps me as I rise." Comments were directed toward children to show how important their actions were. Even small efforts on the part of children were praised and acknowledged by the different family members. Words of "tending that good seed" that honored children and showed respect for their endeavors were constantly given. Verbal praise may not have been given directly to the child; rather the child's efforts and accomplishments were noted by a giveaway, dinner, or re-naming. A grandparent might offer to sponsor a giveaway for a child, with the unspoken assumption that other family members would be willing to assist and prepare for the event. The child would then observe the efforts by the family members to arrange the giveaway in his/her behalf. Highly valued items were assembled by the family members which would be given to non-related individuals who exemplified the traits developing in the child. All activity at the giveaway would center on the child. The songs, music, items, acknowledgments, honoring, and prayers expressed would be for the child's continued success into adulthood. The grandparent or other honored person would stand before the gathering and announce the reason for the giveaway and how it was to honor his grandchild. and in this way to praise the child for who the child was. Sometimes a giveaway was spontaneous with the caregiver removing their personal items of clothing, jewelry, or other possessions to acknowledge the occasion.

Many times small items would be given inconspicuously to a child by an adult with a comment such as, "I am giving this to you because you always listen to your parents; you always seem happy to obey them." Statements of appreciation, affirmations, songs, prayers, and gifts were ways of directing the behavior of children in a positive manner.

The use of praise to encourage positive actions is an old method of rearing children. Learning theory has advocated the use of praise as a means of increasing desired behavior. It also proves the terminology and system of implementation. However, the principle of honoring children has been done for untold generations of Indian families.

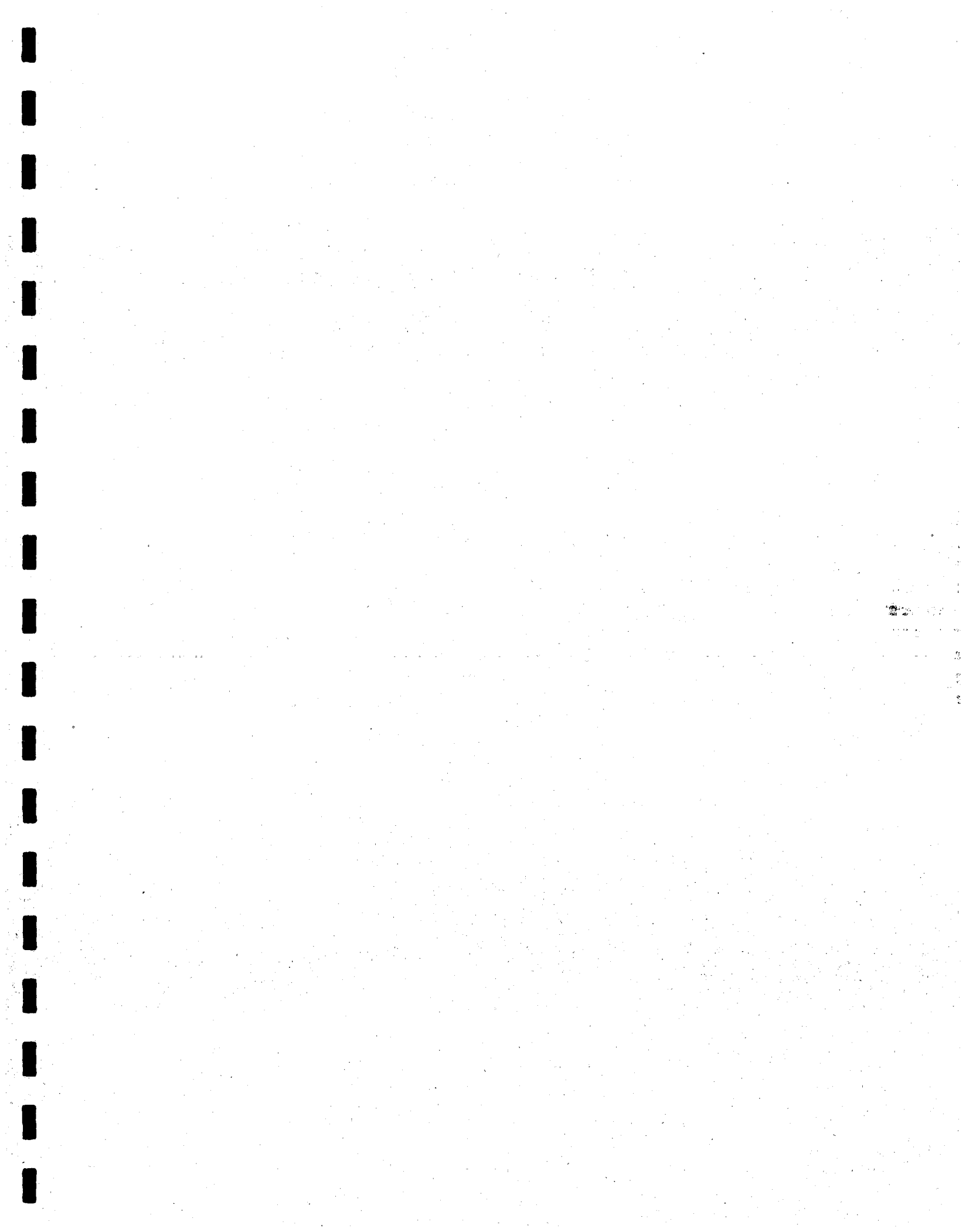
Today families maintain an "honoring" system that continues to use the honor dances, benefit dinners, celebrations, or feasts common in Indian communities. Encouragement and praise is given to the individual by the honor of the event itself. The system works at the general level, but can also be applied in the home environment to encourage the behaviors that are in harmony with family expectations and values.

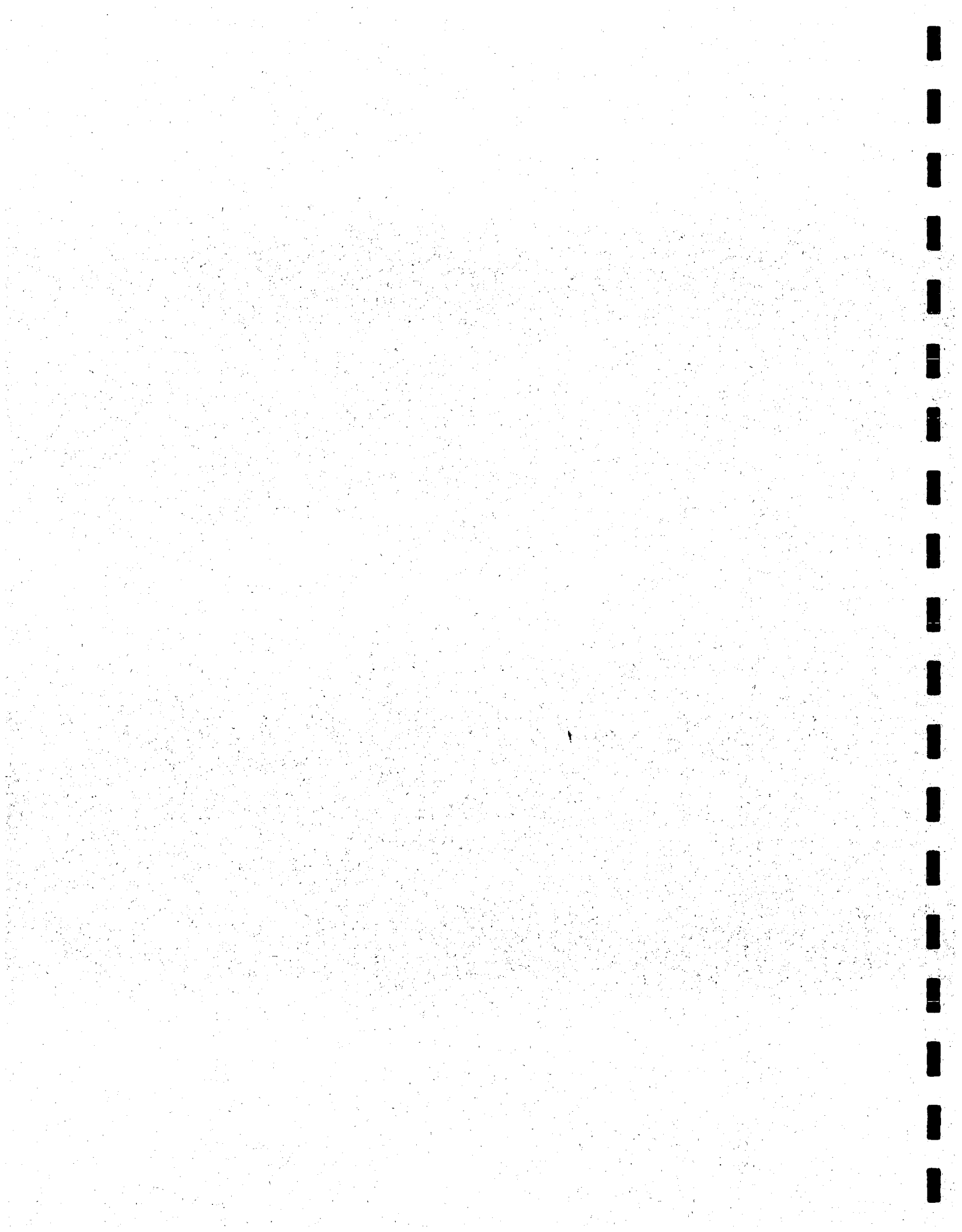
Family members can be re-taught the principle of planting "good" seeds that uses praise and encouragement to motivate and increase desirable thoughts and actions. However, it is usually more typical of family members to recognize the negative behaviors than the positive ones. So, care must be taken to change the focus of interaction between parents and children if parents normally focused on the negative. Caregivers could learn to distinguish between different types of behaviors and actions and can learn to respond consistently in a way that would be beneficial to the development of their children.

This is the heritage that we bring to our Indian children - the planting of good seeds with the touching of children "for they are our people."

The original of this section appeared in "A Parent Training Manual for American Indian Families," a dissertation published in 1989

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Victim Advocacy in Indian Country

Eidell Wasserman, PhD

Wasserman, Leviton, and Hodder Consulting
Sebastopol, California

Barbara Scott

Director
Southern Ute Services Program
Durango, Colorado

Presented at the 22nd Annual North American Victim Assistance Conference
August 15, 1996
Tulsa, Oklahoma



**Victim Advocacy in Indian Country: The Role of
the Victim Advocate
Workshop**

Eidell Wasserman, PhD
Wasserman, Leviton, and Hodder Consulting
Sebastopol, California

**Presented at the 22nd Annual North American Victim Assistance Conference
August 15, 1996
Tulsa, Oklahoma**



Biographical Statement

Eidell Wasserman, Ph.D., is a clinical psychologist with extensive experience in providing direct services to victims of crime, including working with Native American crime victims. Dr. Wasserman has provided services to develop a reservation-based victim assistance program for victims of child sexual abuse, including program development and evaluation, provision of direct clinical (psychotherapy) services to victims and their families, staff supervision, interactions with State VOCA Administrators, and participation on multidisciplinary teams addressing child sexual abuse, including tribal court personnel, law enforcement officers, and with the U.S. Attorney' Offices. She has provided training and technical assistance to tribes and state programs on victimization and is a consultant with several state and national organizations to provide training to programs delivering services to Indian victims of crime. She is also active with state and national organizations to advocate for victims' services.

Abstract

This presentation will describe issues that impact delivery of services and the process of developing a method for advocating for victims of crime in Indian Country. It will focus on the coordination of services and how victim advocacy in Indian Country may be implemented at different levels.



A. Presenter's Biography:

Barbara Scott

Ms. Scott is a Southern Ute Tribal Member and is a descendant from the Folding Arm Clan and the Bear Clan of the Navaho Nation. Current employment is as the Director of the Southern Ute Victims Services Program which was established in 1994. She is a temporary consultant for the Global Ministries of New York regarding a transitional living shelter for Native American Women and Children. Past employment included, Executive Director of the Home for Women and Children a Non-Profit Domestic Violence Shelter on the Navaho Reservation in Shiprock, NM. Case manager for a Community Corrections Program in Durango, CO. Probation Officer and one of the first Female Wildlife Officer for the Southern Ute Tribe in Ignacio, CO. In the spring of 1994 Ms. Scott represented indigenous women of North America in Cochabamba, Bolivia, at a worldwide conference regarding domestic violence issues. She has given presentation to numerous organizations on the subjects of Domestic Violence and the special needs of working with the Native American population through out the United States.

B. Abstract of Presentation:

Interactive group participation will be to assist the participant in self healing and healing as a community. Recognizing the numerous barriers regarding working with Native American communities. Barriers including Multi-generational Trauma, Alcohol Abuse, Substance Abuse, and lateral violence.

C. Outline of Presentation:

1. Group Activity-Ice Breaker-Card Game/Balloon Game
2. Discuss group activity-identify uniqueness of each community
Focus on community coordination of victims programs
3. Share uniqueness of Native American cultures and victims issues.
IE: Death
Domestic Abuse
Sexual Assault
4. Video- Culturally Appropriate

100

VICTIM ADVOCACY IN INDIAN COUNTRY: THE ROLE OF THE VICTIM ADVOCATE

Eidell Wasserman, Ph.D.

The formal role of Victim Advocate is a somewhat new position in Indian Country. Beginning in the 1980's with the Office for Victims of Crime's (OVC) discretionary grant program for victim assistance in Indian Country (VAIC), formal Victim Advocate positions were developed. However, the concept of members of the community helping each other is ingrained in Native cultures. In fact, some tribal victim assistance programs derive their name from the tribal term for "people helping people," or other similar sentiments.

Just as the term "Victim Advocate" may be new for Native communities, the responsibilities of the person within this role may also be unclear. This paper will explore the potential range of responsibilities of the tribally-based Victim Advocate. Each community must define its own needs and define the Victim Advocate's role for itself.

There are many considerations for tribes desiring to start a Victim Advocacy program and those tribes which already have such programs. Some of the issues which need to be weighed include: where the program will be located, what type of supervision will be provided, what types of services will be offered, the level of involvement the Advocate will have in multidisciplinary teams, the role of the Advocate in state and federally prosecuted crimes, and the meaning of the term "Advocate."

Victim Advocates are housed in a variety of departments: Social Services, Behavioral Health, Prosecutor's Office, Law Enforcement, Domestic Violence Shelters, Private Non-profit Agencies, and even stand-alone programs. The location of the victim advocacy program is an important consideration. Community perception of the program may be initially influenced by which department houses the Advocate. The organizational placement of a victim advocacy program leads to differing community expectations. A program which is placed within the police department, for example, may imply that the Advocate is associated with law enforcement and will be acting on behalf of the police, not the Victim. On the other hand, the Advocate based in the police department may have a good relationship with the police and easy access to referrals from law enforcement officers.

Every Victim Advocate needs supervision, both administrative and clinical supervision. The placement of the Advocate in a specific department may influence who provides the supervision. Advocates in programs receiving state victims of crime act (VOCA) or VAIC funds must operate within a strict set of guidelines, provide certain services, deliver reports, and reapply for funding on a regular basis. Depending upon the administrative structure of the program, the Advocate may be responsible not only for providing direct service but also for writing grants, developing narrative reports, monitoring financial expenditures, etc.

Advocates need assistance to insure that they are meeting all of their program goals on an administrative level. However,

Advocates also face personal stress through the delivery of direct services to victims of crime. Dealing with people in crisis is difficult work. Often times the Advocate is involved in situations which take a heavy emotional toll. Due to the confidential nature of their work, Advocates have no one with which to discuss their concerns. IT IS IMPERATIVE THAT ALL VICTIM ADVOCATES RECEIVE ONGOING CLINICAL SUPERVISION. While such supervision is essential for the Advocate's personal well-being, it is also important to assist the Advocate in recognizing cases which may need more in-depth assistance than the Advocate can provide. Despite the importance of clinical supervision, this element is often lacking in victim assistance programs.

Victim advocacy programs differ in the types of services provided. It is not unusual for such programs to consist of only a single Victim Advocate. Funding constraints often lead to an "one person shop": a situation where one person is responsible for all components of the program, including direct service and administrative functions. If there is only one Advocate on the reservation who is expected to serve the entire population, the demand for services can be overwhelming. It is important to clarify the exact nature of the Advocate's role.

Will the Advocate provide every possible type of service to every victim on the reservation? Or will the Advocate provide limited services to all victims, or services to only certain types of victims? Each community will decide on the priorities for service. Some tribal programs serve only one type of victim, such as domestic violence or child sexual abuse victims. Other programs provide a limited range of services to all victims, perhaps providing crisis intervention services and information and referral to all victims.

The range of actual services provided may include: immediate crisis response, information and referral, peer counseling, ongoing therapy, transportation, support, assistance in filing for victim compensation, assistance with the criminal justice system, advocacy with agencies, court preparation, court accompaniment, assistance in filling out victim impact statements, practical and logistical help in dealing with the aftermath of crime, assistance with crime scene clean-up, etc.

Services may also be provided to a wide variety of crime victims: victims of child abuse, child sexual abuse, sexual assault, adults molested as children, domestic violence, robbery, drunk driving, elder abuse, physical assault, survivors of homicide, and others.

Community members may expect the Advocate to provide every possible type of service to every type of victim. It is rare that a program can provide such a high level of service. If the program cannot provide comprehensive service to all victims, the program must be clear about the types of services provided.

Many Tribes have established Child Protection Teams (CPTs) and/or Multidisciplinary Teams (MDTs). Victim Advocates have actively participated on both teams. In some communities Advocates do not participate. Victim Advocates can play an important role in representing the victim's needs within such teams. Also, the Advocate can be a conduit of information back to the victim. In an

attempt to limit the number of people on each team. some CPTs or MDTs do not include Victim Advocates. The exclusion of Advocates from such teams can eliminate a valuable source of information. In some Tribes the membership of the CPT and/or MDT is established by Tribal resolution. In some cases these resolutions may have been developed prior to the initiation of a Victim Advocate program. Therefore the Advocate is not included in the list of team members and Tribal Council action may be necessary to add the Advocate to the team.

For tribes which have their own tribal court system, the Advocate may be involved in both the tribal court system and either the state/county or federal court system. Depending on the Advocate's mandate, the Advocate may also be involved with tribal members living off of the reservation. In that case, the Advocate may be involved with tribal, county, state, and federal court systems! Not all Advocates will be involved with the criminal justice system, although most are involved. For Advocates who provide court-related services, they may need to be familiar with the procedures involved in all of the systems. They must become familiar with the personnel and policies of all of the courts.

Each of the court systems may have its own Victim Advocate and the tribal Advocate must develop working relationships with these other Advocates. While there is a history of good working relationships between federal Victim/Witness Coordinators and tribal Victim Advocates, relationships between Advocates in District Attorney's Offices may be a new facet of the tribal Advocate's role.

Many Advocates see their role as advocating for victims within every aspect of their lives. An Advocate may assist the victim in dealing with their employer regarding the impact of victimization on the person's employment. They may provide transportation to apply for a variety of programs and then follow-up with these programs on the victim's behalf. If the Advocate feels that the US Attorney's Office is not responding in a timely fashion, the Advocate may persistently contact the US Attorney's Office to make sure that the case receives appropriate attention.

Each Advocate may view their role differently. Some Advocates will only provide services to victims who request services. others will offer services to every victim contacted by law enforcement. Some Advocates may expect the victim to come to their office for services, most Advocates travel vast distances to provide services. The level of advocacy provided depends both on the personality of the Victim Advocate and upon the tribe's definition of the Advocate's role.

Perhaps one of the most challenging activities for the Victim Advocate is to advocate for the rights of victims within their own community. Advocates must work with their own tribal leaders to ensure that tribal policies, ordinances, courts, and other institutions respect the rights of victims of crime. Advocates may purpose that the tribal council pass a crime victim's bill of rights, or may suggest changes to the tribal laws to reflect the criminal nature of domestic violence. Advocates may represent the needs of victims as a group as well as advocating for individual victims.

In communities where there appears to be a tolerance for family violence, the Advocate may be at the front of activities which educate community members regarding the impact of family violence, the importance of reporting suspected crimes, the role of the victim assistance program, and the need for additional tribal resources to combat family violence.

In small reservation communities, an Advocate may find themselves approached at all hours of the day or night because community members identify them as someone who can help if crime victimization has occurred. The reservation-based Advocate wears many hats. They may need to be a generalist: knowledgeable about all types of victimization and able to negotiate a variety of court systems. Larger communities may have the luxury of separate rape crisis centers, domestic violence shelters, child abuse programs, and specialized grassroots organizations (e.g. Mothers Against Drunk Driving, Parents of Murdered Children, Incest Survivors Anonymous, etc.). Most reservation communities do not have these luxuries. It is the Victim Advocate who often provides services to all types of crime victims.

In some communities the Victim Advocate may specialize in one type of crime (e.g. victims of domestic violence) leaving a gap in services for other crime victims. Usually such specialization is necessary because it is just not possible to provide adequate services to all victims and it is decided to provide quality service to specific types of crime victims.

Native American crime victim assistance programs are both similar and different from non-tribal programs. Most victim assistance programs face similar challenges: too much work and too little funding. Advocates share similar frustrations with unresponsive law enforcement officers, social services, and/or prosecutors, or judicial leniency with offenders. Every victim assistance provider has some agency that is challenging to work with.

One of the differences of tribal programs is the sheer number of other programs involved in crimes in Indian country. Each type of agency involved may have a tribal, state/county, and/or federal component. Victims may receive medical treatment at a tribally run health center, Indian Health Service facility, county hospital, or clinic, for example. Each agency, from law enforcement to social services to the court system may involve two, three, or more levels. Officials within some of these non-tribal systems (such as state, county, or federal) may lack cultural sensitivity to Native American victims of crime.

Difficulties in communicating with victims may be higher on reservation due to the lack of phone service in many places. The distances to be traveled are also prohibitive. It may take all day for a victim to travel to court; or it may take several hours for an advocate to drive to a victim's home to attempt to contact the victim. Language barriers may also exist when tribal members need to deal with English-speaking service providers.

The development of reservation-based victim assistance programs requires a commitment by community members and tribal leaders. It is not easy to confront the existence of inappropriate behavior such as domestic violence, sexual abuse of children, drunk driving, and murder. No one likes to admit that such behaviors

occur within their community. Denial is the simple response. Overcoming community denial is one of the biggest challenges facing Victim Advocates.

The development of a program to address the needs of victims demands public acknowledgment of the existence of these problems. It takes great courage to face these problems directly. There are many tribes that have developed successful on-going victim assistance programs. These programs have offered assistance to a variety of crime victims and have improved the lives of countless victims and their families.

— EXAMPLE —

Victim Advocacy Training Program Grand Portage, MN

The Process

Step One:

Identify six/seven persons in the community who would make good victim advocates

Advertise for anyone else interested to be an advocate; i.e., posters in store/lodge/clinic, etc.

Step Two:

Personally visit and invite each identified person to the advocacy program and explain the commitment and the training program to each potential advocate.

Step Three:

Hold the Advocacy Training program in the community

Advocacy Training Program Agenda

First session's agenda:

1. Talk about OVC grant and what has been done on the reservation and the county over past two years.
2. Share what sexual abuse is.
3. Present a little on the history of sexual abuse in Indian country.

Resources: *Where the Spirit Lives*
In the White Man's Image
Bitter Earth, Child Sexual Abuse in Indian Country

Second session's agenda:

1. Share more about sexual abuse and the effects on victim.
2. Share about the effects on the family.

Resources: Loa Porter's presentation on the *dynamics of sexual abuse*
Handouts of poems written by victims
Books about victims: each advocate will receive a copy of
Where the Spirit Weeps and *Let the Healing Begin*
both books present sexual abuse from a Native perspective

Third session's agenda:

Topic: Interviewing children

Resources: Loa Porter's presentation from CornerHouse
Video on Interviewing Children
Sandy Hewitt's handouts from the training of the sexual abuse
response team

Fourth session's agenda:

Topic: Children as Witnesses in Court

Resource videos: Children As Witnesses
Double Jeopardy

Fifth session's agenda:

Advocates will be invited and encouraged to attend a sexual abuse
conference sometime during their training and service period and give
reports from their experience at this session.

Sixth session's agenda:

This meeting will be a supportive session held for the benefit of the
advocates...to give them time to respond to what they've been learning and
what the needs are and where they would like the program/training to go
from here.

Resources: Corrine Nabigon, Native Mental Health Consultant



HAVE A SAFETY PLAN IF YOU LEAVE HOME

- Pack a bag in advance and leave it with a friend or neighbor. Remember clothes and toys for your children.
- Hide an extra set of car and house keys outside the house so you can leave quickly. Or arrange transportation with a friend or family member.
- Keep a list of emergency telephone numbers with you.
- Gather together important papers:
 - birth certificates
 - deed or lease to your residence
 - checkbook, extra checks
 - car registration
 - credit cards
 - medicine for you and your family
 - any court orders or papers
- Think about a safe place where you can go.



- You can ask the tribal court for a restraining order or to file charges.



ENPFC
Peace Keepers
Family Violence Prevention/Treatment Program
P.O. Box 969
San Juan Pueblo, NM 87566

DOMESTIC VIOLENCE IS NOT AN INDIAN TRADITION!



HELP TEACH OUR CHILDREN
THE INDIAN TRADITION OF
LOVE, RESPECT, AND
STRONG FAMILIES.

Picture credit :



Domestic Violence
Community Advocate Project





IN AN ABUSIVE

RELATIONSHIP IF YOU...

- "walk on eggshells" because of your partner's anger.
- are kept isolated from friends and family.
- have to account for your whereabouts and time.
- have a very jealous partner.
- never know how your partner will react--with kindness or put-downs.
- drink heavily or use drugs.
- have been held against your will, threatened, shoved, hit, kicked or sexually abused by your partner.



YOU MAY BE AN ABUSER IF YOU...

- criticize and put down your partner.
- are very jealous.
- control your partner's behavior and money.
- have difficulty expressing feelings.
- have an explosive temper.
- drink heavily or use drugs.
- believe that the male role is to be in charge.
- have broken things, threatened, shoved, hit, kicked or sexually abused your partner.
- were brought up in a violent home.

TO STOP THE ABUSE

Eight Northern Indian Pueblos "Peace Keepers" (Family Violence Prevention/Treatment Program) seeks to raise the awareness of members of the Eight Northern Pueblos to recognize the devastating effects of domestic violence. It also seeks to stop the various forms of domestic abuse by offering the following services to individuals residing on the Eight Northern Pueblos.

- COUNSELING - crisis intervention/ individual, family and support groups.
- ADVOCACY - providing support services with health care facilities, shelters and courts.
- INFORMATION & REFERRAL - to other programs or agencies.
- TRAINING - for tribal programs and communities.



SERVING:

- Victims
- Offenders
- Children
- Pueblo Communities

**Confidentiality always honored.
All services free of charge.
Don't be afraid to call for
further information!**

- Violence and control in the home are not Pueblo traditions.
- Violence at home will not go away without help.
IT WILL GET WORSE!
- You are not alone. Domestic violence occurs in 1 out of every 4 households.



CALL

"PEACE KEEPERS"
Family Violence Prevention/
Treatment Program
852-4265, EXT. 145/Prevention offices
Hours: 8 A.M. to 5 P.M. Monday-Friday

After hours contact 24-hour hotline.
Northern New Mexico Family Crisis
Center
1-800-753-9646
Esperanza Santa Fe Shelter
473-5200

In Emergency Call Your Local
Tribal Police



THE WAY OF RESPECT IS AN INDIAN TRADITION

*The Indian Way is men and women living together in balance and harmony.
Help teach our children the way of love, respect, and strong families.*

JURISDICTIONAL ISSUES IN INDIAN COUNTRY

Eidell Wasserman, Ph.D.

One of the most complex issues facing those who work with child sexual abuse victims in Indian Country is the confusion regarding investigative and prosecutorial jurisdiction of these cases. A crime committed in Indian Country can be subject to investigation by local law enforcement, which may consist of tribal and/or Bureau of Indian Affairs (BIA) police, state law enforcement (county sheriff, city police, state troopers), and/or federal law enforcement (BIA, FBI). Once a case is investigated, the case may be subject to prosecution by one or more jurisdictions, including state, federal, and/or tribal courts.

For those who are used to working with one law enforcement agency and one judicial system, this morass of investigative and prosecutorial responsibilities can create much confusion. The lack of clear protocols among agencies which may have jurisdiction over crimes in Indian Country has led to confusion even among the professionals who have responsibility for law enforcement and criminal prosecution.

This monograph will set out some of the basic issues involved in understanding the role of tribal, state, and federal agencies in responding to the needs of victims of child sexual abuse in Indian Country. The need for coordination among all levels of government will also be highlighted.

The issue of jurisdiction is influenced by a number of factors, including where the crime takes place, the nature of the crime, the race of the victim and the perpetrator, and whether the federal government or the state has jurisdiction under the provision of Public Law 280. The law enforcement agency which receives the initial report of the crime assumes the responsibility for determining investigative jurisdiction.

Several factors will impact this decision. One set of factors involves the physical location(s) of the alleged offense(s). Offenses which take place within Indian country (as defined by the Major Crimes Act) are subject to investigation by the law enforcement agency serving that land. In many instances, both tribal and BIA law enforcement may provide services to an Indian community. Tribal law enforcement may be the first responders to a suspected crime scene, while BIA Criminal Investigators (CI) usually perform the actual investigation. However, some tribes have their own, tribal CIs who perform the same duties as BIA CIs.

A further complication is that investigative responsibility for violations of federal law may rest with the FBI. Through formal or informal arrangements, the FBI and local law enforcement may have an agreement clarifying which agency will investigate certain cases. Where such arrangements are codified into written protocols, confusion regarding jurisdiction can be minimized.

A second factor influencing jurisdiction involves the race of the alleged perpetrator and victim. Cases which involve a non-Indian perpetrator and a non-Indian victim always fall into the jurisdiction of the state. In these cases, tribal and federal law enforcement would not be involved. However, where either the perpetrator or the victim, or both, are Indian, there will be tribal jurisdiction. Depending upon the nature of the crime, there may also be federal jurisdiction.

A final complication involves Public Law (PL) 280. PL 280 returns federal jurisdiction for crimes and responsibilities for service to the state. Therefore, in states impacted by PL 280.

the state and the tribe have concurrent jurisdiction in both investigation and prosecution.

It is easy to see why tribal, state, and federal coordination is imperative. From the initial receipt of a report of alleged child sexual abuse, there are complex jurisdictional considerations. Many jurisdictions have responded to these considerations through the development of written procedures, or formalized protocols. Such written documents clearly confer responsibility for making initial jurisdictional decisions and outline the nature of the working relationships between and among the various tribal, state, and federal agencies.

Just as there are multiple jurisdictions involved in investigation of child sexual abuse cases, similar jurisdictional concerns exist regarding criminal and civil prosecution of child sexual abuse cases.

Tribal courts have concurrent criminal jurisdiction with the federal government or states over child sexual abuse cases in Indian country. Federal jurisdiction over child sexual abuse cases derives from 18 U.S.C., Section 1152 (the "General Crimes Act") or 18 U.S.C. Section 1153 (the "Major Crimes Act").

The Major Crimes Act provides for federal jurisdiction over certain specified crimes occurring in Indian country when the defendant is an Indian and the crime involved is either incest or any felony under "Chapter 109 A" (18 U.S.C. Sections 2241-2245). The U.S. Supreme Court has ruled that charging a defendant in both federal court and tribal court is not a violation of double jeopardy. In *United States v. Wheeler*, 435 U.S. 313 (1978), the U.S. Supreme Court held that if a person, subject to the jurisdiction of the tribe, is tried and convicted in tribal court for an offense, that same person may be tried by the federal government on a similar offense arising out of the same incident.

The *Wheeler* decision means that a person can be criminally charged in both federal and tribal court for child sexual abuse. This gives both tribal and federal courts greater flexibility to handle child sexual abuse cases. For instance, it allows the tribal prosecutor to proceed with a tribal court action immediately instead of being required to wait until after the federal prosecutor decides whether to accept or decline the case. Since the federal prosecution decision frequently takes several months or more, it is often necessary for the tribal prosecutor to take action more quickly so that the perpetrator and the community are given the clear message that child sexual abuse will not be tolerated.

Once again, the race of the perpetrator is a major factor in prosecution. According to the U.S. Supreme Court decision in *Oliphant v. Suquamish Indian Tribe*, 435 US 191 (1978), tribal courts **do not** have criminal jurisdiction over non-Indians. Criminal jurisdiction in these cases rests solely with the federal government or the state. However, tribal courts **do have civil jurisdiction over non-Indians**. There are a number of sanctions which tribal courts can apply to non-Indians through civil actions related to child sexual abuse allegations.

In cases where an Indian child is abused but the incident does not take place on Indian land, the tribal court would have no jurisdiction. The tribe does have an interest in the disposition of any civil, custody actions involving a child who is an enrolled member of the tribe, or is eligible for enrollment in the tribe through the Indian Child Welfare Act.

The possibility for multiple interviews of child victims is obvious, given the number of jurisdictions and agencies which have a legitimate interest in child sexual abuse cases in Indian country. The need for coordination in these cases is consequently higher as well. It is conceivable, for example, that an incest case could be responded to as follows: tribal law

enforcement receives an after hours report of alleged child sexual abuse. The line officer, a tribal police officer, responds to the crime scene and performs a preliminary investigation. The officer's initial investigation is reviewed by his/her superior and assigned to a BIA CI for further investigation. The case is also forwarded to the FBI.

The BIA CI and tribal Child Protective Services Worker jointly interview the child and prepare their reports. The CI's report goes forward through the criminal justice system and the CPS worker's report goes through the civil court system. In the process of the criminal justice system, the FBI Agent may feel that further investigation needs to be undertaken, including additional interviews of the victim. The Agent may feel it necessary to perform this interview themselves or may request that the CI perform the additional interview.

The case is presented to both the tribal Prosecutor and the US Attorney's office. One or both of these prosecutors may feel the necessity to personally interview the child. Or, the federal prosecutor may request additional information prior to making a prosecutorial decision. Some Prosecutors may wish to personally interview the child to assess their ability to testify in court.

At this point, it is possible that the child has been interviewed by six separate individuals in six or more separate interviews. Each individual has a legitimate interest in the case and the need to obtain specific information. While tremendous progress has been made toward coordinating interviews and reducing the number of interviewers and interviews that child victims must endure, the complexity of multiple jurisdictions in Indian country pose special challenges to reducing the number of interviews a child is subjected to. The Office for Victims of Crime (OVC) has addressed the challenge of reducing trauma to child victims through the Children's Justice Act (CJA) grant program for Native Americans for improving the investigation and prosecution of child sexual abuse cases in Indian country.

The development of multidisciplinary teams (MDTs) in Indian country is the most obvious vehicle for coordinating the investigation and prosecution of child sexual abuse cases. To be effective, MDTs must have the participation of all law enforcement and judicial agencies with jurisdiction for child sexual abuse cases. Either tribal representation is necessary on existing county or regional MDTs or state and federal law enforcement officers and prosecutors must participate in tribally-based MDTs. Such participation is mandated for federal agencies under the provisions of the Victims of Child Abuse Act of 1990 and the Family Violence and Child Abuse Prevention Act (PL 101-630).

MDTs offer the perfect opportunity for discussion of prosecutorial determinations. US Attorneys, or District Attorneys Offices, meet with tribal Prosecutors and determine the best venue for initial criminal prosecution. Feedback on the status of various investigations can take place on a regular basis. Lack of access to information regarding the status of cases has long been a sore point for tribal law enforcement and Prosecutors. The MDT offers an appropriate forum to share information and plan strategy.

In addition to OVC initiatives, the Department of Justice (DOJ) has undertaken a number of new projects to improve federal/tribal coordination. President Clinton's April 29, 1994 memorandum concerning "Government-to-Government Relations with Native American Tribal Governments" led to the implementation of several Justice Department programs, including the Tribal Courts Project to assist tribes in developing and strengthening their systems of justice; the Tribal Court-DOJ Partnership Projects to strengthen tribal justice systems and particularly

their abilities to respond to family violence and juvenile issues; the addition of 26 assistant U.S. attorneys to districts with high Indian populations; the re-design of training programs to ensure that federal prosecutors understand the jurisdictional framework of tribal lands; added seven criminal lawyers with expertise in child sexual abuse and Indian country to the Child Exploitation and Obscenity Section of the department's criminal division; awarded 14 grants to tribal domestic violence programs under the Violence Against Women Act grant program; and established an Office of Justice Programs (OJP) Indian Desk to monitor program support and technical assistance to the tribes and assist in the planning and developing of new OJP programs.

There are many other actions which state and federal agencies can undertake in order to facilitate cooperative relationships with tribal agencies. These activities include participation in the development of protocols, provision of training, participation in workshops and other tribally-sponsored training activities, inclusion of tribal representatives on state and federal committees, planning panels, review committees, etc., and informal interactions with tribal service providers.

Tribal, state, and federal coordination requires the active participation of all parties. State and federal representatives need to be willing to travel to reservations for meetings and not expect that tribal representatives will always do the traveling. Similarly, tribal representatives must be able to overcome any lingering resentment or suspicion regarding representatives of the federal or state government based on historical problems.

The past decade has seen a remarkable positive change in response to child sexual abuse cases occurring in Indian country. OVC initiatives have spurred the development of programs to improve the investigation and prosecution of child sexual abuse cases and the provision of on-reservation services to victims of crime. Tribal programs have provided non-Indian service providers with alternative methods of service delivery, innovative programs, and grassroots, community-based responses to child sexual abuse. Working together, tribal, state, and federal law enforcement, judiciary, and victim service providers, can help to ameliorate the trauma of child sexual abuse victims.

CULTURAL SENSITIVITY FOR NON-INDIAN SERVICE PROVIDERS WORKING WITH NATIVE AMERICAN VICTIMS OF CRIME

Eidell Wasserman, Ph.D.

In recent years, federal employees have been working with Native American victims of crime in increasing numbers. In 1989, the Office for Victims of Crime (OVC) within the Department of Justice, Office of Justice Programs, began funding on-reservation victim assistance programs through the Victim Assistance in Indian Country (VAIC) program. As increasing numbers of Indian victims of crime have come into the criminal justice system, U.S. Attorneys, Federal Victim/Witness Coordinators, FBI Agents, and other federal personnel, who are predominately non-Indian, have encountered cultural differences in working with Native American crime victims.

This monograph will present some of the realities of reservation-based victim assistance programs with the goal of increasing understanding of how VAIC programs may differ from similar non-Indian programs. Any discussion of Indian programs must begin with the caveat that all tribes are different and that there is no single correct way to deal with all Indian programs. Non-Indian personnel working within Indian Country must educate themselves regarding the Indian nations in their jurisdiction.

Non-Indian service providers often work with more than one community. The differences between tribal communities dictate that service providers take care to educate themselves about each tribal nation. Such education may take the form of participation in diversity training and the utilization of consultants, including tribal elders and leaders, to discuss the similarities and differences between tribes and issues related to the tribal structure.

There are three common issues for most Indian Country programs: **boundaries, training, and spirituality**. The concept of boundaries may be viewed differently within the context of Native American belief systems and those of non-Indians. Indian Nations tend to be similar in their emphasis on community and placement of value on the concept of "helping out." Rigid role definitions often place service providers at odds with this value. OVC funded victim assistance programs, for example, by legislative limitations, can only provide services to people who are victims of crimes. Perpetrators are not eligible for services.

Clients may not understand why a Victim Advocate who is providing services to one member of the family (e.g. a victim of domestic violence) cannot also provide assistance to other members of the family (e.g. the perpetrator). Traditional communal values and holistic orientations directly clash with limitations placed on certain types of government funded programs.

Federal guidelines are most often developed with the majority non-Indian culture in mind. When these same guidelines are utilized by Indian programs, they may conflict with cultural values unknown to non-Indian law makers. These conflicts can lead to the total break-down of a program. Federally funded programs which directly conflict with tribal values are likely to fail.

Tribal employees may be faced with the conflict of adhering to their traditional values or meeting the goals and objectives under a grant. Since values have sustained tribes throughout history, the traditional values are likely to take precedence over grant goals and objectives. Those personnel responsible for monitoring the Indian country grant may be unaware of the values conflict and only be aware of the program's seeming lack of

Wasserman: Cultural Sensitivity

achievement.

Indian programs face the challenge of maintaining community values and meeting the goals and objectives outlined in the grant. Non-Indian grant monitors must work with tribal programs to identify any such conflicts and to create mutually respectful solutions.

Many Native American communities operate services on the barest of bare bone budgets. Resources of every type are scarce: personnel, materials, funding, office space, housing, vehicles, etc. When resources are scarce, everyone is expected to pitch in and do whatever is necessary. Due to the overwhelming need for services and the scarcity of resources to meet those needs, program staff are often called upon to offer assistance which may be outside the strict definition of their particular job description. This communal approach to providing services can lead to role confusion. For example, some tribal Victim Advocate positions are placed within the Tribal Social Services Department. This placement may lead to the Advocate being treated similar to all other Social Services staff members. Social Services programs often provide 24 hour child protection services to their community. The Advocate may be expected to be on-call as part of the Social Services staff, just like other staff members. This may lead to an Advocate acting as a Child Protective Services worker and removing children from an abusive situation one night and offering the family services as an Advocate the next day.

Clearly this type of situation creates a conflict. However, if the Advocate doesn't take on-call time, the Advocate may be seen as not pulling their weight. Other Social Service staff may resent the Advocate's "privileged" position as someone who does not have to be on-call.

Conversely, due to limited staffing in most victim assistance programs, one Victim Advocate may be expected to be on-call 24 hours a day, 365 days a year. In Kansas, for example, for several years there was only one Native American Victim Advocate in the entire state. She provided services to all Native American crime victims throughout the state on a 24 hour basis. Recent funding increases have allowed a second Advocate to be hired.

The role of Victim Advocate fits well within Indian tradition. The concept of an identified person having a specific talent or role within the community is common among tribes. Every tribal community recognizes some individuals as traditional healers, available to help those in need. Traditional healers are available on a 24 hour basis.

When a person needs to utilize a Medicine person or other type of healer, there are no "office hours." Healers are always available. People may perceive victim service providers in the same category in terms of their availability. Victim Advocates who live on the reservation can be called upon at any time. People will often go to the Advocate's home at midnight, on weekends, or any time that services are needed.

In some communities, the victim assistance program may not offer 24 hour service due to limited staffing. In a program with only one Advocate, for example, that person cannot realistically be "on-call" 24 hours a day, 365 days a week. Since many reservations are small communities where everyone knows everyone else and where everyone lives, victims or other service providers may feel free to access victim service providers at any time of the day or night, just as they would a Medicine person. When someone is standing

on your doorstep seeking assistance, it is difficult to turn them away.

There are many groups which have expectations regarding the services that a victim assistance program will provide: the community, the Tribal Council, federal personnel, and the funding source. It is not unusual for the expectations of these groups to be different or contradictory. The community may believe that victim assistance programs are there to help people, so everyone should be able to access their services (including perpetrators). The Tribal Council may see the need for preventing crimes and expect the program to provide prevention services which are not allowed under the grant. Federal personnel may see the great need for services and expect the tribal program to serve all types of victims although the tribe has highlighted a single type of victim to be served (e.g. domestic violence victims). OVC expects the program to meet their goals and objectives and operate within the guidelines of the Victims of Crime Act.

A tribe which obtains OVC funding for services to victims of domestic violence, for example, may not meet the expectations of several of these groups. If the community wants a program which provides services to everyone, the program will be pressured to provide services to batterers. The Tribal Council may expect the program staff to provide prevention services as well as intervention services. The Federal Victim/Witness Coordinator may see a great need for services to other types of victims and expect the program to offer services to all victims of crime. The program itself must meet their stated goals and objectives and follow the terms of their grant.

These conflicting expectations may lead to the perceived failure of the program by one or more groups. This perception may be the result of a conflict in values. On a national level, there has been strong recognition for the need for services for victims of crime. The criminal justice system's past emphasis on the perpetrator illustrated the need for attention to the victims' needs. A dichotomy has been established between victim and perpetrator.

In the cases of sexual abuse and family violence, however, this dichotomy is less clear. A person who molests a child as the result of generations of incest falls into both categories as victim and offender. The documented history of sexual abuse within boarding and residential schools, forms the basis of several generations of victimization. While federal legislation regarding VOCA is clear that only victims of crime can be served by VOCA funded programs, an individual's status as perpetrator/victim is less distinct. Many programs are faced with the dilemma of policy prohibitions regarding the delivery of services to a sexual offender or batterer who seeks assistance due to his/her history of victimization and tribal values mandating the provision of assistance to those seeking help.

The issue of Tribal Sovereignty is fundamental to how tribes conduct themselves and vital to the future of tribes. Federal programs which grant money to the state for pass through to tribes conflict with the reality of Indian Nations as sovereign nations. Some Indian Nations have a history of conflictual relationships with state government. Direct funding of tribal programs without the state pass through is seen by tribes as a necessary step in developing a Nation to Nation relationship with the federal government. The historical underpinnings to this issue are beyond the scope of this monograph. Both historical

Wasserman: Cultural Sensitivity

treatment and present day relationships impact, not only the tribe's willingness to work with the state in obtaining funding, but the state's receptivity to seeking funding on behalf of the Indian Nations within their borders.

A tribe, for example, may feel that there is no reason to discuss their problems with crime on the reservation with the state. Particularly if state officials have a history of negative relationships with the tribe or making derogatory comments about Indian people: and especially where there is little or no state jurisdiction over crimes in Indian Country. Tribal officials may believe that sharing information regarding the incidence of crime within their community may be used in a negative manner by the state. However, the current funding procedures for victim assistance programs involves the states applying for funding on behalf of the tribe(s) within the state. This situation means that if a tribal government does not want to provide data to the state about the incidence of crime in their community, they cannot receive funding for a victim assistance program. There is no mechanism for the tribe to apply directly to OVC for funding of a victim assistance program. This type of situation undermines the concept of tribal sovereignty.

Some state Victim Assistance Coordinators have attempted to address this issue by including the tribe in the preparation of proposals to the federal government. The tribe must be included in every aspect of state proposals on the tribe's behalf. Beyond these grants, states must have a mechanism for tribal input into all grants which could potentially benefit tribes, not just Indian specific grants. For states or local governments which have advisory boards, review committees, or other citizen-based organizations which develop, submit, and review grant proposals, Indian representation and participation is essential.

A second area of concern involves the arena of **training**. Tribal representatives need to be involved in all types of victim oriented training. Tribal people may not be included on planning committees unless the training is aimed at Indian people. State training events must be relevant to victim service providers working with Native American clients. When Native American people are included on planning committees, they may be included whether or not they have direct hands-on experience or have lived on the reservation.

In one state, for example, the planning committee of a state-wide victim conference contacted the local university and utilized a Native American professor on their committee. This person did not deliver services on the reservation and had not lived on the reservation for over 20 years. Although she provided valuable input to the planning of the conference, other useful information would have been gathered from the inclusion of someone working with victims on a reservation. While the university professor may have been easily accessible, her input included a limited vision.

A Native American person will always bring their own perspective as a Native person to a every situation. It is important to consider a person's experiences and connection to the community as well as their background in selecting the most useful member of a planning committee.

Native American communities exist in both urban and rural locales. Trainings which focus on service provision only for victims in urban areas are often not relevant or helpful to service providers working in geographically isolated reservation communities. Trainers at

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conferences may not be culturally sensitive or knowledgeable about the complex array of jurisdictional issues which impact service delivery to federal victims of crime. This lack of sensitivity or knowledge leads to Native American service providers feeling devalued and unimportant. Workers cannot get their needs met when presenters are ignorant of the realities of providing victim assistance services on the reservation.

There is a need to incorporate Native American service providers and cross-cultural issues in all training events. Training sessions which focus on the needs of Native Americans and those working in Indian Country are important and useful for people to share common experiences and address the unique needs of their programs. There must be careful consideration given to treating Indian programs in a separate but equal manner. Trainings focusing on issues related to service provision in Indian Country should not be viewed as replacing the inclusion of issues important to Indian people in more general victim services training sessions. The inclusion of Native American victim services issues in a general conference must also be undertaken in a sensitive manner. It is clearly offensive to have a panel discussion entitled "Special Populations: Serving Native American and Physically Challenged Victims of Crime." Native Americans are not a special population. Yet such panels are taking place in trainings.

It is incumbent upon training coordinators and conference planners to seek out Native American people to serve on planning committees. Similarly, federal personnel overseeing training contracts must ensure that their grantees include a culturally diverse planning group representing the populations to be served.

Inclusion of Native American participants on planning committees can also be cost efficient. Recently a locality held a training on gangs. Although this topic is of great concern to both Native Americans and non-Native Americans, no effort was made to invite participants from the local reservations. The result is a duplication of training efforts by holding separate trainings for Native and non-Native audiences when a single training effort would suffice. In a time of limited training funds, efforts must be made to maximize the utility of available funds.

It is also necessary for training to be provided on an on-going basis. Indian country programs often experience high levels of staff turnover. The lack of consistency in staff often means that when a person leaves their position, their knowledge leaves with them. Modern technology, where available, may help to alleviate this problem. Programs should be provided with the resources to document their training activities.

Videotaping of training sessions is one mechanism for making training available to new personnel. When training sessions are held on the reservation, the availability of equipment to videotape the training can make the information available to future employees. Similarly, programs can be encouraged to develop manuals providing new employees with a historical overview of the project and with information on how to perform the functions of their position. Funding earmarked for the development of such manuals would definitely assist tribes in their ability to develop these resources.

There is currently an increased focus on building the tribal/state/federal relationship and the coordination of services for victims of crime. It is often assumed that the most

difficult part of this equation is to get tribal participation. State and federal agencies may invite tribal representatives to participate in various meetings and discussions only to have no one from the tribes attend. The perception may be that state and federal agencies offer opportunities for participation only to be ignored.

There are alternative explanations however. Often, these types of meetings are held at the host agency. There is an expectation that if tribes want to participate, they will come to the offices of the state or federal agency hosting the meeting. In some cases those offices can be several hours away from the reservation. While a meeting in downtown Phoenix may be convenient for many state and federal employees, for example, such a meeting means a five hour drive from the Hopi reservation and further drives from other reservations in the state. Simple logistics may preclude tribal participation in such efforts. An hour long meeting may not interrupt someone's day who is located within a half an hour drive from the meeting location. Such a meeting takes up an entire day or even a day and a half for someone located far away.

It is not unreasonable that, on occasion, state and federal employees be expected to travel to a location convenient for the tribal representatives. During on-site visits for OVC, state and federal employees are usually invited to participate. Frequently it is the case that these employees cannot attend the on-reservation trainings because of the distance and time involved to get to the reservation. Tribal/state/federal coordination is a two-way street. Efforts must be extended by all parties. It is unfair to always expect tribal people to travel for the expedience of federal or state employees. State and federal personnel must be willing and able to travel to the reservations in their jurisdictions as well as expecting tribal employees to travel to attend meetings.

It is impossible to ignore the historical fact that "outsiders" have repeatedly come into Indian Country to tell tribes what the tribes need. From federal Indian Agents to BIA Agency Superintendents, representatives from the federal government have controlled policy and implemented their own procedures for service delivery. Every federal and state employee is a representative of the governments which have historically ignored the needs of Indian people and implemented policies regardless of the feelings of the people being impacted.

Non-Indian trainers may experience a lack of acceptance by tribal members, especially if the trainer is unaware of the realities of life on the reservation. There are many differences between offering services to victims of crime on the reservation and those in the city. A trainer who is used to working in a metropolitan area, rich in services may not be able to offer useful training to a small, rural reservation community, lacking in services.

Similarly, psychological and counseling theories which are based on Anglo perceptions and world views may not apply to Native American clients. There are a myriad of factors which influence Native American victims of crime of which a typical victim service provider or trainer may be unaware: historical grief, discrimination, lack of access to education, poverty, cultural disruption/conflict, tribal sovereignty, federal trust responsibilities. While these issues do not appear directly relevant to victimization, they may influence many aspects of a person's life, including their response to being a victim of crime.

A third important consideration is the influence of spirituality in the lives of many Native American people. Spirituality is a broad term which encompasses both religious beliefs and practices as well as a sense of self in relation to the natural world. Spirituality, especially as conceptualized in terms of religion, has been a controversial area. Religion has historically been used as a means of "civilizing" Indians. Missionaries expended great efforts to "save" the savage Indians indigenous to the United States.

Conversion from "heathen" traditional religious practices to Christianity formed the basis of much federal policy during the past 500 years. Indian children were forced to attend boarding schools run by various Christian denominations. Often Indian children were taught that their spiritual beliefs were evil and that Christianity would be the key to their salvation. Forced religious conversions were commonplace.

The forced removal of Indian children to boarding schools meant that children were not able to participate in their spiritual traditions at home. For example, adolescents could not be initiated into religious societies because they were living off-reservation and did not receive the lessons necessary to fulfill their obligations. The punishment of Indian children for speaking their native language led to children unable to speak their language. Participation in traditional religious ceremonies requires an ability to speak one's language.

For many Native people, their spiritual beliefs form the foundation of their entire way of life. Service providers who do not understand either the centrality of spirituality or the importance of participation in certain ceremonial events may cause their clients additional trauma. Workers at a domestic violence shelter, for example, may not understand why a woman insists on returning home to participate in a specific spiritual activity. Shelter rules may prohibit her from returning to the shelter if she leaves overnight, yet her responsibilities within her community may demand that she perform certain tasks over a period of days. She may find herself in the position of having to choose between the safety of the shelter and her religious obligations at home.

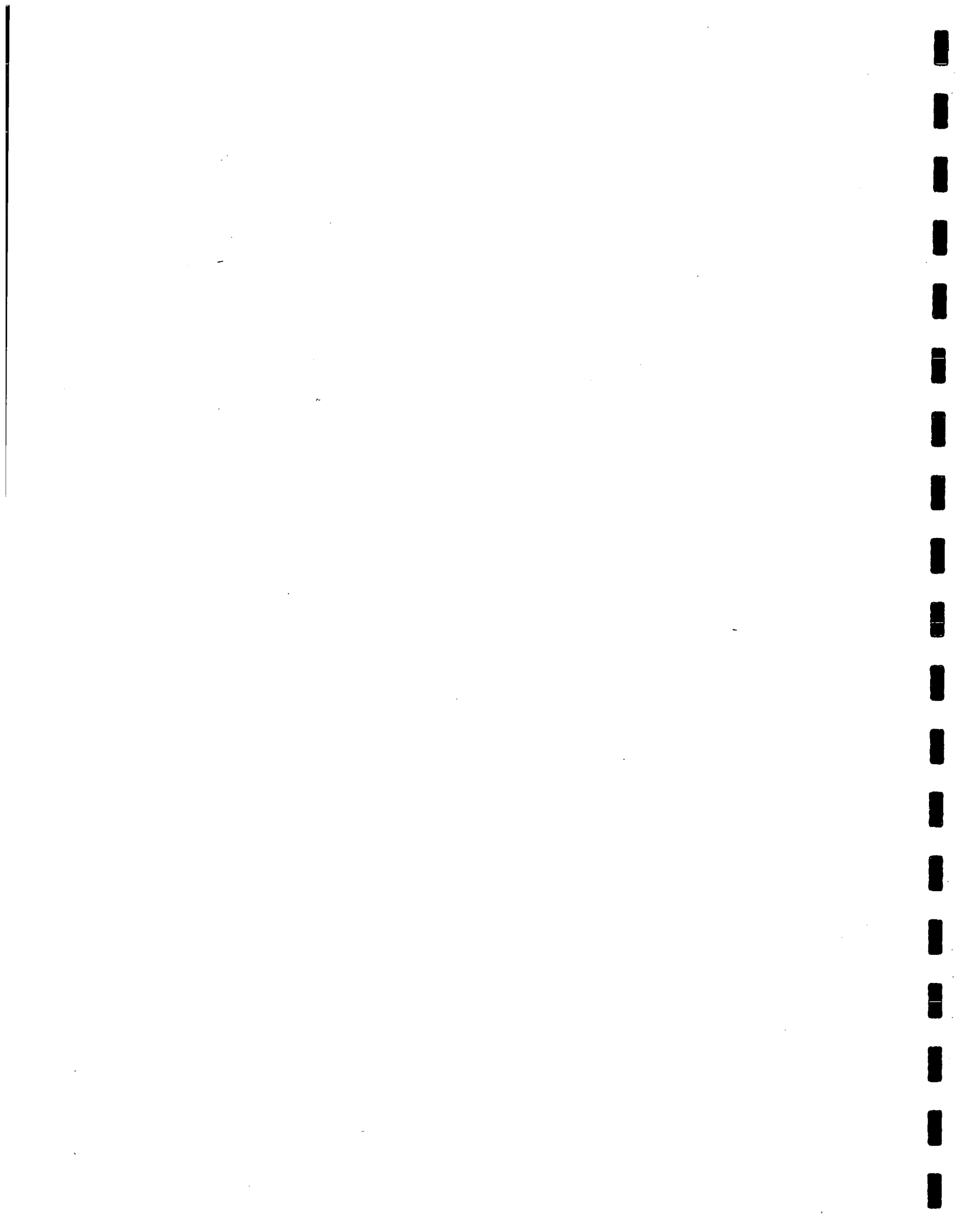
Spirituality is an often ignored aspect of assisting victims to heal. Non-Indian service providers may not be aware of the importance of integrating spiritual healing into their services. Native victims of crime may feel that a program which does not address their spiritual needs is not going to be helpful to them. Non-Indian service providers who understand this need may feel that they are not competent to address the spirituality issue and therefore they ignore this dimension.

Integration of tradition healing into a victim services program may pose difficulties, especially if the program serves both Native American and non-native women. It is incumbent upon victim service providers to work with their local Native American communities to develop effective, comprehensive programs for their Native American clients.

The Office for Victims of Crime has undertaken several initiatives in the recent past to improve the delivery of services to victims of crime in Indian country. These initiatives have both improved services and identified the difficulties of attempting to integrate programs developed for non-Indians into Indian communities. Traditional values have enabled Indian people to survive for thousands of years. These values must be respected. The challenge for non-Indian service providers, grant monitors, program developers, and decision-makers, is to

Wasserman: Cultural Sensitivity

educate themselves and to learn how to respect vital components of tribal life, such as sovereignty and spirituality and how to integrate the sometimes competing demands of federal mandates and tribal values.



Victim Advocacy Workshop

Barbara Scott

Director

Southern Ute Victims Services Program

Durango, Colorado

Presented at the 22nd Annual North American Victim Assistance Conference

August 15, 1996

Tulsa, Oklahoma



National Organization for Victims Assistance

General Information

Page 2.

5. Community Shield-Groups will build on their own strengths and make a shield to represent their communities.
6. Cultural Awareness
 1. The Self
 2. Prevention Skills
 3. Factors beyond culture
 4. Own culture
 5. Own community
 6. Other cultures
7. Closure-Talking Circle
Rock Story-self healing

D. References:

1. Eidell Wasserman, Ph.D.
Psychologist
5241 Hutchinson Rd.
Sebastopol, CA 95472

Home-707-824-8308
2. Suzanne Nivette, M.A., M.S.W.
Sunrise Youth Shelter
Towaoc, CO 81334

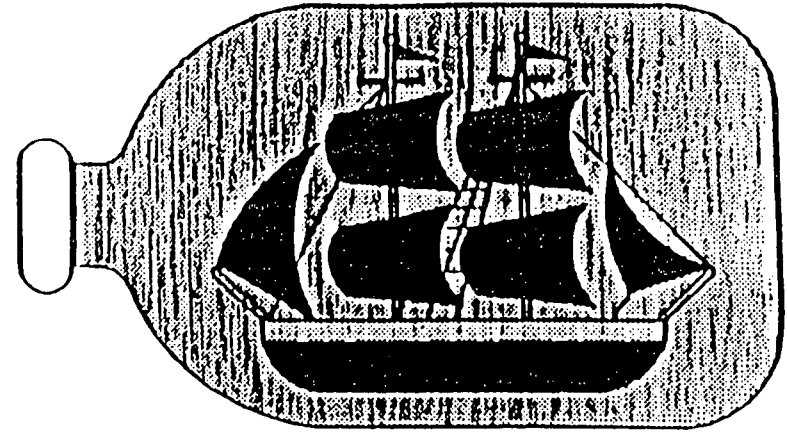
Work-970-565-9634
Home-970-533-7232

THE ROCK STORY

In the beginning, The Creator was lonely and decided to create the Mother Earth. Upon her he placed the plants, fire, water, the four-legged, winged ones, the crawlers, the tree people, those that swim, and then finally the two-legged, THE PEOPLE. The Creator said, "There is something very different and very special about the two-legged, they will have strong, deep feelings and thoughts, this will mean they will feel intense pain, sorrow and hurt." In The Creator's wisdom he knew there would be times when the pain, sorrow, and hurt would become too much for THE PEOPLE, and they will feel that they can no longer carry these feelings with them. So, The Creator gave the two-legged something strong, something durable, something so solid it was strong enough to take and carry the pain for the two-legged. The Creator gave them "Rock". The Rock People are solid and durable. You can put Rock into the fire and it remains the same. You can throw rock in the water and still it holds together strong. Rock will be strong enough to carry those messages back to The Creator when the pain becomes too heavy for THE PEOPLE. Creator said "This is my gift to THE PEOPLE, you don't have take your pain alone. Give it to the Rock People and they will carry that pain and give me the message. This will help THE PEOPLE with their healing and THE PEOPLE shall know they are never alone on this Mother Earth."

ORIGINAL AUTHOR UNKNOWN

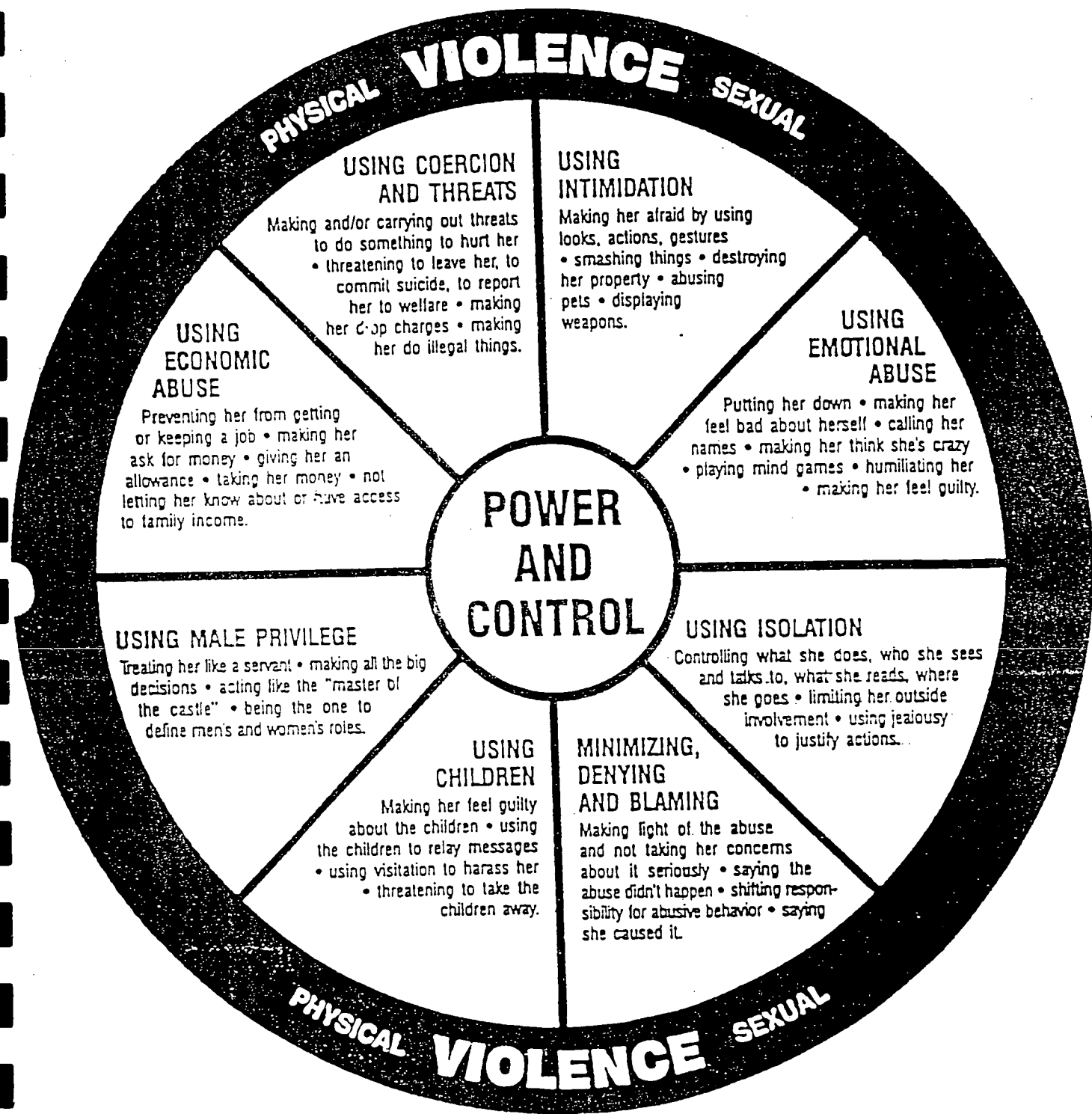
Personal Memories



Your first experience of
cultural difference?

- How did it happen?
- How did you feel?
- Who did you tell?
- How did they react?

***NO MATTER HOW HARD MAN
TRIES IT IS IMPOSSIBLE FOR
HIM TO DIVEST HIMSELF OF
HIS OWN CULTURE,
FOR IT HAS PENETRATED TO
THE ROOTS OF HIS NERVOUS
SYSTEM AND DETERMINES
HOW HE PERCEIVES THE
WORLD.***



NON VIOLENCE

NEGOTIATION AND FAIRNESS

Seeking mutually satisfying resolutions to conflict
• accepting change
• being willing to compromise.

NON-THREATENING BEHAVIOR

Talking and acting so that she feels safe and comfortable expressing herself and doing things.

ECONOMIC PARTNERSHIP

Making money decisions together • making sure both partners benefit from financial arrangements.

RESPECT

Listening to her non-judgmentally • being emotionally affirming and understanding
• valuing opinions.

EQUALITY

SHARED RESPONSIBILITY

Mutually agreeing on a fair distribution of work • making family decisions together.

TRUST AND SUPPORT

Supporting her goals in life • respecting her right to her own feelings, friends, activities and opinions.

RESPONSIBLE PARENTING

Sharing parental responsibilities • being a positive non-violent role model for the children.

HONESTY AND ACCOUNTABILITY

Accepting responsibility for self • acknowledging past use of violence • admitting being wrong • communicating openly and truthfully.

NON VIOLENCE

THE CHARACTERISTICS OF HEALTHY BELONGING

1. THEY ALLOW FOR INDIVIDUALITY.
2. THEY EXPERIENCE BOTH ONENESS WITH AND SEPARATENESS FROM A PARTNER.
3. THEY BRING OUT THE BEST QUALITIES IN A PARTNER.
4. THEY ACCEPT ENDINGS.
5. THEY EXPERIENCE OPENESS TO CHANGE AND EXPLORATION.
6. THEY INVITE GROWTH IN THE OTHER PARTNER.
7. THEY EXPERIENCE TRUE INTIMACY.
8. THEY FEEL THE FREEDOM TO ASK HONESTLY FOR WHAT I WANTED.
9. THEY EXPERIENCE GIVING AND RECEIVING IN THE SAME WAY.
10. THEY DO NOT ATTEMPT TO CHANGE OR CONTROL THE OTHER.
11. THEY ENCOURAGE SELF-SUFFICIENCY OF PARTNERS.
12. THEY ACCEPT LIMITATIONS OF SELF AND PARTNER.
13. THEY DO NOT SEEK UNCONDITIONAL LOVE.
14. THEY ACCEPT COMMITMENT.
15. THEY HAVE A HIGH SELF-ESTEEM.
16. THEY TRUST THE MEMORY OF THE BELOVED, ENJOY SOLITUDE.
17. THEY EXPRESS FEELINGS SPONTANEOUSLY.
18. THEY WELCOME CLOSENESS; RISK VULNERABILITY.
19. THEY CARE WITH DETACHMENT.
20. THEY AFFIRM EQUALITY AND PERSONAL POWER OF SELF AND PARTNER.

Five Skills Needed to Provide for Continuous Learning

- **Facilitating change.**
- **Passing on to partnership members the skills required to perform the 5 leadership roles, thereby removing limits on who has the opportunity to do what.**
- **Holding effective and efficient meetings.**
- **Providing partnership members with the tools that are necessary for effective learning.**
- **Knowing how to create and maintain an organizational environment in which individuals and committees can take the risks that are necessary for effective learning.**

Characteristics of a Multicultural Organization

- Reflects the contributions and interests of diverse cultures and social groups in its mission, operations, products, and services;
- Is committed to eradicating social oppression in all forms within the organization;
- Includes members of diverse cultures and social groups as full partners in decisions that shape the organization;

Adapted from Jackson, B.W., and Hovino, E., *Developing Multicultural Organizations*, and Thomas, R.R., Jr., *Beyond Race and Gender*.

Characteristics of a Multicultural Organization (con't.)

- **Values diversity and views the differences between people as a strength;**
- **Uses management practices and policies that emphasize participation and empowerment**

Adapted from Jackson, B.W., and Holvino, E., *Developing Multicultural Organizations*, and Thomas, R.R., Jr., *Beyond Race and Gender*.

Multicultural Leadership Style

- Diversity is valued.
- Environment supports high-level performance.
- Differences are viewed as strengths.
- Policy formation is horizontal.
- Decision making is shared.
- People are viewed as resources.
- Influence is used instead of power.
- Communications practices are inclusive.
- Collaboration is stressed.

Multicultural Organization

- **An organization that values and reflects the contributions and interests of diverse cultures and social groups in its mission, operations, products, and services.**

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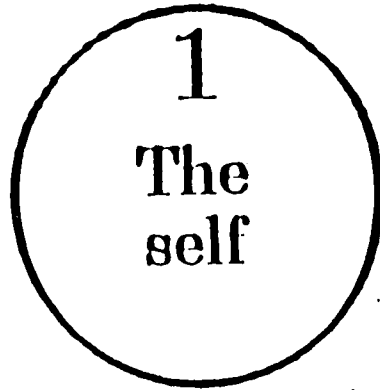
Leaders of a Multicultural Organization (cont.)

- **Inspire the members' voluntary participation in reaching the vision (i.e., build commitment so that people have ownership of the vision); and**
- **Develop an organizational climate that is supportive of all members.**

Leaders of a Multicultural Organization

In order to be an effective leader of a multicultural organization one must also be able to:

- **Develop and implement organizational policies and procedures that enhance the organization's ability to effectively utilize diversity;**
- **Build effective multiracial and multicultural teams;**
- **Provide an inspiring vision of what the true multicultural organization is;**

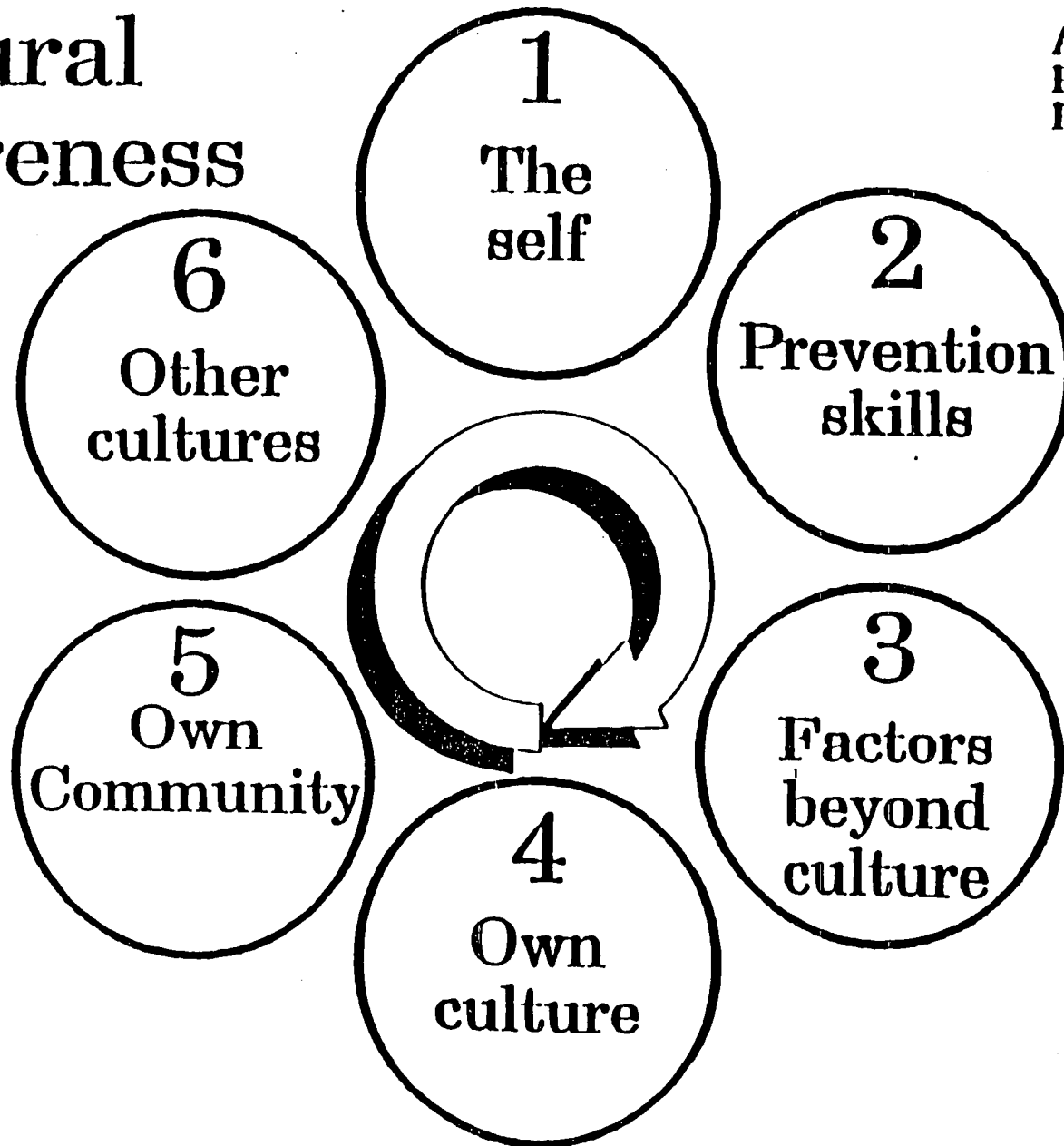


1
The
self

We must have
self-understanding of our
experiences, values, and
interpersonal ability

Cultural Awareness

Adapted from:
Peter Muniz and
Robert Chasnoff





3

**Factors
beyond
culture**

Although everything is affected by cultural interpretations, other factors such as skill levels, hunger, homelessness, health, safety, etc. will have an impact on working with another cultural group

2
Prevention
skills

An individual must have the necessary skills to work within the areas one wants to use for building a relationship with another cultural group



5
Own
Community

**It is important to understand
how our own community
history affects how we view
other communities**

4
Own
culture

We often take our own culture for granted. We need to explore our culture and understand how it affects our motivations, behaviors, thoughts, etc. before we can be aware of how to interact with other cultures.

Tribal councilor found guilty of assault, battery

By Electa Draper
Herald Regional Editor

Southern Ute Tribal Councilor Howard D. Richards Sr. was found guilty Wednesday after a jury trial on charges of assault and battery in an incident of domestic violence.

Tribal Court Judge Lawrence Numkena has set sentencing in the case for 1:30 p.m. Jan. 18. Under tribal law, the maximum sentence would be \$500 and six months in jail with a year of probation.

The 45-year-old Richards is seeking a second consecutive term on the council in a runoff election Dec. 21 with three other candidates vying for two seats.

Tribal Prosecutor Doug Walker said Richards' assault and battery charges in Tribal Court would be comparable to third-degree or misdemeanor assault in a state court.

The victim in the case reported to Tribal Police that, on the night of Sept. 3 at his residence about a mile south of Ignacio, Richards struck her twice in the face.

The woman said, in a written statement, that Richards slapped her, knocking her against a kitchen wall and causing her to fall as she stumbled over a trash can and bumped the telephone off the wall.

She said a second blow with the

back of his hand knocked her to the floor again.

At one point, as she tried to crawl away, she said, Richards repeatedly kicked her.

Police reported the woman said both she and Richards had been drinking the night of the assault. She also recounted that Richards made threatening references to his pistol.

"During the assault he would ask if I were going to call the cops," she said in a written statement. She said Richards told her, "I've got a pistol in the room. Are you going to call the cops? If I'm going to jail, I'm going to do it right."

A police officer reported that photographs were taken of bruises on the woman's face, legs, arms and back.

The court issued a warrant for Richards' arrest Sept. 6. The jury that tried the case consisted of five women and one man.

Richards' defense attorney, Jeff Wilson, could not be reached for comment in the case.

The victim services coordinator for the tribe, Barbara Scott Martinez, would not comment on the Richards' case, but she said, "I think it's good, as a tribe and tribal people, that we recognize (domestic violence) is a tribal issue that needs to be addressed."

6
Other
cultures

We must be able to step
outside our cultural biases
and accept that other
cultures have different ways
of perceiving the world that
are equal to our own

Ray Frost Survives Removal Proceeding

by John T. Rehorn
Drum Staff Writer

A week after Tribal Council passed a removal ordinance to self-police its members, they implemented it in a hearing against Councilman Ray C. Frost, June 25.

Confidential sources reported that the Council voted not to remove Frost, opting instead to privately censure or express vigorous disapproval of his actions.



Frost has been the subject of a sexual harassment investigation, but to date, no charges have been filed against him. The removal ordinance allows for the proceeding despite formal court charges, "... to serve as an effective deterrent to misconduct."

In a day-long executive session which had no published agenda, Tribal Councilors heard arguments from attorneys and witnesses regarding Frost's conduct. Southern Ute Tribal Police guarded the doors of Council throughout the day. There were no disturbances.

At 5 p.m. Frost waited outside Council chambers for the decision. He said he had no comment on the proceedings and said he would have none after the decision was made. By 8:30, Council members filed out silently.

One Councilor said he had no comment except to say that this was an internal disciplinary/investigative procedure and a very sensitive issue.



Ute councilman faces investigation

Alleged touching incidents alarmed casino worker, 15

By Kristin Carpenter
Herald Staff Writer

Southern Ute Tribal Councilman Ray Frost is under investigation for alleged sexual harassment of a minor. He was prohibited from having contact with her for three days in April under a temporary restraining order issued April 11.

According to a Tribal Court document, the 15-year-old girl, an employee at the Sky Ute Casino in Ignacio, claims Frost harassed, intimidated and touched her in a sexual way and she became



RAY FROST

"alarmed" by his behavior April 10 when he sat on her lap in the game room of the casino.

Frost, whom the restraining order estimates to be between 40 and 50 years old, failed to make an appointment with a *Herald* reporter to comment on the allegations.

He had been scheduled to appear April 18 in Tribal Court to show cause as to why the tempo-

rary restraining order should not be extended for six months, but court officials this week refused to say whether the order is still in effect.

The girl's mother filed the motion for a restraining order against Frost. No details of the ongoing investigation are being released by the Southern Ute Police.

Chief Tribal Judge Elaine Newton said that she wouldn't release any information on the case because the alleged victim is a minor.

Newton did confirm that there is an investigation under way, as did Jann Smith, public information officer for tribal police.

"There is an investigation going on. As far as what it might

■ See FROST, Page 16

FROST

Continued from Page 1

turn out to be, I don't know. There was an allegation and an investigation, and that was it," Smith said.

Vincent Hubbard of the Bureau of Indian Affairs in Towaoc, said that he is working with the tribe on the investigation but also declined to release details.

Tribal Court officials refused to release a copy of the temporary restraining order against Frost, but a copy was obtained.

The girl claims to have been "touched ... on the leg and back" repeatedly but did not feel "alarmed" by this until April 10, when Frost allegedly sat on her lap while she was working her shift at the casino.

After she "pushed him off," the restraining order states that Frost allegedly put his arms around her. He then allegedly "caressed her neck and cheek, ... put his finger inside of her shirt collar and touched her collarbone."

The girl then backed away, "registering alarm," after which Frost allegedly left the room, "waving and winking."

The girl claims Frost was touching her in a sexual way and she was "intimidated by his actions." The girl, who was "visibly shaken," was directed by the casino's security to call her mother to arrange for a ride home.

In the order, the Tribal Court judge stated Frost was prohibited from having contact with the alleged victim because the girl "was intimidated and lacking in control as a result of (Frost's) position of power in the tribe."

