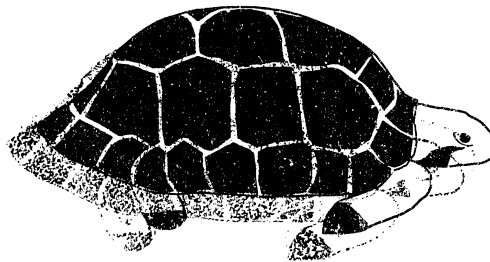


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Upon the Back of a Turtle...

A Cross Cultural Training Curriculum
for
Federal Criminal Justice Personnel

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OVC
Advocating for the Fair
Advocating Treatment of Victims
Treatment of Victims

Upon the Back of a Turtle...

A Cross Cultural Curriculum for Federal Criminal Justice Personnel

developed by:

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CCAN believes that the information contained herein is factual and that the opinions expressed are those of the author and consultants. The information is not however, to be taken as warranty or representations for which the Center on Child Abuse and Neglect assumes legal responsibility. Any use of this information must be determined by the user to be in accordance with policies within the user's organization and with applicable federal, state, and tribal laws and regulations.

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Purpose of Training

The materials and video of this curriculum is designed to assist federal government personnel in understanding the diversity within Indian communities and improve their abilities to provide culturally appropriate services to American Indian clients. The materials will assist federal criminal justice personnel in responding appropriately to American Indian victims of crime and their families and the provision of culturally sensitive services will be enhanced.

Upon the Back of a Turtle... comes from the rich oral tradition that Native people have for storytelling to teach principles and to convey ideas. Upon the Back of a Turtle uses the same concept of telling a variety of stories. The stories are not meant to portray a specific tribe or Native group, but are told to present different concepts used by Native families and their extended family members. These stories express family relationships, the viability of traditional ceremonies, the use of traditional teachings, methods of communication and other relevant themes. The vignettes are only short tales and are not one consistent story line, but they are the portrayal of concepts to generate discussion among the viewers and to convey a bit of teaching with the telling of the tale.

Organization of the Manual

The contents of this curriculum have been organized in training modules that can be presented either as a series of workshops or as an individual module. The training modules have been designed so that the presenter has all necessary information for each session and in a format that can be easily presented. Each trainer's module includes a trainer's agenda, presentation information, master overheads, master handouts, and activity worksheets.

The **Trainer's Agenda** includes lecture presentation (overall goal of the session), objectives, activities for large and small groups, discussion questions and information that relates to the training video for each section. Each session can last from 1 - 3 hours, depending upon the activity selected and amount of discussion within the group. Suggested readings are included at the end of the manual that can be disseminated to participants and can also assist the presenter in preparing for the presentation.

Each module includes the **Presentation Information** with specific information on each topic to be covered during the session. Within the Presentation Information are Masters for overheads that can be copied onto transparencies to be used during each session. Master handouts are provided which can be copied and distributed to



participants. Each handout corresponds with the overheads and Presentation Information.

In the Appendix **Sample Materials** are provided that can be used at the presenter's discretion. These include worksheets that can be used for small and large group activities, a sample certificate for completion of training, sample evaluations and a pre and post measure that can be used by participants before and after training.

The 30 minute **Video** includes information on cultural issues of Native Americans. The Video should be used to initiate and create discussion within the training group about cultural issues and is not intended to be specific to any one Native American tribe or culture. The video can be used at any point in this training program.

Introduction

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 programs through the Victim Assistance in Indian Country (VAIC) discretionary grant 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 predominantly non-Indian, have encountered cultural differences in working with Native American crime victims.

This curriculum and video will present some of the realities of delivery of services to Native victims by victim assistance programs with the goal of increasing understanding of how VAIC programs may differ from similar non-Indian programs. Any discussion of Native programs must begin with the caveat that all tribes are different and that there is no single correct way to deal with all Indian persons and/or programs. Non-Indian personnel working within Indian Country must educate themselves regarding the Indian Nations in their jurisdiction.

In this curriculum and video the term Native Americans and American Indians are used interchangeably. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo populations.



Upon the Back of a Turtle there are many stories...

Storytelling was the form of transmittal for how things were and why things happened. There were winter stories and summer stories, stories for days that the rains fell, and stories for early mornings. Creation stories were told and retold many times in the growing years. The telling of the tale was not only to re-create the beginning of the tribe but the stories would have different significance as children matured through the developmental stages. Storytelling gathered families together to share recreation time and to improve listening and oratory skills. Stories provided the answers to when, where, how, and how come.

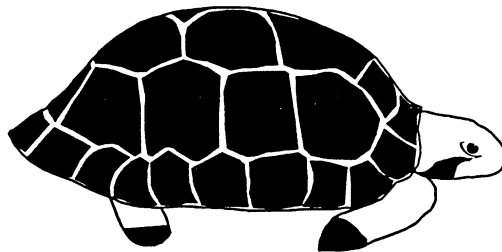
Non-Indian youth have Dr. Seuss, Charlie Brown and other stories to grow and mature by. Indian youth have turtle stories, songs, and games they listen to as they mature from youth into adulthood. Each turtle story has a lesson and is used as a teaching tool for American Indian youth. "Upon the Back of a Turtle" video is a representation of cultural differences in the way Native teachings are still used today.



Upon the Back of a Turtle...

*A Cross Cultural Training Curriculum
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Introduction to Indian Country



Background Information (Trainer's Information) for **Introduction to Indian Country**

Lecture Presentation :

This presentation will provide some basic facts and demographic information to introduce participants to the American Indian and Alaska Native populations, locations and regions, general health and a basic understanding of tribal enrollment, degree of Indian blood and other facts that will be helpful when working in Indian Country.

The trainer is asked to address each of the topics and elaborate each point for participants to better understand the impact of the issues. The activities and discussion questions can be used with the large group or smaller groups can review the questions and report back to the large group. Worksheets to be used for large and small group activities can be found in the back of this section.

Materials in this section :

The following section provides material for trainers to use in presenting the curriculum, including trainers information, overheads, handouts, resources and other information.

Trainer information (background information) is provided for use with each section. This information corresponds with the overheads and handouts.

The overheads are indicated with a divider page and can be reproduced on transparencies.

Handouts are indicated with a divider page and can be reproduced and distributed to participants. Handouts are duplicates of the overheads with three overheads on each page of the handouts.

In addition, other related resources and information is provided that can supplement the presentation.



Introduction to Indian Country

Objectives:

1. To familiarized federal criminal justice personnel to the demographics, statistics and terms used when working with Native American tribes and individuals.
2. To provide participants with an overview of the current status of American Indians and Alaska Natives living on and off reservations.
3. To provide an overview of the relationship between the federal government and federally recognized Indian tribes.

Activities:

Lead participants in large or small group discussion of:

- 1) What is the relationship of the federal government with Indian tribes as you see it today? What treaty or policy governs this relationship?
- 2) What are the issues of sovereignty and how does it affect the work you do?
- 3) What different criminal jurisdictions are applicable to American Indians, Alaskan Natives and Indian Country which includes Indian and non-Indian fee lands, trust lands, tribally owned lands, allotments in severalty and reservation land?
- 4) Why are American Indian tribes and their members treated differently from other citizens by the federal government, and what is the "trust relationship" that influences the federal treatment?

Master Overheads : N = 39

Master Handouts : N = 13

Discussion Questions :

1. How can the U.S. government declare tribes as sovereign nations?
2. How can the U.S. government not allow tribes the exclusive authority to rule on their own land and over their own people as sovereign nations?
3. In what ways has the U.S. government limited tribal sovereignty?
4. How is eligibility determined for enrollment with a federally recognized tribe? Who determines the criteria for enrollment?

The terms Native American and American Indians are used interchangeable. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.



In the training video...

- 1) Today, approximately half of all American Indians live in urban settings. Many moved to the urban areas as a result of the federal termination and relocation programs in the late 1950s and early 1960s in order to further "civilize" and educate them. Many chose to relocate to find work, attend college, because of marriages or to simply escape the poverty on the reservation. Many American Indians living in urban areas commute to the reservation on weekends and for special events.
- 2) The role of the elderly in the lives of the Indian family is very important. The elderly take on the responsibility of teaching the young children about their tribe and their culture. Typically this is done through storytelling and legends of the tribe. Elders take an active role in the upbringing of children. It is not uncommon for Indian parents to leave their children with family members (aunts, uncles, grandparents) for extended periods of time. This is done for the purpose of sharing children with the family as well as the opportunity for the children to get to know their relatives.
- 3) Maintaining cultural traditions is still a very important part of the everyday lives of American Indians. These traditions include, but are not limited to the behavior, actions, language, ceremonies, and relationships of each individual as well as the tribal members as a whole. Children grow up learning the traditions of the tribe and therefore practice them each day and will someday teach them to their children.
- 4) American Indian families are made up of not only the nuclear family but the extended family as well. Aunts and uncles are considered as mothers and fathers, cousins are considered as brothers and sisters and great aunts and uncles are grandmothers and grandfathers. Each relationship is special and typically a lasting bond is formed early in life.
- 5) The concept of tribal enrollment was created in the late 1800s and the early 1900s when the U.S. government began the allotment of land to all heads of households and individual Indians. In order to receive a land allotment, American Indians had to register with the government to be counted as a tribal member. This also led to the designation of blood degrees within tribes and the further development of tribal rolls. With the designation of blood degree, many American Indians no longer meet the qualifications of the tribal enrollment and are unable to be a registered tribal member. Prior to this time, tribes defined their membership much more broadly with the idea of "community vs. blood quantum." A member of a tribe had to be enrolled to share in heirship lands in most tribes.



Introduction to Indian Country

American Indian/Native Alaskan/Eskimo* Population

Based on 1990 US Census unless otherwise stated

Current Status

- 1.1 million American Indians are enrolled in a federally recognized tribe and have proof of being American Indian.
- 1.96 million persons are self-declared Indians, may be recognized as a state recognized tribe or have determined for themselves they have an identity as an American Indian.
- Native Americans make up eight-tenths of 1% of the total U.S. population (258 million).
- There was an increase of 38% in the American Indian population between the 1980 and 1990 census. This was due to several factors and not just increased birthrate.
- Increased number of American Indians counted on the census is due to higher fertility rates and improved procedures by the Census Bureau to count populations on trust and reservations lands, self-identification, and promoting of census information.
- The Native American population can be described as younger, less educated and poorer than the general population. This has implication for services and the ability of families to respond to crisis.
- Native Americans are the most impoverished ethnic minority population in America, with 31.6% of American Indians living below the poverty level compared with the national poverty rate of 13.1% for the general population.
- The poverty rate for American Indians was 27% in 1979 and has increased to 31% over a ten-year period (1979-1989). The poverty rate for non-Indians was 12% in 1979 and increased only 1% over the same ten-year period.
- In 1994, 11.7% of American Indians were under age 5, 39% of American Indians were under age 20 and 10.7 % were age 54 years and over. In comparison with other races in 1994, 7.7% were under age 5, and 19.6% of all races population was over age 54. This means that almost 40% of the American Indian population are minors and in need of supervision and



guidance. This also means that the majority of American Indian children are more likely to live in poverty and have limited resources.

- The median age for American Indian population was 24.2 years compared to a median age for non-Indian populations of 32.9 years. The American Indian population is very young with a limited number of caregivers.
- The 1990 Census indicated that the median family income for American Indian families was \$21,750, compared to \$35,225 median income for the general population. There is a difference for the median household income for American Indians residing in reservation states and American Indians residing elsewhere. For American Indians residing in reservation states the median household income was \$19,897. This family income also compares to other population (non-Native) family income of \$30,056. The overall family income for American Indian families is lower and decreases when American Indian families reside in or near traditional homelands.
- Median income for American Indian families maintained by a female householder with no husband was \$10,742, compared with \$17,414 median income for all other families (non-Native) maintained by a female with no husband. American Indian females are less marketable and unskilled, in addition to living in an area unlikely to have employment opportunities. There is also the consideration that it is increasingly likely that more than half of all Indian children live in a single parent household and less likely to live in a two-parent household. Single parent households have less disposable income.
- Average unemployment rate for reservations is 45%, with some having an unemployment rate of 90%. In the American Indian population, 75% of the employed earn less than \$7,000 per year. Most reservations are in isolated, economically deprived locations making meaningful employment highly unlikely. Most income is derived from federal funding. In more recent times, tribes have had an opportunity to make economic decisions and a limited number of tribes have been successful in establishing revenue generating enterprises, such as gaming, recreational, or developing natural resources. But for most tribes which lack an infrastructure, it has been more difficult to create a stable economic base.
- *The Native population includes American Indians, Native Alaskans, Aleut, and Eskimos. Other terms used are Native Americans or First Nations. Some federal laws that use the term Native Americans may include Native Hawaiians. Many tribes prefer to be called by their original tribal names and not the European names they were given. Historically, who was considered American Indian according to federal laws held little debate. The inclusion of Aleut, Eskimo and Native Hawaiian creates a broader definition and has



implication for funding and eligibility for federal and state programs. It also creates confusion as to terminology. Also, there is a change in what tribal people wish to be called collectively and individually, which has added to the confusion about what is correct terminology. The concern about identity has to do with indigenous people being called a name unknown to them, removed to areas unfamiliar to them, experiencing a history that left the majority of them dead, and the present need for an accurate telling of their story. Other terms often used are First Nations and First Americans.

- Approximately 50% of the American Indians/Native Alaskans live in urban areas. Native Americans living in urban areas have a better economic base compared to Native Americans living on reservations or trust land. Part of the migration to urban areas has been the result of federal relocation, job seeking, escape of poverty, education programs and the general migration from a rural to an urban environment by all populations.
- The birth rate for Native Americans was 26.6* compared to 15.9* for all other populations (*rate per 1,000 live births). American Indian women are having children younger and are experiencing longer child bearing years compared to their non-Native counterparts. Pre-natal care for the mother and the early developmental stages of the baby is better today and the arrest of diseases that plagued many American Indians in the early 1900's are not as prevalent, i.e., tuberculosis, whooping cough, small pox, measles.
- Infant mortality rates for Native Americans was 8.8 compared with 6.9 for other populations. It has decreased 60% from 22.2 since 1974. This compares with 8.5 for other populations for 1974. It has been in the past ten years that the infant mortality rates for Native Americans has decreased to a level that is similar to the non-Native population. Prior to this date, the rate was almost three times the national average. Native infants were more at risk for early death in 1974, now they are more at risk for accidental deaths after their first year.

General Health of American Indians

- The birth rate for American Indians and Alaskan Natives was 26.6 (rate per 1,000 population) in 1991-1993. This is almost twice the birth rate for all races.
- The general physical health of Native Americans is the poorest of any group in the U.S. The lack of adequate medical facilities, medical professionals, funding sources and limited access have contributed to insufficient medical services.



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- In certain communities, Fetal Alcohol Syndrome (FAS) is 33 times higher for Native American children than non-Native children. FAS is a major problem because infants may have more difficulty with normal eating and sleeping patterns as well as developmental delays. They may be at greater risk for child maltreatment because they may be hard to comfort and mothers and/or caregivers may find their lack of response frustrating. As young children and adolescents, these children need structure and may suffer from secondary disabilities. They are less likely to understand consequences associated with inappropriate behavior and may be easily lead into harmful or dangerous situations.
- Tuberculosis is 7.4 times greater for Native Americans (4.2 deaths for Native Americans per 100,000 as compared to .05 for all races). Tuberculosis is on the rise in Native communities and is compounded by other illness such as HIV-AIDS, alcoholism, and diabetes.
- Diabetes is almost 7 times greater for Native Americans (35.8 deaths for Native Americans per 100,000 as compared to 9.8 for all races). In certain tribes, the rate of adult on-set diabetes is almost 90%. Indian Health Service did not initially address the prevention of diabetes. It has been in more recent times that awareness in prevention has prompted more emphasis on nutrition, exercise and other preventive efforts. There has been concern that the kinds of foods that were provided through programs such as the USDA Food Commodity programs contrasted sharply with traditional native foods.
- Suicide has devastated some Indian communities. In some communities, cluster suicides has resulted in several adolescents dying and the ability of the community to decrease the number of at risk individuals has been marginal. Currently, 16% of Native American teenagers have attempted suicide as opposed to 4% of other teens (18 suicides per 100,000 Native American teens). The most at risk age group for suicide is males ages 12-27. They are 7 times more successful at hanging, shooting, or knifing themselves, than other males in this age group.
- Alcohol related deaths are 10 times the rate for Native Americans than for all other groups combined (42.7 deaths for Native Americans per 100,000 as compared to 6.0 for all races). Native Americans have had considerable exposure related to the rate of alcoholism within their communities. There are several theories speculating on biological, sociological, psychological, genetic, or environmental factors that may contribute to the degree of alcoholism. However, the actual reasons are not certain and there continues to be concern about the early drinking patterns and consumption levels of adolescents and the related health problems.



Death and Related Injuries

- American Indian population leads the nation in death caused by:
Alcohol-Related Motor Vehicle Fatalities
Chronic Liver Disease and Cirrhosis
Diabetes
Fetal Abnormalities
Homicide
- Leading causes of death for the following ages in American Indian populations:

Ages 1-4	Accidents (motor vehicle & others)/Homicide
Ages 4-15	Accidents (motor vehicle & others)/Homicide
Ages 15-24	Accidents (motor vehicle & others)/ Suicide/ Homicide
Ages 25-44	Accidents (motor vehicle & others)/Chronic Liver disease & Cirrhosis/Suicide/Homicide
- Of all American Indian and Alaska Native people who died during 1991-1993, 30 percent were under the age of 45 compared to 11 percent for all other races. American Indian and Alaska Native people die at a younger age and from more preventable injuries than non-Native people.
- In twenty years the accident death rate for American Indians and Alaska Natives dropped from 188.0 to 83.4, however this is still nearly triple the general population of 29.4. It would appear that American Indians and Alaska Natives are engaging in more at-risk behavior and as a result, have a higher accident and death rate. In addition, young Native adolescents encounter more severe head and spinal injuries due to high risk behavior.

Education

- In 1990, 65.3% of American Indians over age 25 were high school graduates or higher, which increased from 56% ten years earlier.
- For the general population 75.2% of people over 25 years of age were high school graduates.
- Approximately 9% of American Indians completed a bachelor's degree or higher compared with 20% for the total population.



Understanding Tribes, Tribal Enrollment and the Degree of Indian Blood

- A **tribe** was defined by the U.S. Supreme Court in 1901 as, "By a *Tribe* we understand a body of Indians of the same or similar race, united in community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory."
- Before the federal government developed official definitions for an Indian tribe, the term was purely ethnologic. A tribe was a group of indigenous people, bound together by blood ties, who were socially, politically, and religiously organized according to the tenets of their own culture, who lived together, occupying a definite territory, and who spoke a common language or dialect.
- Currently the federal government recognizes over 559 different Indian tribes which by federal law entitles those tribes to declare themselves as Federally Recognized Tribes; of these, 226 are recognized entities in Alaska. There is a distinction between tribes that are federally recognized and tribes that are state recognized. Only federally recognized tribes are eligible for considerations in federal funding or can qualify for federal funding sources, whereas state recognized tribes and other native groups may not qualify for federal funding. Altogether there are 314 reservations, 278 of which are administered as federal Indian reservations.

Tribal/Ethnic Grouping	Population
Cherokee	308,132
Navajo	219,198
Chippewa	103,826
Sioux	103,255
Choctaw	82,299
Eskimo	57,152
Pueblo	52,939
Apache	50,051
Iroquois	49,038
Creek	43,550

- Currently there are approximately 250 Native languages - each tribe has their own culture and language that is distinct to them. Some tribes may have language programs that are being promoted in their education systems (Head Start, elementary schools, and tribally controlled colleges). Only 250 Native languages are viable due to the limited number of Native speakers. A number of Native languages disappeared due to the systematic elimination



within the boarding schools and the transition from Native to the English language.

- Each tribe has formally established enrollment criteria. No single set of criteria exists which establishes tribal membership consistently across tribes. Most criteria requires 1/4 or more degree tribal blood (blood quantum), with some requiring that a parent be enrolled with the tribe plus the 1/4 degree tribal blood quantum. Other tribes may require only that an individual provide proof of decendency from historic roles to be eligible. A tribe may include degree of Indian blood from other tribes for a total of Indian blood, however, to be eligible for tribal enrollment, the individual must meet the requirements for that individual tribe based on the degree of tribal blood. Some tribes may base their enrollment on historical paternal or maternal lines and only enroll children based on the tribal lineage as determined by their particular cultural traditions being either matrilineal or patrilineal.
- American Indians are dual citizens of both the U.S. and a federally recognized tribe. Most tribes will not allow dual tribal enrollment. Thus, individuals cannot be enrolled in more than one tribe should they meet the eligibility requirements for more than one tribe. In the 19th century, the prevalent opinion was that an Indian could not be both a tribal member and a U.S. citizen. In 1924, with the passage of the one-sentence law entitled the Indian Citizenship Act, U.S. citizenship was granted to the Indian population. It read, "All non-citizen Indians born within the territorial limits of the United States...are hereby declared to be citizens of the United States...." At the time the act was passed, perhaps one third of the U.S. Indian population did not have citizenship. Other laws and special considerations had created methods for certain tribal individuals and groups to be granted U.S. citizenship prior to the passage of the 1924 law.

Parameters of Indian Country

- The federal government set aside certain boundary lines on lands that are designated as Indian reservations. The lands were set aside as a result of treaties, laws, Supreme Court decisions, agreements, Congressional decisions, and Executive Orders. There is a difference between federally recognized reservation lands and state recognized reservation lands. There has been lengthy legal questions regarding boundary lines and what is considered reservation land and who has jurisdiction within those boundaries, as well as what is considered allotments in severalty and is "surplus" or "reserved" lands to be considered Indian land after being sold or taken by the U.S. The allotment system did not dissolve tribal governments or individual tribes.



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- The number of federal Indian reservations totals about 300 with the majority located in 19 western states. There are 33 states with reservations nationwide and twenty-one of the 24 states located west of the Mississippi River have at least one Indian reservation within their borders.
- California has the highest number of federal reservations - nearly 95 - but approximately half of these are small rancherias ranging in size from less than one to several hundred acres. The highest concentration of Indian reservation or trust land is in Arizona. Oklahoma was a reservation state but the status was changed when the land was opened for allotments and now the state of Oklahoma is made up of former reservation lands, trust land, and allotment land dealt with by Executive Order and treaty reservations.
- American Indians reside in all states, however the majority of American Indians live in 25 states with the majority of the population residing in the western U.S. (OK, CA, NM, TX, MN, MT, MI, SD, ND, AZ, UT, OR, WA, FL, IL, OH, NV, NY, WI, MO, CO, KS, NC, AL, AK).
- Oklahoma has the highest American Indian population with California having the second highest.
- Tribes range from 2-3 members in several California tribes to the Cherokee Nation having over 300,000 members and Navajo Nation with over 200,000.
- The urban Indian population is younger with the reservation population being older.



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As of 1990:

Rank	State	Native American Population	Percent Native American
1	Oklahoma	252,420	8.0
2	California	242,164	0.8
3	Arizona	203,527	5.6
4	New Mexico	134,355	8.9
5	Alaska	85,698	15.6
6	Washington	81,483	1.7
7	North Carolina	80,155	1.2
8	Texas	65,877	0.4
9	New York	62,651	0.3
10	Michigan	55,638	0.6
11	South Dakota	50,575	7.3
12	Minnesota	49,909	1.1
13	Montana	47,679	6.0
14	Wisconsin	39,387	0.8
15	Oregon	38,496	1.4
16	Florida	36,335	0.3
17	Colorado	27,776	0.8
18	North Dakota	25,917	4.1
19	Utah	24,283	1.4
20	Kansas	21,965	0.9
21	Illinois	21,836	0.2
22	Ohio	20,358	0.2
23	Missouri	19,835	0.4
24	Nevada	19,637	1.6
25	Louisiana	18,541	0.4

Terminology

- **American Indian, Native Alaskan, Eskimo, Native American or First Nations** can be used to designate an individual with historical/Native roots within the continental United States prior to European contact.
- The term "**Indian**" is based on Christopher Columbus' assumption that he had reached India rather than the fact he stumbled into a civilization that was unknown to most of Western Europeans at that time. Now, the term by definition describes the indigenous people of North and South America.



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- Historically, the purpose of defining who is **Indian** is the result of placing tribal people on “government roles” for the purpose of maintaining control and placement of the tribal population by the federal government. Eventually the status of tribal rolls evolved into the status of tribal enrollment and from there the tribal eligibility requirement was established.
- The current definition of who is **Indian** has considerable more implications due to the eligibility for tribal membership; the benefits derived from membership inclusion, and eligibility for funding.
- Federal policy has made it critical to determine who is or who is not **Indian** for the purpose of funding and/or jurisdiction. For example, the Indian Child Welfare Act of 1978 allowed for tribes to assume jurisdiction for placement of eligible-enrollment children in need of care.
- There are different definitions of Indian. According to the Bureau of Indian Affairs (1987), an **Indian** is *generally* defined as an individual who is a member of an Indian tribe, band, or community that is “recognized” by the federal government; who lives on or near a reservation; and who is 1/4 or more Indian ancestry.
- Others have suggested a definition based on other criteria. Felix S. Cohen (1982), the renowned chronicler and scholar of American Indian Law, suggested that a practical definition of who is Indian be based on two criteria:
 - a) some of the individual's ancestors lived in what is now the United States before the first Europeans arrived, and,
 - b) the individual is recognized as an Indian by his or her tribe or community.
- Historically, American Indians tended to use a much broader definition of who was Indian. Many times that included being a member of the community, accepted as a member by other members of the tribe, or adopted by an Indian family.
- The term ‘**Indian Country**’ can mean many things, however the legal definition for federal jurisdiction purposes typically means,
 - a) all land within the limits of any reservation under the jurisdiction of the United States government,
 - b) all dependent Indian communities within the borders of the United States, and,
 - c) all Indian allotments, the Indian titles to which have not been extinguished...
- Indian ‘**trust land**’ is Indian owned land; title to which is held in trust by the United States. What this essentially means is that the “ownership” is divided



between the federal government, which holds "bare legal title," and the tribe (or individual Indian) which holds full equitable title (NCAI, 1976). Neither the government nor the Indian owner can sell or otherwise dispose of trust land without consent from the other. Trust status is the result of a legal ruling by the U.S. Supreme Court who determined the federal government has a trust relationship to tribes.

- Trust land is a term developed during the allotment system. The U.S. government is simply the steward and an Indian can legally sell or gift deed their trust land after signing the necessary government papers. Jurisdiction, of course, would fall within federal jurisdiction as it is still in trust with the U.S.
- **Sovereign** is defined as an entity which is independent and where supreme authority is vested (Black's Law Dictionary, 1990). At the most basic level, the term refers to the inherent right or power to govern. Within the Europe of old, this right was vested in monarchs and was considered to be God-given. Under the U.S. constitutional system, the right is inherent in the people and is exercised through their representative local, state, and federal governments. This is somewhat comparable to the inherent sovereignty of Indian people in the tribal context (Canby 1981; Deloria and Lytle 1983).
- So long as sovereign tribal rights are not voluntarily ceded by the tribes in treaties or in other negotiations approved by Congress, or they are not extinguished by Congress, they continue in existence. Rights not specifically ceded in a treaty or agreement are considered to be reserved.
- Tribal governments are considered to be **Sovereign Nations**. A sovereign people could be considered a political body, consisting of the entire number of citizens and qualified electors, who in their collective capacity, possess the powers of sovereignty and exercise them through their chosen representatives (Black's Law Dictionary, 1990). Several issues have surfaced as a result of tribal sovereign status. Gaming and taxation (tribal and state) are two critical points of contention between tribes and state governments.
- "From the earliest years of the Republic the Indian tribes have been recognized as 'distinct, independent, political communities,' and as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the federal government, but rather by reason of their original tribal sovereignty" (Felix S. Cohen, Handbook of Federal Indian Law, 1941).
- **Tribal sovereignty** is a core principal in the federal-tribal relationship. However, allotment and the assimilative programs of the late nineteenth century significantly weakened the strength of tribal sovereignty in United States law.



- **Tribal sovereignty is inherent**, and the self-governing powers of Indian tribes still survive unless divested by Congress. Tribal sovereignty includes the power of a tribe to adopt and operate under their own form of government, define conditions of tribal membership, regulate domestic relations of members, prescribe rules of inheritance, levy taxes, regulate property and to create laws and administer justice.
- The **"allotment system"** was established by the government in 1887 and rigorously pursued into the 1930s. The allotment system allowed for tribal lands within legally established reservation boundaries to be divided up and assigned to individual Indians. The General Allotment Act of 1887 conferred citizenship on Indians born within the U.S. and to whom the government made individual land allotments of 60 to 180 acres, from tribal reservation lands. This system created the opportunity for non-tribal people to gain access and ownership to what was once reservation land. The majority of land within many reservation boundaries is owned by non-tribal/non-Indians as a result of reservation land being opened up. The allotment system also allowed for citizenship if individual Indians excluded him/herself from the tribe.
- The U.S. declared in the Northwest Ordinance of 1787..."The utmost good faith shall always be observed towards the Indians, their land and property shall never be taken from them without their consent." President Washington's address to Indian Nations explaining the Indian Intercourse Act dated July 22, 1790, (I. Stat. 137) with several similar Acts thereafter - "The General Government will never consent to your being defrauded but will protect you in all your just rights" (Report to the Committee on Indian Affairs, 1915).



Discussion Questions for Introduction to Indian Country

FEDERAL VICTIM/WITNESS COORDINATORS:

- What type of history does the U.S. Attorney's Office have in working with American Indians?
- When did your agency begin working with American Indians, under what circumstances?
- Were these circumstances positive or negative?
- Did tribal people seek out the services or were they imposed upon them?
- How much do you know about the history of your own agency and its' relationship with American Indian people?

FBI:

There is a long history of FBI involvement in Indian Country, usually arresting or confrontation with Native people. Some of this history is violent and some incidents, such as Wounded Knee (1990), ended in death. This type of mutual mistrust can make it difficult for FBI agents to work in Indian communities.

- How do historical and recent events impact your work (including how the community views you, as well as the FBI)?
- What can you do to improve working relations with Indian communities?

Most FBI agents deal with capturing criminals. In Indian Country you often find yourself working with victims, especially child victims.

- Does your training prepare you to be a sensitive interviewer of a child sexual abuse victim and an interrogator of an alleged perpetrator?
- What would help you (or does help) to deal more effectively with American Indian child victims?

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

Historically the "white man's" court has been viewed as punishing Indian people. Legal decisions have eroded the strength of tribal courts by limiting their jurisdiction and the penalties which can be imposed.

- Why should American Indian people now believe that they get fair treatment in the non-Indian court system?
- What types of policies does your agency have which promote equal treatment of American Indian people?
- Is there any discussion within your office about the historical relationship with American Indians and how that relationship might impact your current work? The Federal Judicial System presented a mystery to most Native people since most have limited opportunity to interact at this level. However, due to



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federal jurisdiction, many court cases of Native people are highly unlikely to result in federal oversight.

- How does the federal system respond to Native victims and defendants that is fair but culturally sensitive?
- A trial court at the federal level does not represent a jury of peers comparable to a Native defendant. How is this fair to Native people?



Worksheet for Introduction to Indian Country

Large group discussion questions

1. What is the relationship of the federal government with Indian tribes as you see it today? What treaty or policy governs this relationship?
2. What are the issues of sovereignty and how does it affect the work you do?
3. What different criminal jurisdictions are applicable to American Indians, Indian and non-Indian fee lands, trust lands and reservation land?
4. Why are Indian tribes and their members treated differently than other American citizens by the federal government?
5. What is the "trust relationship" and the "trust responsibilities" of the federal government to American Indians and Alaskan Natives?
6. How can the U.S. government declare tribes as sovereign nations? What policy governs this action?
7. As sovereign nations, how can the U.S. government not allow tribes the exclusive authority to rule on their own land and over their own people?
8. In what ways has the U.S. government limited tribal sovereignty?
9. There are three broad areas of trust duties of the U.S. government to American Indians, 1) protection of right of self government, 2) protection of property rights, and 3) provisions of medical, social, education and services to support tribes to be sovereign. What do these mean to you in your work with American Indian governments?

If the groups is large and time is limited, the group can be divided into 4 small groups and each group given 2 questions to discuss and report back to the large group.



Master Overheads

Introduction to Indian Country

American Indian Population

- ⇒ 1.1 million enrolled in a federally recognized tribe
- ⇒ 1.96 million self declared
- ⇒ Make up 8/10 of 1% of total U.S. population (258 million)





American Indian Population

⇒ Increase of 38% in population between
1980 - 1990 due to:

- higher fertility rates,
- improved census procedures,
- self identification





American Indian Population

- ⇒ Younger, less educated and poorer than the general population
- ⇒ Most impoverished minority in America
- ⇒ Poverty rate increased from 27% to 31% in 10 years





American Indian Population

⇒ In 1994:

- 11.7% of population under age of 5 compared to 7.7% for all races
- 19.6% of total population over age of 54 compared to 10.7% for American Indians



American Indian Population

⇒ Median age:

- 24.2 American Indians
- 32.9 other races





American Indian Population

⇒ Median household income:

- reservation states - \$19,897
- other races - \$21,750
- other states - \$21,750
- other races - \$30,056





American Indian Population

⇒ Families maintained by female head of household:

- American Indian - \$10,742
- other races - \$17,414

⇒ Average unemployment rate for reservations is 45%, some have 90%





American Indian Population

- ⇒ 75% of employed earn less than \$7,000 per year
- ⇒ Almost 50% live in urban areas
- ⇒ Birth rate per 1,000 live births
 - 26.6 American Indian
 - 15.9 other races





American Indian Population


⇒ Infant mortality rates:

- 8.8 American Indian
- 6.9 other races

⇒ Has decreased 60% from 22.2 since

1974

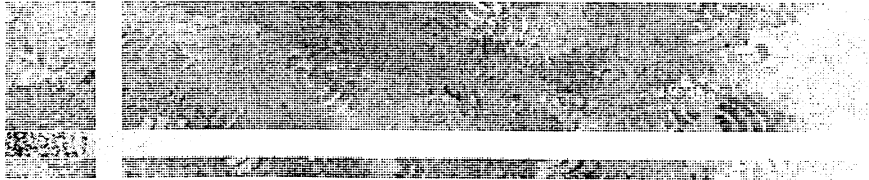




General Health of American Indians

- ⇒ Birth rate in 1991 - 1993 (per 1,000)
 - 26.6 American Indian
 - 15.9 for all races
- ⇒ General physical health is the poorest of
any group in the U.S.





General Health of American Indians



⇒ Fetal Alcohol Syndrome (FAS)

- 33 times higher for Native Americans

⇒ Tuberculosis (per 100,000)

- 7.4 times greater in Native Americans
- 4.2 deaths
- .05 deaths for all races





General Health of American Indians

- ⇒ Diabetes almost 7 times greater for Native Americans
 - 35.8 deaths for Native Americans
 - 9.8 deaths for all races
- ⇒ Adult on-set almost 90%



General Health of American Indians

⇒ 16% of Native American teens have attempted suicide

- 18 suicides per 100,000

⇒ 4% of other teens have attempted suicide

⇒ Most at-risk age group of Native American - males age 12-27



General Health of American Indians

⇒ Alcohol related deaths are 10 times the
rate for Native Americans than other
races

⇒ Deaths per 100,000

- 42.7 for Native Americans
- 6.0 for all races



Deaths and Related Injuries

⇒ Leading causes of death:

- age 1-4 -- accidents/homicide
- age 4-15 -- accidents/homicide
- age 15-24 -- accidents/suicide/homicide
- age 25-44 -- accidents/chronic liver disease
and cirrhosis/suicide/homicide



Deaths and Related Injuries

⇒ Deaths during 1991-1993:

- 30% under age 45 for Native Americans
- 11% for other races

⇒ Accident death rate:

- 83.4% for Native Americans
- 29.4 for other races

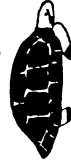




Deaths and Related Injuries

⇒ American Indians lead the nation in deaths caused by:

- alcohol related motor vehicle fatalities
- chronic liver disease and cirrhosis
- diabetes
- fetal abnormalities
- homicide



Education

⇒ High school graduates over age 25:

- 65.3% for Native Americans
- 75.2% for general population

⇒ Bachelor degree:

- 9% for American Indians
- 20% for total population





Tribes, Tribal Enrollment and Degree of Indian Blood

⇒ Tribe - defined by U.S. Supreme Court (1901) as, “a body of Indians of the same/similar race, united in community under one leadership/government, and inhabiting a particular, though sometimes ill-defined territory.”



Tribes, Tribal Enrollment and Degree of Indian Blood

⇒ Federal government currently recognizes:

- 559 different Indian tribes
- 278 of these are recognized entities in

Alaska





Tribes, Tribal Enrollment and Degree of Indian Blood

- ⇒ There are approximately 250 Native languages
- ⇒ Each tribe has their own culture and language that is distinct to them
- ⇒ Tribes formally establish their own enrollment criteria





Tribes, Tribal Enrollment and Degree of Indian Blood

⇒ American Indians:

- are dual citizens of U.S. and a federally recognized tribe
- cannot be enrolled in more than one tribe



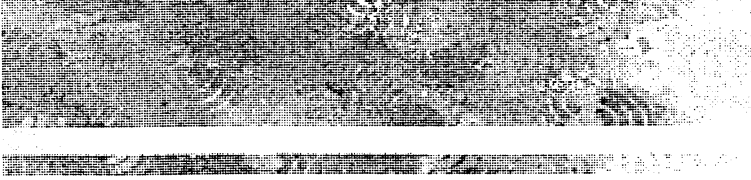



Parameters of Indian Country

⇒ Federally recognized reservation lands:

- approximately 314 federal Indian reservations
- located in 33 states
- 21 of 24 states west of Mississippi River have at least one Indian reservation





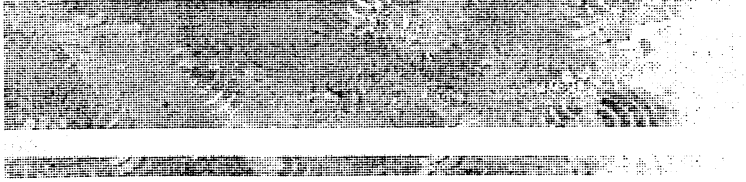
Parameters of Indian Country

⇒ California has highest number of federal

reservations:

- nearly 95
- ranging in size from less than one acre to several hundred acres





Parameters of Indian Country

⇒ Highest concentration of Indian

reservation trust land:

- Arizona

⇒ American Indians reside in all 50 states

- majority live in 25 states



Parameters of Indian Country

⇒ Highest American Indian population:

- Oklahoma

⇒ Second highest

- California





Parameters of Indian Country

⇒ Tribes range from:

- 2-3 members in some California tribes
- Navajo Nation with over 200,000 members

⇒ Urban population younger than reservation population



Terminology

⇒ **Indian** - generally defined by the Bureau of Indian Affairs (1987) as:

- individual who is a member of an Indian tribe, band or community “recognized” by the federal government;
- lives on or near a reservation;
- is 1 / 4 or more Indian ancestry.



Terminology

⇒ The current definition of who is Indian has implications due to:

- eligibility for tribal membership
- benefits derived from membership
- eligibility for funding





Terminology

⇒ Indian Country -

- a) all land within the limits of any reservation under jurisdiction of U.S. government,
- b) all dependent Indian communities within borders of the U.S.,
- c) all Indian allotments, (Indian titles to which have not been extinguished)



Terminology

⇒ Trust Land - Indian owned land, title which is held in trust by the government. “Ownership” is divided between federal government, which holds “bare legal title,” and tribe (or individual) which holds full equitable title (NCAI, 1976).

Neither the government nor owner can sell or otherwise dispose of trust land without consent from the other.



Terminology

⇒ Sovereign

- A person, body, or state in which independent and supreme authority is vested

(Black's Law Dictionary, 1990).

⇒ Sovereignty

- the inherent right or power to govern.



Terminology

⇒ Tribal governments are considered
to be Sovereign Nations

⇒ The self-governing powers of Indian
tribes survive unless divested by
Congress



Terminology

⇒ Sovereign People

- a political body, who, in their collective capacity, possess the powers of sovereignty and exercise them through their chosen representatives (Black's Law Dictionary, 1990).



Terminology

⇒ Tribal Sovereignty includes the power of a tribe to:

- adopt and operate own form of government
- define conditions of membership
- regulate domestic relations
- prescribe rules of inheritance
- levy taxes
- regulate property
- create laws and administer justice



Terminology

⇒ Indian Allotments

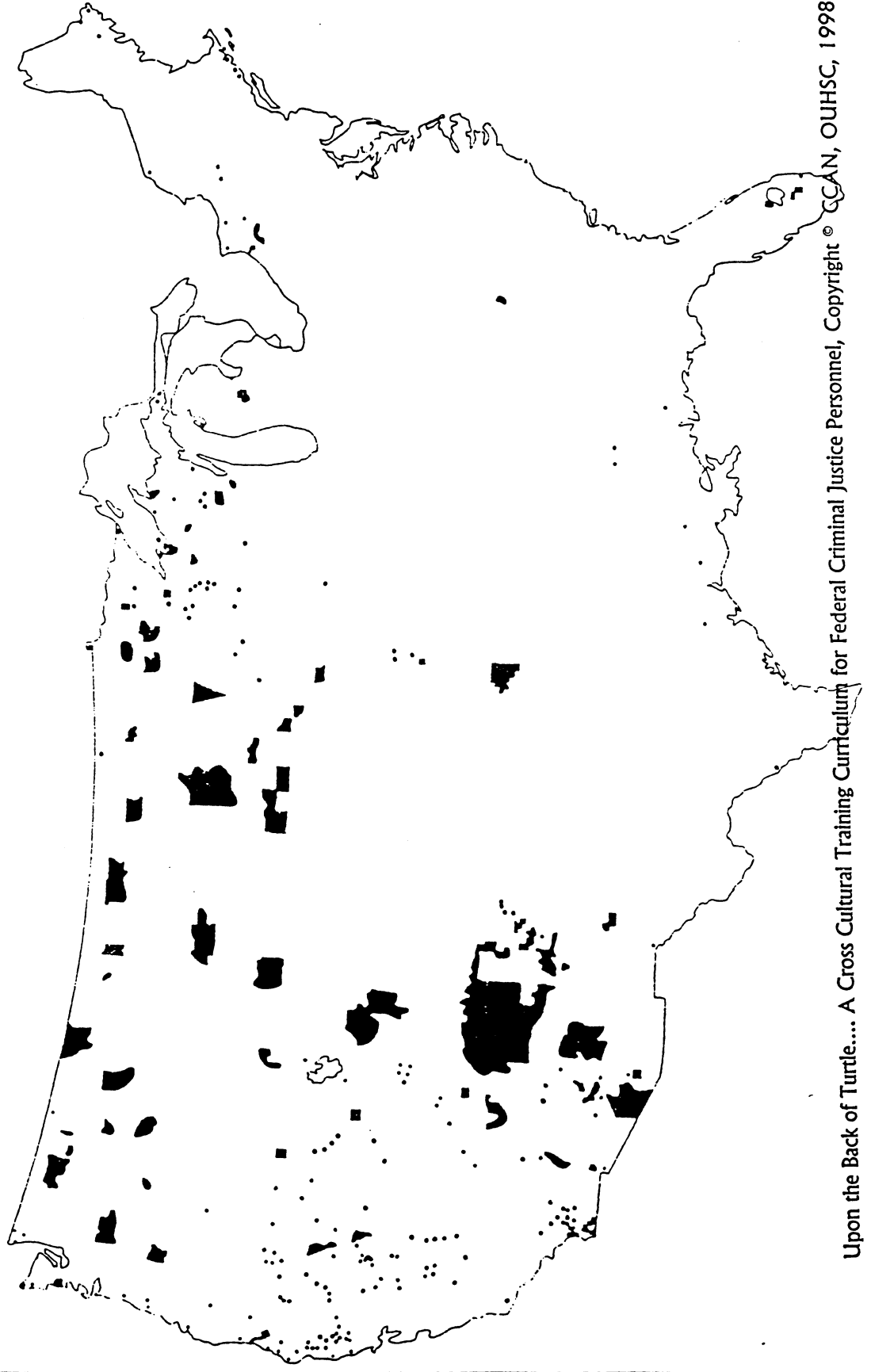
- established by the government in 1887 and rigorously pursued into the 1930s
- tribal lands within legally established reservation boundaries were divided up by government agents and assigned to individual Indians



Indian Country in the Year 1492

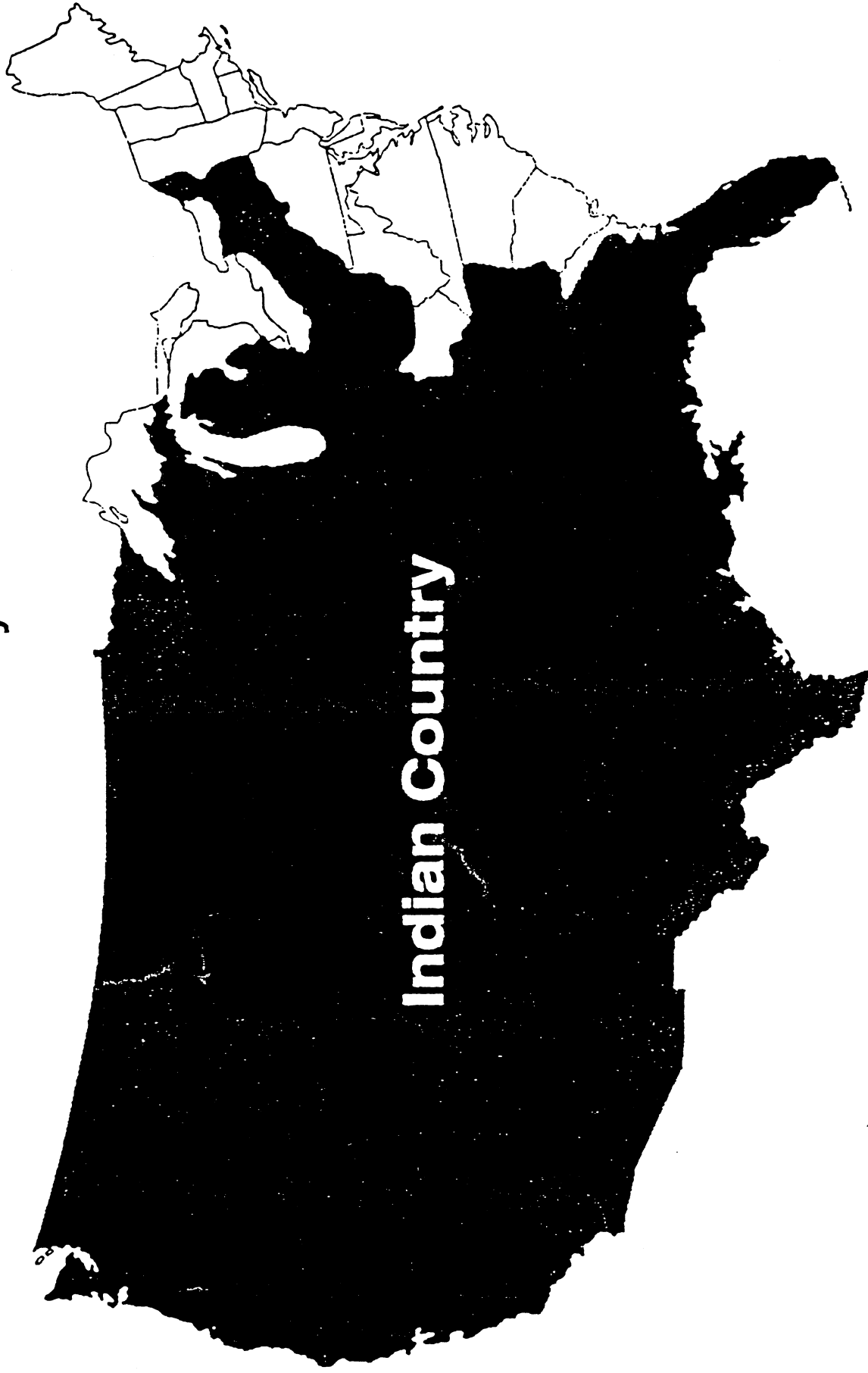


Indian Country Today – 500 Years After Columbus

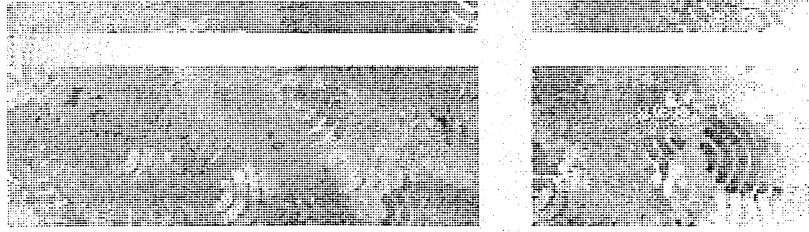


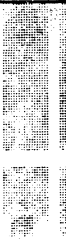
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Indian Country in 1776




Master Handouts






Introduction to Indian Country



American Indian Population

- ⇒ 1.1 million enrolled in a federally recognized tribe
- ⇒ 1.96 million self declared
- ⇒ Make up 8/10 of 1% of total U.S. population (258 million)

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American Indian Population

- ⇒ Increase of 38% in population between 1980 - 1990 due to:
 - higher fertility rates,
 - improved census procedures,
 - self identification

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American Indian Population

- ⇒ Younger, less educated and poorer than the general population
- ⇒ Most impoverished minority in America
- ⇒ Poverty rate increased from 27% to 31% in 10 years

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American Indian Population

- ⇒ In 1994:
 - 11.7% of population under age of 5 compared to 7.7% for all races
 - 19.6% of total population over age of 54 compared to 10.7% for American Indians

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American Indian Population

- ⇒ Median age:
 - 24.2 American Indians
 - 32.9 other races

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American Indian Population

⇒ Median household income:

- reservation states - \$19,897
- other races - \$21,750
- other states - \$21,750
- other races - \$30,056

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American Indian Population

⇒ Families maintained by female head of household:

- American Indian - \$10,742
- other races - \$17,414

⇒ Average unemployment rate for reservations is 45%, some have 90%

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American Indian Population

⇒ 75% of employed earn less than \$7,000 per year

⇒ Almost 50% live in urban areas

⇒ Birth rate per 1,000 live births

- 26.6 American Indian
- 15.9 other races

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American Indian Population

⇒ Infant mortality rates:

- 8.8 American Indian
- 6.9 other races

⇒ Has decreased 60% from 22.2 since 1974

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General Health of American Indians

⇒ Birth rate in 1991 - 1993 (per 1,000)

- 26.6 American Indian
- 15.9 for all races

⇒ General physical health is the poorest of any group in the U.S.

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General Health of American Indians

⇒ Fetal Alcohol Syndrome (FAS)


- 33 times higher for Native Americans

⇒ Tuberculosis (per 100,000)

- 7.4 times greater in Native Americans
- 4.2 deaths
- .05 deaths for all races

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General Health of American Indians

- ⇒ Diabetes almost 7 times greater for Native Americans
 - 35.8 deaths for Native Americans
 - 9.8 deaths for all races
- ⇒ Adult on-set almost 90%


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General Health of American Indians

- ⇒ 16% of Native American teens have attempted suicide
 - 18 suicides per 100,000
- ⇒ 4% of other teens have attempted suicide
- ⇒ Most at-risk age group of Native American - males age 12-27

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General Health of American Indians

- ⇒ Alcohol related deaths are 10 times the rate for Native Americans than other races
- ⇒ Deaths per 100,000
 - 42.7 for Native Americans
 - 6.0 for all races

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Deaths and Related Injuries

⇒ Leading causes of death:

- age 1-4 -- accidents/homicide
- age 4-15 -- accidents/homicide
- age 15-24 -- accidents/suicide/homicide
- age 25-44 -- accidents/chronic liver disease and cirrhosis/suicide/homicide

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Deaths and Related Injuries

⇒ Deaths during 1991-1993:

- 30% under age 45 for Native Americans
- 11% for other races

⇒ Accident death rate:

- 83.4% for Native Americans
- 29.4 for other races

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Deaths and Related Injuries

⇒ American Indians lead the nation in deaths caused by:

- alcohol related motor vehicle fatalities
- chronic liver disease and cirrhosis
- diabetes
- fetal abnormalities
- homicide

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Education

⇒ High school graduates over age 25:

- 65.3% for Native Americans
- 75.2% for general population

⇒ Bachelor degree:

- 9% for American Indians
- 20% for total population

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Tribes, Tribal Enrollment and Degree of Indian Blood

⇒ Tribe - defined by U.S. Supreme Court (1901) as, "a body of Indians of the same/similar race, united in community under one leadership/government, and inhabiting a particular, though sometimes ill-defined territory."

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Tribes, Tribal Enrollment and Degree of Indian Blood

⇒ Federal government currently recognizes:

- 559 different Indian tribes
- 278 of these are recognized entities in Alaska

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Tribes, Tribal Enrollment and Degree of Indian Blood

- ⇒ There are approximately 250 Native languages
- ⇒ Each tribe has their own culture and language that is distinct to them
- ⇒ Tribes formally establish their own enrollment criteria

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1 21

Tribes, Tribal Enrollment and Degree of Indian Blood

- ⇒ American Indians:
 - are dual citizens of U.S. and a federally recognized tribe
 - cannot be enrolled in more than one tribe

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Parameters of Indian Country

- ⇒ Federally recognized reservation lands:
 - approximately 314 federal Indian reservations
 - located in 33 states
 - 21 of 24 states west of Mississippi River have at least one Indian reservation

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Parameters of Indian Country

⇒ California has highest number of federal reservations:

- nearly 95
- ranging in size from less than one acre to several hundred acres

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Parameters of Indian Country


⇒ Highest concentration of Indian reservation trust land:

- Arizona

⇒ American Indians reside in all 50 states

- majority live in 25 states

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Parameters of Indian Country

⇒ Highest American Indian population:


- Oklahoma

⇒ Second highest

- California

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Parameters of Indian Country

⇒ Tribes range from:

- 2-3 members in some California tribes
- Navajo Nation with over 200,000 members

⇒ Urban population younger than reservation population

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Terminology

⇒ Indian - generally defined by the Bureau of Indian Affairs (1987) as:

- individual who is a member of an Indian tribe, band or community "recognized" by the federal government;
- lives on or near a reservation;
- is 1/4 or more Indian ancestry.

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Terminology

⇒ The current definition of who is Indian has implications due to:

- eligibility for tribal membership
- benefits derived from membership
- eligibility for funding

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Terminology

⇒ Indian Country -

- a) all land within the limits of any reservation under jurisdiction of U.S. government,
- b) all dependent Indian communities within borders of the U.S.,
- c) all Indian allotments, (Indian titles to which have not been extinguished)


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Terminology

⇒ Trust Land - Indian owned land, title which is held in trust by the government. "Ownership" is divided between federal government, which holds "bare legal title," and tribe (or individual) which holds full equitable title (NCAI, 1976). Neither the government nor owner can sell or otherwise dispose of trust land without consent from the other.

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Terminology

⇒ Sovereign


- A person, body, or state in which independent and supreme authority is vested (Black's Law Dictionary, 1990).

⇒ Sovereignty

- the inherent right or power to govern.

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Terminology

- ⇒ Tribal governments are considered to be Sovereign Nations
- ⇒ The self-governing powers of Indian tribes survive unless divested by Congress


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Terminology

- ⇒ Sovereign People
 - a political body, who, in their collective capacity, possess the powers of sovereignty and exercise them through their chosen representatives (Black's Law Dictionary, 1990).

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Terminology

- ⇒ Tribal Sovereignty includes the power of a tribe to:
 - adopt and operate own form of government
 - define conditions of membership
 - regulate domestic relations
 - prescribe rules of inheritance
 - levy taxes
 - regulate property
 - create laws and administer justice

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Terminology

⇒ Indian Allotments

- established by the government in 1887 and rigorously pursued into the 1930s
- tribal lands within legally established reservation boundaries were divided up by government agents and assigned to individual Indians

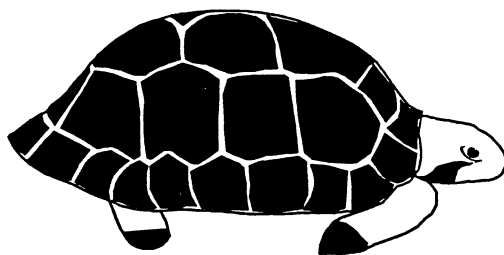
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Upon the Back of a Turtle...

*A Cross Cultural Training Curriculum
for
Federal Criminal Justice Personnel*

Historical Overview of Federal Policies and Events



Background Information (Trainer's Information) for Historical Overview of Federal Policies and Events

Lecture Presentation :

This presentation will provide a historical overview of the major events and policies affecting American Indians, Native Alaskan, and Indian Country. It is important to understand these events and the impact they have made in the last 100 years on the lives of American Indians. The grandparent generation, many born in the early 1920 through the 1940s, experienced the impact of the policies immediately.

At the end of this session is the Catawba Case that is an example of the process of termination as well as the loss of tribal lands in Indian tribes and the Chippewa Cree Tribe that shows the lack of planning in assigning Indian lands. This can be made into copies for all participants as handouts or can be used as an overhead. It might be difficult to use as an overhead due to the numerous pages.

Trainer is to address each of the topics and elaborate each point so that participants fully understand the impact of these policies and events. The activities and discussion questions can be used with the large group, or smaller groups can review and discuss the questions and report back to the large group. Worksheets can be found in the back of this section.

Materials in this section :

The following section provides material for trainers to use in presenting the information, including materials for overheads, handouts and trainer information.

The overheads are indicated with a divider page and can be reproduced on transparencies. Training information is provided for use with each overhead in background information for trainers. This information also corresponds with handouts.

Handouts are indicated with a divider page and can be reproduced and distributed. Handouts are duplicates of the overheads with three overheads on each page of the handout.



Historical Overview of Federal Policies and Events

Objectives:

1. To provide participants with information on critical events leading to the development of a unique relationship between American Indian tribes and the federal government.
2. To introduce specific events contributing to the destruction of many American Indian tribal cultures and how these events have impacted the current status of American Indian families and tribes.
3. To familiarize participants with the various federal policies affecting American Indian tribes and individuals and their evolving relationship with the federal government.
4. To provide an overview of the various jurisdictional issues that has influenced law enforcement on Indian lands and reservations.

Activities:

Break participants into small groups and ask them to discuss and record on paper:

1. Governmental actions that have had an impact on tribes, both positive and negative.
2. What are these actions and/or policies?

Discuss:

1. The positive and negative impacts that participants came up with prior to presentation.
2. Were these different from what was presented?
3. Why did participants determine the impact was positive and/or negative?

Master Overheads : N = 13

Master Handouts : N = 5

Discussion Questions :

1. Was there a single policy that has had the most impact on American Indians? What is this policy and what impact has it had?
2. With the history of broken treaties, what can you do to gain trust and develop relationships in Indian Country?
3. How have American Indians maintained their distinct culture for so many years?

The terms Native American and American Indian are used interchangeable. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.



In the training video...

- 1) The maintaining and practicing of the Native traditions, i.e., the giveaway and use of sacred objects (medicine bundle), for strength and healing is a common practice even today. Certain ceremonies are held for healing, praying and to offer help and assistance to families in need. The rituals of these ceremonies are important to all that participate and will many times take precedence over all other activities, including work and appointments.
- 2) The use of Native language is still vital in the lives of American Indians. There are few Native languages in written form and many are in danger of being lost. The "boarding school generation" was unable to learn the language because of the harsh punishment they received when caught speaking the language. Many Indian children came home from boarding school being unable to communicate with their family and unable to understand and participate in tribal traditional events.
- 3) It is not uncommon for American Indian families to "adopt" a non-Indian or someone from another tribe into their family and/or their tribe. Indian families are very inclusive of the people they love and respect. Blood relation does not have great meaning to American Indians in most cases.
- 4) The relocation efforts in the 1950s and 1960s have had a far reaching effect on Indian families and individuals. Most American Indians who relocated were not prepared for life in the cities and urban areas. They lost their support systems of family, their tribe and other tribal members. Many urban families felt lost and abandoned.
- 5) The use of traditional gatherings as a sign of honoring and offering support is one of the most common practices of American Indians today. There are many different types of traditional gatherings such as memorials, pow-wows, and tribal ceremonies. Most tribes have an annual tribal gathering, and many families will host a traditional gathering of their own to honor and pay respect to a family or tribal member. Memorials are typically held after the one-year anniversary of mourning a respected family member.



Historical Overview of Federal Policies and Events

Overview of Early Events Affecting Indian Country

- **Prior to 1492** – The people who occupied this territory were independent nations and viewed themselves as having separate territories and histories. There was earlier European contact that occurred during Norse voyages but major exploration of this New World did not begin until after 1492. The first European contact acknowledged independent nations.
- **1492** – This first recorded documentation of Spanish contact with the New World.
- **1519** – Aztec Empire, first written documentation of the Aztec people.
- **1534** – After the knowledge of the “New World” became known other countries set sail to establish territories and claim riches for their homeland. The first recorded French contact was this year.
- **1607** – Jamestown established.
- **1620** – Pilgrims at Plymouth Rock; Manifest Destiny became the method of choice for the emerging new government. The immigrants determined that it was their responsibility and right as a lawful people to take and use the land and its resources regardless of who was living on the land at the time. This was especially true if those living on the land were considered to be uncivilized and uneducated by the “dominant” culture.
- **Prior to 1684** – Tribes were viewed as independent nations by foreign entities with the exception of Spain. Spain viewed the native occupants as citizens and subject to Spanish rule. As contact increased and alliances were formed, the reaction by the new explorers began to change.
- **1684** – The beginning of the exploration of the New World and expansion of settlement.
- **1776** – Establishment of the New Democracy and the Declaration of Independence as a nation separate from the British. It should be recognized that the U.S. is a nation that many Native people served their country in World War I and II, Korea, Vietnam, Desert Storm and the Middle East conflicts. Military service is acknowledged as honorable and patriotic.



- **1794** – Jay Treaty, November 9, 1794 - between the U.S. and Great Britain. Art. III guaranteed rights of British subjects, American citizens and "also the Indians dwelling on either side of said boundary line" to freely cross and recross the U.S. - Canadian border.
- **1832** – Law prohibiting drinking of alcohol by Indians.
- **1855** – **Court of Claims** - established by Congress to allow private parties to sue the United States for violation of contracts. A number of Indian tribes and individuals subsequently filed suits for treaty violations involving the taking of land. As the suits progressed, Congress perceived the danger of potential Indian claims and amended the Court of Claims statute to exclude those deriving from treaties. Another century would pass before any systematic process would be available for hearing claims of illegal land taking.
- **1871** – Congress enacted laws to terminate making of treaties with Indian tribes. In addition, Congress enacted laws establishing Indian schools, tribal police, and tribal court systems.
- **Indian Wars**
- **1879** – **Carlisle Indian School** was established by Henry Pratt, a Civil War veteran, whose initial goal was complete assimilation. "Kill the Indian and save the man" was his motto. Regimentation, reading, writing, arithmetic, the manual trades, and home economics were drilled into the students until the school was closed in 1918 (BIA 1988; O'Brien 1989; Szasz and Ryan 1988). Many students stayed at least 5 years, losing their language and all cultural ways of Indian life during this time. After receiving education at Carlisle many returned to the reservation to find no work for the trades they learned.
- **1880 – 1930 - Assimilation and Allotment** - The drive to assimilate Indians into the mainstream of American life by changing their customs, dress, occupations, language, religion and philosophy has always been an element in Federal-Indian relations. In the latter part of the 19th century and the early part of the 20th century, this assimilationist policy became dominant. A major thrust of assimilation was education, thus the boarding school movement. Allotment was advocated as a means of further civilizing Indians by converting them from a communal land system to a system of individual ownership.
- **1887 – Dawes Act** - In 1887 Congress passed the Dawes Act (also known as the General Allotment Act). Each family head was to receive 160 acres, and a single person was to receive 80 acres. Title to land was to be held in trust for at least 25 years. If an allottee was declared competent to handle his own business affairs, the agent could recommend a fee patent prior to 25 years.



- **1920** – Law sanctioning Native American Church, however in practice, American Indian people were not allowed to engage in Native religion and the use of peyote was still seen as a criminal violation. The Native American Church beliefs and practices were challenged until the U.S. Supreme Court determined religious practices are protected (1989).
- **1924 – Granting of U.S. citizenship to American Indians** - Some individuals and certain tribes had citizenship prior to this date, but with this law it became inclusive for all American Indians within the state boundaries. This created a problem for tribes that straddled borders with Mexico and Canada.
- **1928 – Merriam Report** - this report to Congress outlined the harsh treatment of boarding school authorities to Indian children. This report focused on the way many boarding schools disciplined children but was unsuccessful in attempts to make meaningful changes.
- **1930** – Congressional Hearing on the Status of American Indians.
- **1930** – Sen. Elmer Thomas (D-Oklahoma) headed a congressional investigation on child abuse in boarding schools. The results were devastating and many deaths of students from abuse went unreported.
- **1934 – Johnson O'Malley Act** - This act, as amended in 1936, permitted the government to contract with states, territories, corporations, private institutions, agencies, and political subdivisions to provide education and other services to American Indians (Cohen 1982). Despite this act, thirty years later Indian education remained far below national standards.
- **1930 – 1945 - Indian Reorganization Act** - This act ended the destructive land allotment system which had begun in earnest in 1887. Allotment had progressively dismantled numerous reservation land bases and forced affected tribes to have less resources available to its members. This act was purposely designed to help re-establish self-government and restore to tribes sufficient powers to represent tribal interests in a variety of political and economic circumstances. Tribal governments became formal organizations and traditional forms of tribal governing was discouraged. Much of the bureaucratic stranglehold and paternalism of the Bureau of Indian Affairs was continued.
- **1945 – 1960 - Termination of Trust Relationship Period** - Termination is used to describe a specific policy toward Indian affairs, the popularity for which peaked in Congress in 1953 and resulted in the infamous House Concurrent Resolution 108. The policy goal of HCR 108 was to end the federally recognized status of Indian tribes and their trust relationship with the



United States "as rapidly as possible." Many of the policy's naive but sometimes well-intentioned supporters were convinced they were finally going to solve "the Indian problem" through yet another form of forced assimilation; making the Indian people become just like "other citizens." More than 200 tribes were terminated, meaning that their rights based on their status as American Indians were eliminated by the U.S. government and those individuals no longer had status as American Indians and were no longer eligible for services offered to other tribes.

- **1950 – 1968 - Relocation** - During this period several programs were initiated through the Bureau of Indian Affairs that relocated American Indians from their reservation or tribal area to an urban setting. The intent was to move this population into the mainstream economy by resettling them in industrial or commercial areas in major cities. The outcome was that most individuals had limited marketing skills and could not compete with the working poor in those urban communities. As a result, this relocation project did not have the desired outcome, rather families migrated to and from reservation settings or became enmeshed in the new social service programs offered by federal or state funded programs. A few families were successful but for the majority of Indian families the relocation into a metropolitan environment did not prove to be beneficial. It was out of these generations of families who remain in the urban areas and the natural migration from rural to urban, that urban Indian centers and clinics emerged.
- **1953 – Public Law 280** - This law gave six states mandatory and substantial criminal and civil jurisdiction over Indian country within their borders. The "mandatory" states were Alaska (added in 1958, except Metlakatla Reservation), California, Minnesota (except Red Lake Reservation), Nebraska, Oregon (except Warm Springs Reservation), and Wisconsin (Canby, 1981). This law also permitted other states to acquire similar jurisdiction in Indian Country. The choice was up to the state and did not require tribal approval. It was later changed in 1968 to require tribal consent. Ten additional states opted to accept some degree of jurisdiction and to date, some of these states have now returned at least part of their jurisdiction to the federal government (Cohen, 1982). These ten states who opted to accept some degree of jurisdiction are Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah and Washington. The authority they assumed varied from limited jurisdiction over things like air and water pollution only (Arizona), to slightly greater jurisdiction over criminal offenses and civil causes of action arising on highways (South Dakota), to full Public Law 280 jurisdiction (Florida) (Cohen, 1982).
- **1954 – Indian Health Service** - IHS established a policy which disallowed health services to Indian women who married non-Indian men. It did not disallow services to Indian men who were married to non-Indian women. It was based on the assumption that if an Indian woman married a non-Indian



that he would be able to care for her and their children without assistance from federal programs.

- **1956 – Vocational Training Act** - This act was passed to respond to the movement of large numbers of Indians away from reservations to obtain work in urban areas and provide vocational training to Indians that was previously denied. The intent of this “relocation” policy was to assimilate Indians into the mainstream, however relocation left many to fend for themselves in urban areas that were unfamiliar to them. The implications of this policy was the further breakup of Indian families with no services for those living off-reservation (health care, education, etc.) and there was no training and/or education to prepare adults for jobs in the urban areas. As a result, there was more stress and no support systems such as extended families and relatives, for relocated families. Poverty in the urban areas was used as a reason for non-Indian social workers and agencies for removing Indian children from their homes and placing with more affluent white families.
- **1968 – Indian Civil Rights Act** - This act was passed as the first major piece of legislation enacted during the post-termination era that dealt specifically with Indian matters. A relevant and significant part of the act prohibited states from assuming jurisdiction over Indian Country, under Public Law 280, without first obtaining tribal consent (Deloria and Lytle, 1983). “Self determination” is a catch-all term that covers a variety of concepts including tribal restoration, self-government, cultural renewal, reservation resource development, self-sufficiency, control over education, and equal or controlling input into all policies and programs arising from the Native American-federal government trust relationship (Waldman, 1985). Tribes have the power to initiate the process of controlling the nature of the programs available to them from federal programs. Some assumed this act actually hindered tribes rather than helped them.
- **1972 – Indian Education Act** - This legislation established funding for special bilingual and bicultural programs, culturally relevant teaching materials, proper training and hiring of counselors, and establishment of an Office of Indian Education in the U.S. Department of Education. Most importantly, the act required participation of Native Americans in the planning of all relevant educational projects (Cohen 1982; O'Brien 1989).
- **1975 – Indian Self-Determination and Education Assistance Act (Self-Determination: Contracting and Compacting)** - This act authorizes federal agencies to contract with and make grants directly to Indian tribal governments for federal services, much like it does with state and local governments. This act is often referred to in “Indian Country” as “638” legislation, because it was passed as Public Law 93-638. Through grants and contracts, the act as amended, encourages tribes to assume responsibilities for federally funded Indian programs formerly administered by



employees in the Departments of Education, Interior, and Health and Human Services. Tribes decide if they wish to participate in a particular program. If they do, then funds and management decisions are subject to tribal control. It means that participating tribal governments can now control their own housing, education, law enforcement, social services, health and community development programs (American Indian Lawyer Training Program 1988; Cohen 1982; Kelly 1988; O'Brien 1989).

- **1976 – Indian Health Care Improvement Act** - In 1954 Congress transferred the badly ailing Indian Health Services out of the BIA and into the Public Health Service. Improvement of the amount and quality of medical services available to Native Americans was the reason behind the transfer, and it worked. But, as with the BIA, the IHS has had its share of problems regarding waste, mismanagement, and fraud. The Indian Health Care Improvement Act, as amended, established two broad goals for the IHS. They are, 1) to raise the health status of American Indians and Alaska Natives to the highest possible level, and 2) to encourage the maximum participation of Indians in the planning and management of IHS services.
- **1978 – American Indian Religious Freedom Act** - The passage of this act was designed “to insure that the policies and procedures of various federal agencies, as they impact upon the exercise of traditional Indian religious practices, are brought into compliance with the constitutional injunction that Congress shall make no laws abridging the free exercise of religion.”
- **1978 – Indian Child Welfare Act (ICWA)** - The passage of the Indian Child Welfare Act of 1978 is an important milestone in congressional action to protect and maintain Indian families and tribes. The intent of the act is to stabilize Indian families by reducing the number of Indian children removed and placed in non-Indian adoptive and foster homes. The act established minimum federal standards for removal of Indian children and outlines procedures that aid in their placement in homes reflecting Indian culture as well as establishing programs within tribal systems to prevent the removal of Indian children from their homes. As with many legislative acts, there was not mandated funding.
- **1988 – Indian Gaming Regulatory Act (IGRA)** - The stated multiple purposes of this act are: 1) to provide a legislative basis for the operation and regulation of gaming by Indian tribes; 2) to establish a National Indian Gaming Commission as a federal agency to meet congressional concerns and protect gaming as a means of generating tribal revenue; 3) to promote economic development, self-sufficiency, and strong tribal governments; 4) to shield tribes from organized crime; and, 5) to assure fairness to operators and players.



- **1989 – OVC Discretionary Grant Program in Indian Country** - In 1989, the Office for Victims of Crime (OVC) within the Department of Justice, Office of Justice Programs, began funding a discretionary grant program, providing money to states to fund on-reservation victim assistance programs through the Victim Assistance in Indian Country (VAIC) program. This was in response to the multiple victimization that occurred in Indian Country.
- **1990 – The Indian Child Protection and Family Violence Prevention Act (P.L. 101-630)** - The purpose of this act is to require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse. This law establishes a reliable database for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse. It called for the establishment of treatment programs on Indian reservations for victims of child sexual abuse and provides training and technical assistance related to the investigation and treatment of cases of child abuse and neglect. It also established Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office, which consists of multidisciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect. In addition, it provides for the treatment and prevention of incidents of family violence, establishes tribally operated programs to protect Indian children and reduces the incidents of family violence in Indian Country and authorizes other actions necessary to ensure effective child protection on Indian reservations. However, no funds were appropriated for the establishment of treatment programs, training, technical assistance or the Resource and Family Services Centers. However, without mandated funding this legislation was severely impacted.
- **1990 – Native American Graves Protection and Repatriation Act (NAGPRA)** - This act mandates that all agencies and private museums which receive funding from the federal government have five years to inventory their collections of Native American human remains and related funerary objects. After they have completed their inventories, they are required to notify tribes where the materials originated, or from whose land the materials came. If a tribe requests that remains and objects be returned, that request is to be honored. This law establishes that Native American tribal groups own or control human remains or ceremonial and burial items which are discovered on tribal and federal lands. They also have the right to determine the disposition of such discovered remains and items.
- **1990 – Native American Languages Act** - This act declares a U.S. policy “to preserve, protect, and promote the rights and freedoms of Native Americans to use, practice, and develop Native American languages.” This officially reverses the scattered policies of the 19th and 20th centuries that so devastated Native languages.



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- **1994 – Federal Crime Control Bill** - This bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety. It also develops and strengthens effective law enforcement and prosecution strategies to combat violence against women and children, and develops and strengthens victim services in cases involving violent crimes against women.
- **1998 – OVC began direct funding to tribes** - OVC began direct funding to tribes, eliminating the state pass-through of the past decade (OVC, 1997). Today, many American Indian victim assistance programs do receive some funding from state VOCA monies as well as VAIC grants. Since its inception in 1989, the VAIC program has funded 52 reservation based victim service programs in 19 states.



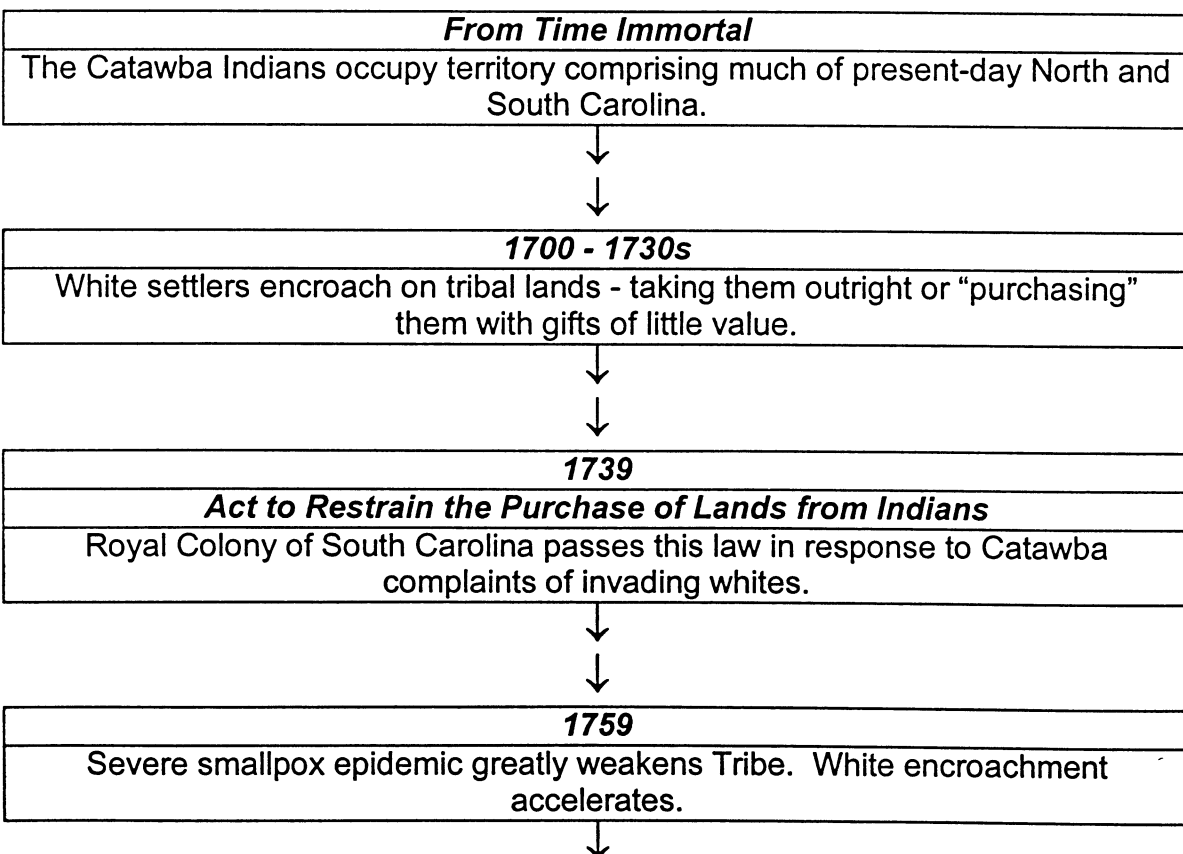
Case Histories

A Grim History of Injustice

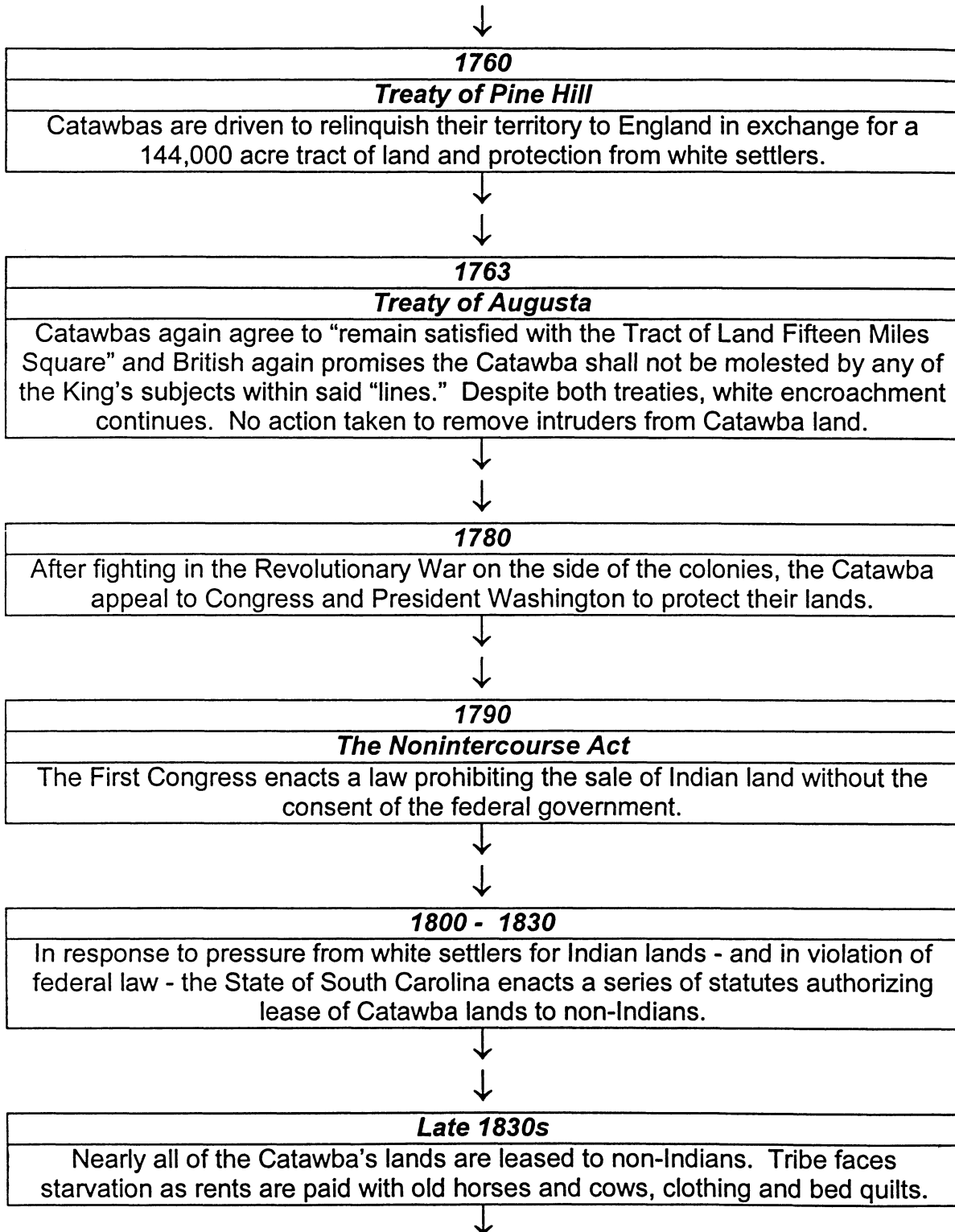
When the Catawba Tribe of South Carolina signed their first treaty with the white man more than two centuries ago, they were seeking, and believed they would receive, the justice promised them. But the promises were empty and the treaty soon broken. Time and again, the Catawbas were manipulated and deceived, cheated and lied to...until finally their lands were stolen, and they were reduced to the poorest of the poor.

For two hundred years and over eight generations of families, the Catawbas have fought, and failed, to regain the lands that are theirs by law. These lands, or fair compensation for what was illegally taken from them, are their key to a future of dignity and self-sufficiency.

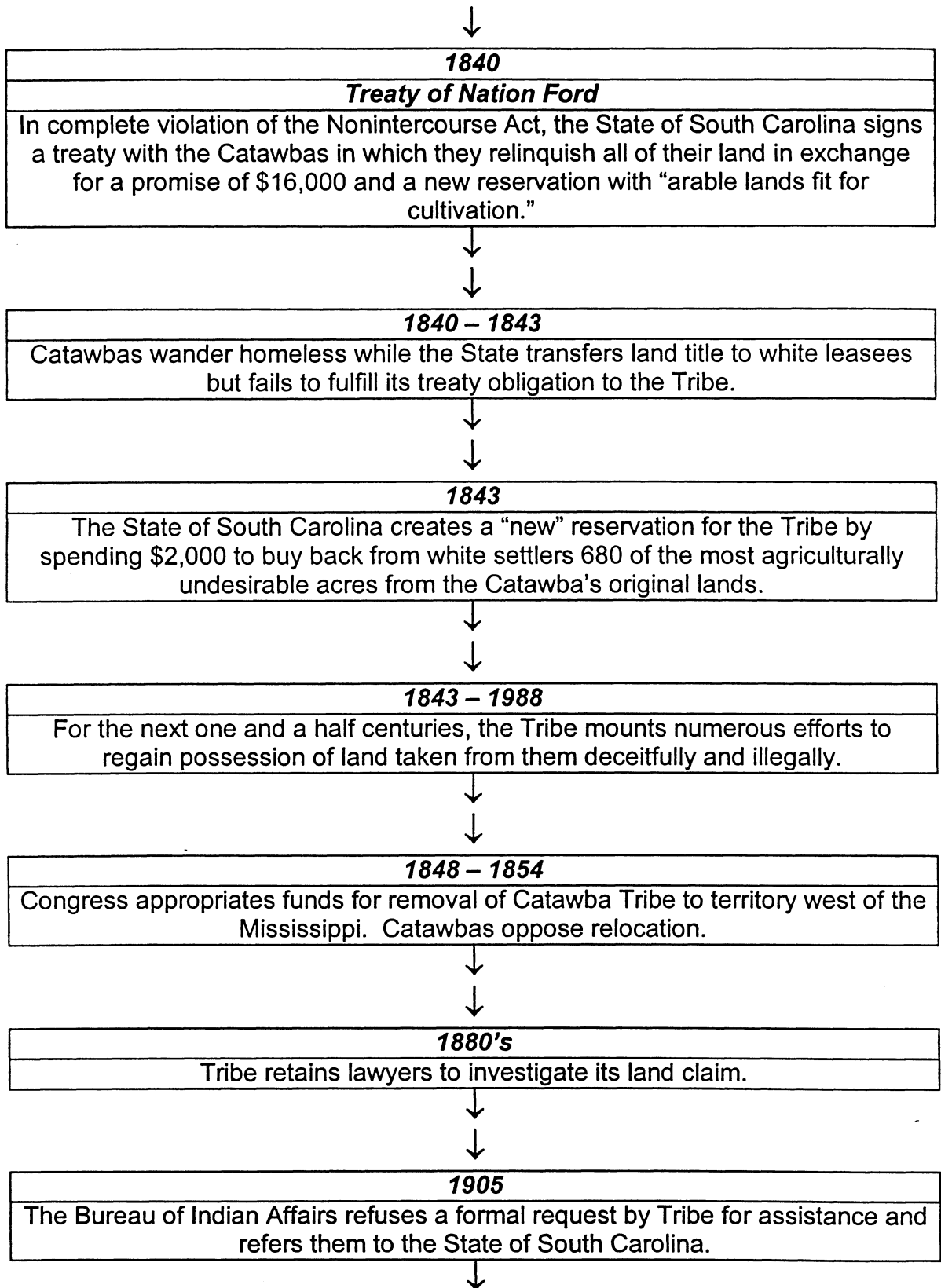
The following is a shameful history of injustice suffered by the Catawbas as recorded and reported by the Native American Rights Fund (NARF).



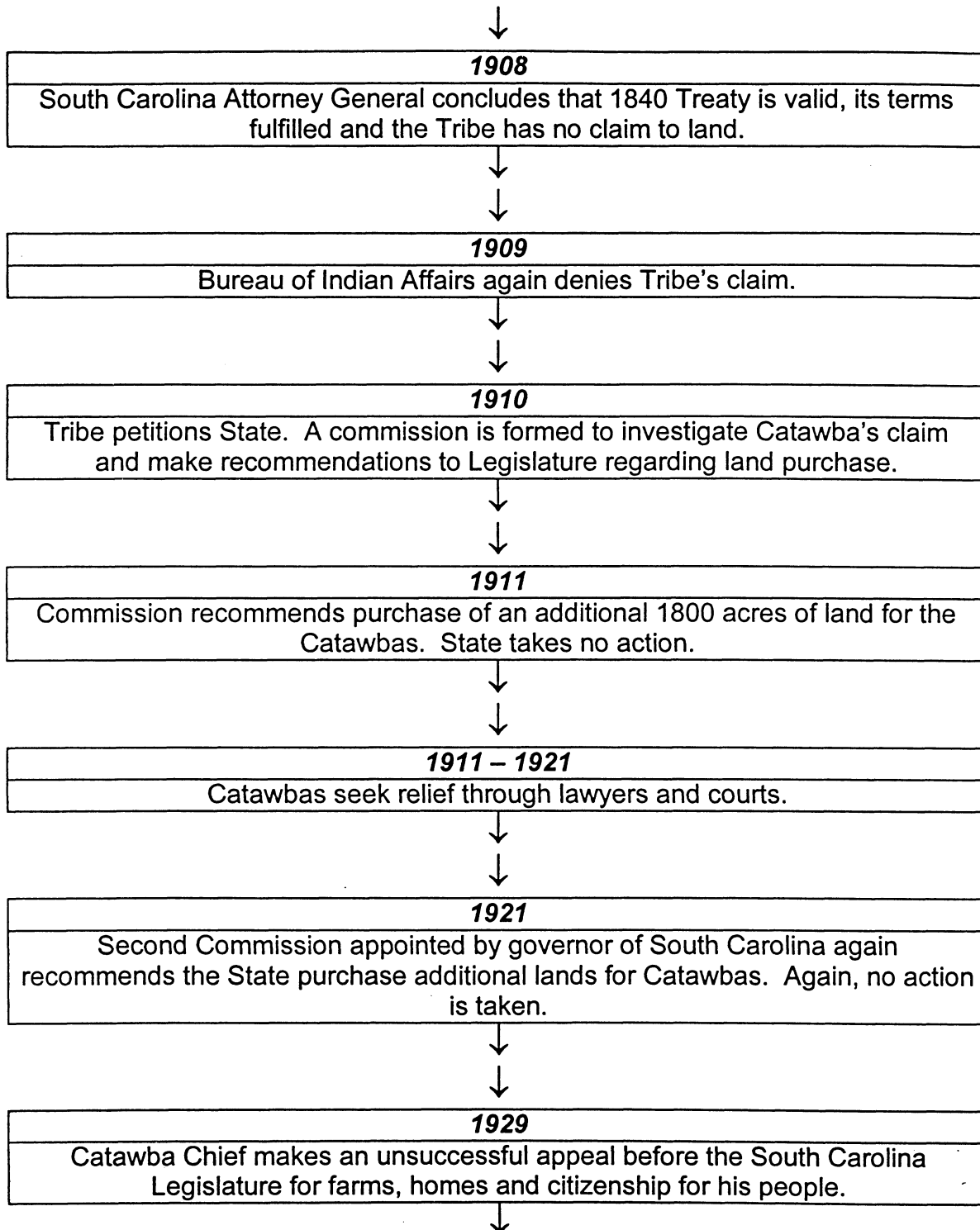
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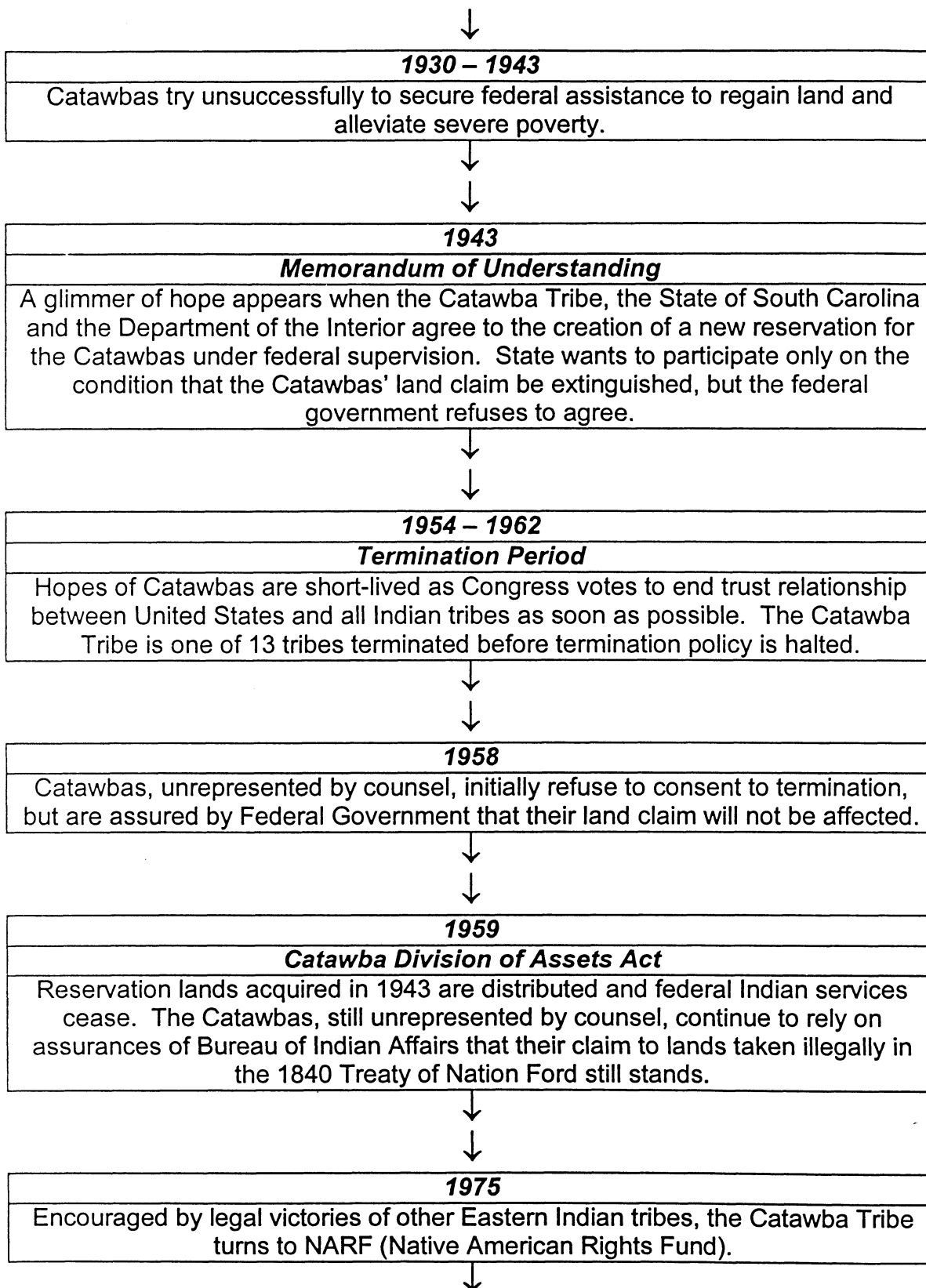
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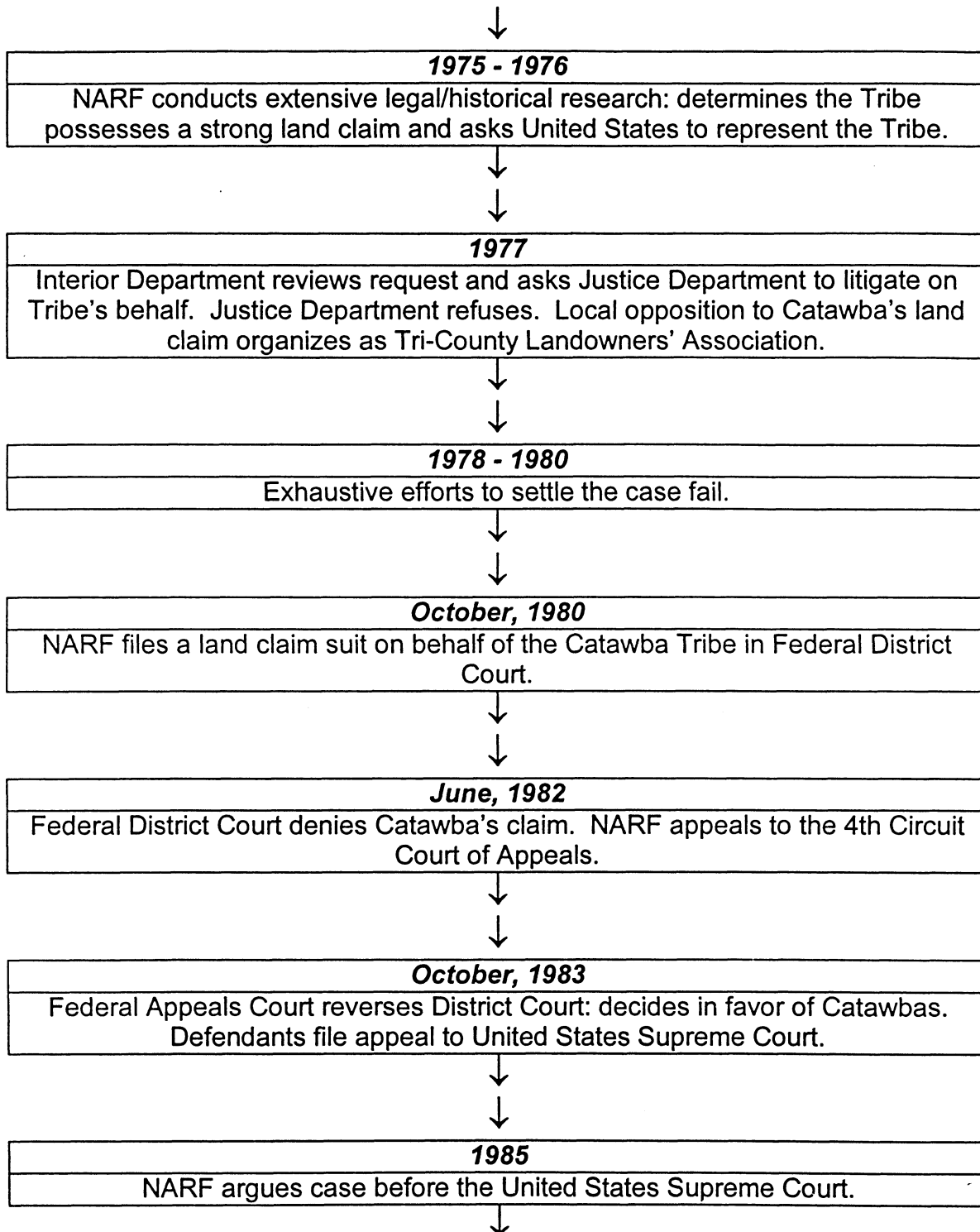
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1986
United States Supreme Court rules that South Carolina's statute of limitations applies to the Catawba's claim - but sends case back to 4th Circuit to decide whether all or merely most of Tribe's claim will be prohibited by the State Statute of Limitations.



1986
NARF argues case for third time before 4th Circuit Court of Appeals: states that under the Nonintercourse Act of 1790 the Catawba claim still stands. The 4th Circuit Court attempts to send the case to the South Carolina Supreme Court.



1987
South Carolina Supreme Court refuses to take the case; sends it back to the 4th Circuit Court of Appeals.



April, 1988
NARF argues the case for the fourth time before the 4th Circuit Court of Appeals.

USA Today, June 15, 1998 – The Catawba Indian Nation's bingo hall is on a pace to bring in nearly \$20 million during its first year records show. The parlor took in about \$6.6 million during the first four months of operation. Prizes reaching \$50,000 for a single game have 2,500 people packing the hall on Saturday nights.



Case History

Chippewa-Cree Tribe, State of Montana Sign Historic Compact

This article is from the Native American Rights Fund Legal Review, Summer/Fall, 1997

I. Introduction

In 1916, the United States set aside the Rocky Boy's Reservation for the Chippewa Cree Tribe. However, the United States recognized that the 1916 reservation lacked sufficient land and water to make the reservation a viable homeland for the Chippewa Cree Tribe. During subsequent years, various federal efforts to obtain additional land and water for the Tribe and to develop the Tribe's agricultural projects were undertaken. However, these largely failed because of poor planning and implementation by the federal government, and because of the legal uncertainty over the nature and scope of the Tribe's water rights. While the federal government's efforts to secure land and water for the Tribe declined over the years, the Tribe continued to press forward in its quest for a viable permanent homeland. A critical part of this quest was to secure rights to sufficient water for its people and its economy. The Native American Rights Fund has represented the Tribe in this quest since 1987.

The Tribe's opportunity to obtain an adequate water supply for its future began in 1982 when the United States filed water rights claims for the Tribe in state water court. Subsequently, the United States, the Tribe and the State of Montana entered into negotiations to settle the Tribe's water rights claims. The Tribe fashioned a water rights settlement plan to further the ultimate goal of making the Rocky Boy's Reservation a self-sustaining homeland. The settlement plan consisted of four main elements: (1) quantification of on-reservation water and establishment of an administration program; (2) supplementation of the on-reservation drinking water supply to meet future population needs; (3) construction of on-reservation facilities to deliver drinking and irrigation water; and, (4) compensation for federal failure to protect the Tribe's water rights and Tribal release of claims against the federal government for such breach of trust. The Tribe's settlement plan is to be carried out through a Compact with the State of Montana settling issues of quantification and administration of on-reservation water supplies, and through congressional legislation ratifying the Compact, providing a source of water to supplement the short water supply on the reservation, authorizing the construction of an on-reservation distribution and irrigation system, and providing an economic development fund.

This article tells the story of the century long struggle of the Chippewa Cree Tribe to secure a rights to water for drinking and for sustaining the Tribe's agricultural economy.



II. Historical Background

Federal assistance to the Tribe in achieving the Tribe's water rights settlement goals has fallen far short of Tribal expectations. Unfortunately, as shown by the history of the Rocky Boy's Reservation, this situation is consistent with previous conduct of the United States in carrying out its trust responsibilities to the Chippewa Cree Tribe.

A. The Establishment of the Rocky Boy's Reservation

The Rocky Boy's Reservation is located in north central Montana on several tributaries of the Milk River. The present reservation encompasses approximately 108,000 acres. The original reservation was established in 1916 by executive order setting aside a portion of the abandoned Fort Assiniboine Military Reservation. The Rocky Boy's Reservation was created as a homeland for a band of Chippewa people led by "Stone Man," also known as "Rocky Boy," and a band of Cree people led by "Little Bear."

Rocky Boy's band and Little Bear's band customarily migrated on a seasonal basis throughout the Milk and Marias River areas irrespective of the United States-Canadian boundary. The fact that the white man had created a boundary between the United States and Canada held no meaning for the bands. However, the unfortunate result of their seasonal migrations in disregard of the United States-Canadian boundary was that the United States, during the years in which reservations were being established for other Indian groups, regarded the two bands as Canadian Indians not entitled to federal benefits provided to American Indians. Hence, from about 1888 to 1916, the ancestors of the Chippewa Cree Tribe wandered throughout northern Montana homeless and struggling for existence under the most severe conditions. During this time, the Chippewa Cree pressed the United States for a permanent home for the bands. The bands were joined by certain influential citizens of Montana motivated by the desire to transfer the burden of providing assistance to the poverty-stricken bands to the United States.

Early efforts to locate lands on which to place the Chippewa Cree failed, due to opposition by non-Indians adjacent to the lands under consideration. Even the decision of the United States to place them on the old abandoned Fort Assiniboine Military Reserve was strenuously opposed. The citizens of Havre wanted Congress to grant them the choicest part of the old military reservation - the Beaver Creek valley with an ample supply of water - as a public park and playground. A War Department memorandum, dated October 1, 1891, illustrates the importance of the Beaver Creek valley to the viability of the Military Reservation:

[T]he post depended for its water supply solely upon the Beaver Creek...and...it was essential that not only the stream to its source but the whole valley of the same be retained under the control of



the post authorities... [I]f the control of any part of the Creek should be given up, the post might as well be abandoned.

Consistent with this view, the federal agent charged with supervision of Rocky Boy's band said:

If they should pass the bill giving only the two south townships [not including the Beaver Creek valley] we will still have the Rocky Boy problem, as they will still have no home.

Nevertheless, buckling under political pressure, Congress gave the City of Havre the majority of the Beaver Creek valley even though it was located some distance away from the city boundaries. Congress gave the Indians just two townships and a portion of a third.

The Chippewa Cree tried to farm their reservation - described in Annual Reports as a "rough, dry unsettled section of old military reserve" and "not suited to farming." These reports, from 1918 through the 1930's, were replete with statements that the reservation was not suited to farming, that irrigation was difficult if not impossible, and that more water was needed. The reports indicated that farming would not lead to self-sufficiency; stock raising was felt to be the only feasible activity, provided enough winter feed was available. These reports provide a litany of crop failures due to drought, a short growing season, lack of equipment and horses, and a picture of dogged perseverance against these formidable odds.

Irrigation was essential to stock-raising as well. A 1937 Federal Report related that 1937 marked the sixth consecutive year of near complete crop failure, and that:

[t]he cattle industry received a severe blow this year when no feed was produced to carry the stock through the winter. The breeding stock was culled very closely and approximately fifty percent of them were put on the market. Three hundred fifty-six selected cows and one hundred thirty-eight steer calves were shipped to Dixon, Montana for winter feeding. Thirty bulls and three milk cows are the only Indian cattle remaining on the reservation. The livestock men were very discouraged.

The Commissioner of Indian Affairs lamented that the reservation was "entirely inadequate for the needs of the Indians for whose benefit it was set aside...." Due to the prevailing unfavorable crop and livestock conditions, and the lack of irrigable land and water, the Tribe and the United States began to look for ways to enlarge the reservation.



B. Federal Failure to Provide Adequate Water and Water Development Facilities on the Reservation

Unfortunately, the United States' efforts to acquire additional land and water for the Tribe were far from adequate. The federal supervising engineer investigated Chippewa Cree water rights and reported in 1926 that Indian rights were doubtful, and that diversions by the Chippewa Cree from reservation creeks should not be encouraged. The United States did not make an official determination as to whether this was legally correct; instead the United States deferred continually to non-Indian interests. Thus, an irrigation project for the Rocky Boy's Reservation was not a priority for the federal government.

In the 1930s and 1940s, the United States purchased land for the Rocky Boy's Reservation, adding approximately 45,000 acres to the reservation. Unfortunately, the additional lands did little to alleviate the reservation's water supply problems. The lands acquired were scattered, of poor quality, and were without significant water resources. The Chippewa Cree Tribe still could not raise enough crops for livestock feed to meaningfully improve reservation conditions. The United States recognized that the reservation was still wholly inadequate as a self-sustaining homeland.

Accordingly, in the 1930s, the United States took purchase options for the Chippewa Cree Indians on approximately 30,000 acres, utilizing funds appropriated from a federal program for the purchase of submarginal lands. The intent of this program was to take submarginal land out of commercial farm production forever. The program was ill-suited to the Chippewa Cree's needs. The government's decision to utilize the program as a way to obtain more lands for Indians was made worse by the poor land selections made, when better lands were available. The government planned to carve up the submarginal lands into subsistence farms for the Indians. But without water or sufficient irrigable land, even subsistence farming was doomed at the outset to failure. Before the options could be exercised and the purchases completed, however, funding for the submarginal land program failed. The federal government then attempted to exercise the purchase options under the Indian Reorganization Act, which allowed for lands to be purchased and added to reservations.

The Indian Reorganization Act did not require the purchase of submarginal lands. Nevertheless, rather than foregoing the submarginal purchase options and identifying lands for purchase better suited to the Indian's needs, the Indian Office exercised the ill-advised options taken under the submarginal land program. This decision was made against the recommendations of the Reservation Superintendent, and over the objections of the Indians and government personnel.

Subsequent purchases were made to consolidate the scattered submarginal lands in order to simplify fencing and alleviate jurisdictional problems. Very little attention was given to obtaining irrigable lands with water rights. In fact, good sources of water were sold or traded away in efforts to consolidate purchased land through land and lease exchanges.



In 1937, the United States developed a detailed land purchase plan, which involved collaboration of all units of the Indian Service. Even without consideration for a normal population increase of two percent annum, the plan called for the purchase of an additional 660,000 acres, including 16,000 acres of irrigated land, at a cost of \$5,040,000, to serve the then existing reservation population of 150 families and 400 eligible homeless families. The purchase area took in part of, and was intended to benefit from, the Milk River Irrigation System. While never followed, this plan has apparently never been discarded.

C. Federal Mismanagement of Tribal Resources

Having failed to provide the Chippewa Cree Tribe with a reservation with adequate land and water, the United States proceeded to mismanage the limited tribal resources on the reservation at great expense to the Tribe. An example is Bonneau Dam on the reservation which originally could have been designed and constructed easily and at minor additional cost, to provide irrigation to the Tribe's croplands thereby enhancing the Tribe's self-sufficiency. Yet another example is the chronic under-performance of the Tribe's agricultural lands due, among other things, to lack of training, equipment, and water for irrigation. These same reasons underlay the failure to develop hundreds of acres of purchased lands for farming. The Tribe has suffered and continues to suffer, financially and otherwise, from the United States' mismanagement of its resources.

III. The Compact

In 1982, pursuant to state law, the federal government filed water rights claims in Montana water court for the Chippewa Cree/Montana Tribe. The Tribe then notified the State of Montana that the Tribe wished to negotiate a settlement of its water rights claims. At that point, the state water court stayed proceedings on the Tribe's claims pending settlement negotiations involving the Tribe, the state and the United States. The Tribe then commended the formidable task of negotiating a compact with the State of Montana and the United States which settles its water rights claims.

On April 11, 1997, after ten years of extensive technical studies, and five years of intensive negotiations, the Chairman of the Chippewa Cree Tribe and the Governor of Montana signed an historic compact between the two governments. The Chippewa Cree/Montana Compact accomplished the first element of the Tribe's settlement plan - it quantifies the Tribe's water rights and establishes a joint Tribe/State water administration system. The Compact was ratified by the Tribe on February 21, 1997 and was approved by the Montana Legislature on April 10, 1997. The Chippewa Cree Tribe thus became the third Tribe in Montana, after the Northern Cheyenne Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation, to agree to a water rights compact with the state. However, with few exceptions, all provisions of the Compact are subject to approval by the United States Congress.



The Compact establishes the Tribe's water rights to the Big Sandy, Box Elder, and Beaver Creeks on the reservation, and contemplates tribal rights to supplemental water for drinking. The Compact provides for 9260 acre-feet of water per year from the Big Sandy Creek and its tributaries, and 740 acre-feet per year from Beaver Creek. The Tribe reserves the right to divert from surface water flows for irrigation and other uses from the Lower Big Sandy Creek, Gravel Coulee, and from Box Elder Creek. On Beaver Creek, the Tribe reserves the right to divert from surface water flows for recreational uses, subject to a requirement that 280 acre-feet be returned to the stream.

The Compact also calls for Tribal administration of its water rights. The Compact specifies that any change in water use must be without adverse effect on other water users. To resolve disputes concerning water use between Tribal and non-tribal water users under the Compact, a pre-adjudication Tribal/State administrative process is established, and an adjudicatory process is established consisting of a Compact Board made up of three members: one Tribal, one local off-reservation, and one chosen by the other two.

The Department of the Interior ("Interior"), while supportive of the quantification aspects of the Compact, declined to sign the Compact for the United States primarily because the issues of a supplemental water supply for the Tribe had not been resolved. With the signing of the Compact, Congressional legislation becomes the next step. This will necessarily involve continuing negotiations with Interior to obtain its support.

IV. Congressional Action Sought to Ratify Compact and Provide Other Elements of Tribe's Settlement Plan

The Compact settles the quantification/administration element of the Tribe's settlement plan. The remaining three elements of the plan can only be resolved by congressional action. However, the Compact does contain provisions by which the state agrees to support federal legislation that will ratify the Compact, and authorize and appropriate funds to implement all elements of the Tribe's settlement plan, including facilities needed to implement the Compact, a federally funded project to supplement the drinking water supplies on the reservation, a domestic water delivery system, and an economic development fund. The settlement plan element that has proven to be the most problematic is that calling for supplementation of the Tribe's drinking water supply. The Tribe's technical analysis indicated that planning for a drinking water supplementation project would need to commence immediately and would need to involve the importation of water to the reservation from an off-reservation source. The Tribe's analysis also led to the conclusion that the importation project should utilize water from the Tiber Dam and Reservoir. Accordingly, the Compact contemplates an allocation of 10,000 acre-feet of water to the Tribe from the Tiber Reservoir and the construction of a pipeline from the Reservoir to the reservation. The Tribe considers a drinking water supplementation project so important that, in the Compact, the Tribe reserved the option to withdraw from



the Compact if such a project is not constructed within a designated period of time.

The federal government initially indicated to the Tribe that the Interior could not support a pipeline project in the immediate future. The federal government reasoned that the Tribe's future drinking water needs could be served by retiring the Tribe's irrigated lands and using the saved water for drinking. The federal notion of using all available on-reservation water resources for domestic purposes, leaving the Tribe with no water for agricultural purposes, was immediately rejected by the Tribe. It flew in the face of the Tribe's past and on-going efforts to develop on-reservation agricultural enterprises in accordance with long-standing federal and Tribal reservation policies. It also threatened termination of jobs and products produced by the Tribal agricultural enterprises and relied upon by Tribal members.

Interior responded by offering to purchase land for the Tribe to replace the land retired to provide drinking water and to agree to a study of Tribal drinking water needs after a period of about forty years. After a joint Federal/Tribal evaluation of this proposed approach, the Tribe rejected it because the evaluation showed that the proposal to purchase replacement arable lands for the Tribe was not cost effective, would likely involve lands separated from the reservation thereby creating use problems, and threatened to raise significant political resistance from the State of Montana and other non-tribal interest. Furthermore, the Tribe rejected the federal proposal that contemplated a future study of water needs because the government could not guarantee that the needs identified by the study would be addressed.

In the Compact, the State of Montana pledged its support of the Tribe's settlement plan, including a project to supplement the Tribe's drinking water supply. The construction of a pipeline project to deliver water to the reservation from Tiber Dam and Reservoir, an off-reservation source, is the option identified by the Tribe's technical analysis as the best means of supplementing the Tribe's drinking water supply. In the course of discussing this option with the state and the federal government, it became apparent that many non-tribal communities with drinking water problems might be able to resolve their problems cost effectively by tying into the Tribe's pipeline. These communities expressed an interest in participating in the Tribe's proposed pipeline project. With the state acting as facilitator, the Tribe and representatives of the non-Indian communities formed an Ad Hoc Committee composed of three Tribal and three non-Indian members to evaluate and advance the concept of a regional pipeline project. Congress appropriated \$300,000 for the preparation of a feasibility study of the proposed pipeline project and other possible alternatives. The State of Montana appropriated funds for the completion of this study. The study is expected to be completed in the fall of 1997.

Meanwhile, the Tribe and the state are continuing to work with the Interior to find mutually acceptable ways of resolving Interior's concerns about the Compact and other issues related to the Tribe's larger settlement plan. Recently, Interior agreed to participate in the regional pipeline feasibility study and proposed to expand the number of water supply alternatives selected by the Ad



Hoc Committee from the three originally chosen for final analysis proceeding selection of the preferred alternative. To expedite the process of responding to Interior's proposal, the Tribe and the state urged Interior to, 1) conduct a rapid review of existing information on the alternative involving utilizing an enlarged on-reservation reservoir as a source for supplemental drinking water, and indicate whether Interior agrees with the Tribe that this is not a feasible option; 2) agree to the formation of a joint working group, composed of representatives of the Tribe, the state, Interior and the Department of Justice, to discuss pending federal issues other than those associated with the importation issues; 3) agree to discuss alternative approaches to federal legislation, including combining or separating a regional drinking water system from the Compact, and alternative sources of funding; and, 4) continue, on a timely basis, substantive discussions with the Tribe on a settlement fund.

V. Conclusion

In the early years of this century, federal policy resulted in the opening of vast acres of former Indian reservations in the West, and encouraged non-Indian settlement and irrigation by constructing dams and reservoirs at federal expense to deliver, again largely at federal expense, water to non-Indian irrigators. During that era, the tribal water rights and tribal needs for facilities to utilize water were ignored by the federal trustee while non-Indians obtained cheap water for irrigation, including Indian water. Only after 1976 when the McCarran Amendment was held by the United States Supreme Court to subject tribal water rights to state adjudications for quantification, did the federal trustee formulate policies for the settlement of tribal water rights. Several such settlements have been completed. However, none have been completed during the tenure of the Clinton Administration.

In addition, at odds with federal policy to settle tribal water rights is the federal policy to balance the budget - with tribal programs and projects expected to absorb an uneven and unequal share of budget cuts while the disparity between the majority society and Indian societies continues to widen. This is but another example of the conflict of interest that has historically compromised the federal trustee's duty to provide for the best interests of Indian tribes. Non-Indian interests received their share of funds to put western water to use in an era of federal reclamation projects. Tribal needs for water and water facilities were ignored during those years. The federal government should not use the current budget policy as yet another excuse to ignore tribal water needs. The federal trust duty to protect tribal water rights should be given top priority under federal budgetary guidelines.

The Chippewa Cree/Montana Water Rights Compact, intended to permanently settle all existing water rights claims of the Chippewa Cree/Montana Tribe in the State of Montana, accomplishes one important element of the Tribe's settlement plan. The remaining three elements must be obtained through Congressional action. Because of the permanence of the settlement once



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secured by congressional legislation, the Tribe seeks a settlement that provides not merely for its present water needs, but also for its future water needs.

The Native American Rights Fund believes that the history of the United States' poor land choice decisions, poor land management, and failure to obtain water for the Rocky Boy's Reservation justifies a substantial federal contribution to the Chippewa Cree water settlement in the form of authorization of federal projects and an economic development fund. By agreeing to the Tribe's settlement plan, the United States would finally fulfill its trust responsibility to the Tribe to provide sufficient water to support the Rocky Boy's Reservation as a viable, self-sustaining homeland for the Chippewa Cree Tribe.



Discussion Questions for Historical Overview of Federal Policies and Events

FEDERAL VICTIM/WITNESS COORDINATORS:

- What percentage of the victims and witnesses you deal with are American Indian?
- What are the differences between providing services to American Indian and non-Indian victims and witnesses?
- Please discuss these differences, including actual situations you have dealt with.
- Discuss whether your office supports you in meeting the specialized and unique needs of American Indians.

FBI:

Please discuss the impact of working in Indian Country on your career with the FBI. The following questions may help get you started.

- How is an assignment to Indian Country viewed within the Bureau?
- Is such an assignment considered a positive or negative career move?
- Does such an assignment help or hinder your career?
- Can you have upward mobility in your career based on working in Indian Country?

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

Please discuss the impact of working in Indian country on your career within the U.S. Attorney's Office or Department of Justice. The following questions may help get you started.

- Are there priorities for prosecuting certain types of cases within your office?
- Are Indian Country crimes a high or low priority?
- Can you be upwardly mobile in your career focusing on Indian Country cases?
- Does such a focus earn you the respect of your peers?

IHS:

Please discuss the impact of working in Indian Country on your career within the Indian Health Service, Commission Corps, or Department of Health and Human Services. The following discussion questions may help get you started.

- How is working in Indian Country viewed in your profession (medicine, nursing, etc.)?
- If you spend several years working in Indian Country, would this be considered a positive for your career?



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- Are there any institutional barriers which influence your ability to work long-term in one community?
- If you do work long-term in a single community, will IHS look favorably on your choice to stay in one place for several years?



Worksheet for Historical Overview of Federal Policies and Events

Small group discussion prior to presentation

Break into groups of approximately 4 - 6. Within the group select a spokesperson to report back to the large group.

1. What governmental policies and actions, are you aware of that have had an impact on American Indian tribes?
2. Were these actions positive or negative and why?

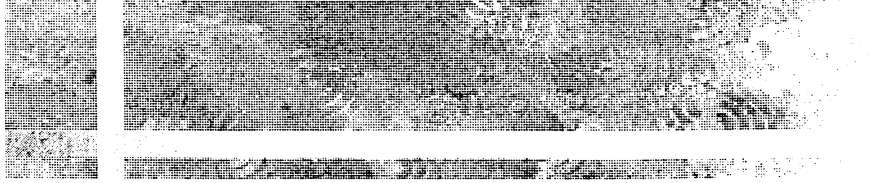
After conclusion of presentation, large group discussion and reporting of small groups

1. Recap the positive and negative impacts of governmental policies and actions that participants came up with prior to presentation?
2. Were these different from what was presented? Why?
3. Was there a single policy that has had the most impact on American Indians? What is this policy and what impact has it had?
4. With the history of broken treaties, what can you do to gain trust and develop relationships in Indian country?



Master Overheads

Historical Overview of Federal Policies and Events



Overview of Early Events Affecting Indian Country

⇒ 1492 - Spanish contact

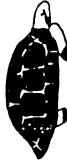
⇒ 1519 - Aztec Empire

⇒ 1534 - French contact



Overview of Early Events Affecting Indian Country

- ⇒ 1607 - Jamestown established
- ⇒ 1620 - Pilgrims at Plymouth Rock
- ⇒ Prior to 1684 - Independent tribes



Early Events Affecting Indian Country

⇒ 1684 - 1880 - Exploration of new
world

⇒ 1776 - Establishment of New
Democracy

⇒ 1832 - Law prohibiting drinking of
alcohol by Indians





Overview of Federal Policies

⇒ 1855 - Court of Claims established

⇒ 1871 - Termination of U.S. making

treaties with Indian tribes and established
Indian schools, tribal police and tribal
courts systems





Overview of Federal Policies

→ 1879 - Carlisle Indian School established

→ 1880 - 1930 - Assimilation and

Allotment Period

→ 1887 - Dawes Act





Overview of Federal Policies

⇒ 1920 - Law sanctioning Native

American Church

⇒ 1924 - Law granting U.S. citizenship to

American Indians

⇒ 1928 - Merriam Report





Overview of Federal Policies

⇒ 1930 - Hearing on status of American

Indians

⇒ 1934 - Johnson O'Malley Act

⇒ 1930 - 1945 - Indian Reorganization

Act



Overview of Federal Policies

⇒ 1945 - 1960 - Termination of Trust

Relationship Period

⇒ 1950 - 1968 - Relocation Period

⇒ 1953 - Public Law 280

⇒ 1956 - Vocational Training Act





Overview of Federal Policies

⇒ 1968 - Indian Civil Rights Act

⇒ 1972 - Indian Education Act

⇒ 1975 - Indian Self Determination and

Education Assistance Act

⇒ 1976 - Indian Health Care Improvement

Act





Overview of Federal Policies

⇒ 1978 - American Indian Religious Freedom Act

⇒ 1978 - Indian Child Welfare Act (ICWA)

⇒ 1988 - Indian Gaming Regulatory Act





Overview of Federal Policies

- ⇒ 1989 - OVC Discretionary Grant Program in Indian Country
- ⇒ 1990 - Indian Child Protection and Family Violence Prevention Act





Overview of Federal Policies

⇒ 1990 - Native American Graves

Protection and Repatriation Act

(NAGPRA)

⇒ 1990 - Native American Languages Act



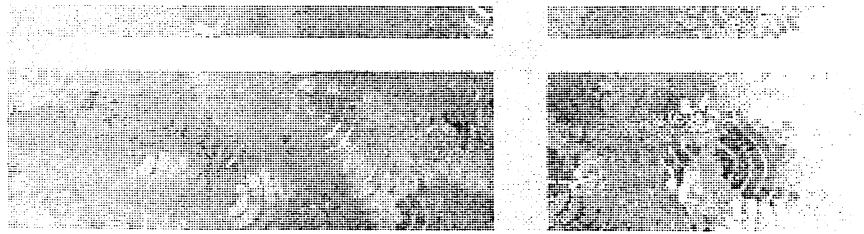



Overview of Federal Policies

- ⇒ 1994 - Federal Crime Control Bill
- ⇒ 1998 - OVC began direct funding to tribes




Master Handouts






Historical Overview of Federal Policies and Events



Overview of Early Events Affecting Indian Country

- ⇒ 1492 - Spanish contact
- ⇒ 1519 - Aztec Empire
- ⇒ 1534 - French contact

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Overview of Early Events Affecting Indian Country

- ⇒ 1607 - Jamestown established
- ⇒ 1620 - Pilgrims at Plymouth Rock
- ⇒ Prior to 1684 - Independent tribes

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Early Events Affecting Indian Country

- ⇒ 1684 - 1880 - Exploration of new world
- ⇒ 1776 - Establishment of New Democracy
- ⇒ 1832 - Law prohibiting drinking of alcohol by Indians

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Overview of Federal Policies

- ⇒ 1855 - Court of Claims established
- ⇒ 1871 - Termination of U.S. making treaties with Indian tribes and established Indian schools, tribal police and tribal courts systems

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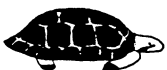


Overview of Federal Policies

- ⇒ 1879 - Carlisle Indian School established
- ⇒ 1880 - 1930 - Assimilation and Allotment Period
- ⇒ 1887 - Dawes Act

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Overview of Federal Policies

- ⇒ 1920 - Law sanctioning Native American Church
- ⇒ 1924 - Law granting U.S. citizenship to American Indians
- ⇒ 1928 - Merriam Report

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Overview of Federal Policies

- ⇒ 1930 - Hearing on status of American Indians
- ⇒ 1934 - Johnson O'Malley Act
- ⇒ 1930 - 1945 - Indian Reorganization Act

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Overview of Federal Policies

- ⇒ 1945 - 1960 - Termination of Trust Relationship Period
- ⇒ 1950 - 1968 - Relocation Period
- ⇒ 1953 - Public Law 280
- ⇒ 1956 - Vocational Training Act


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Overview of Federal Policies

- ⇒ 1968 - Indian Civil Rights Act
- ⇒ 1972 - Indian Education Act
- ⇒ 1975 - Indian Self Determination and Education Assistance Act
- ⇒ 1976 - Indian Health Care Improvement Act


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Overview of Federal Policies

- ⇒ 1978 - American Indian Religious Freedom Act
- ⇒ 1978 - Indian Child Welfare Act (ICWA)
- ⇒ 1988 - Indian Gaming Regulatory Act


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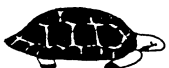


Overview of Federal Policies

- ⇒ 1989 - OVC Discretionary Grant Program in Indian Country
- ⇒ 1990 - Indian Child Protection and Family Violence Prevention Act

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Overview of Federal Policies

- ⇒ 1990 - Native American Graves Protection and Repatriation Act (NAGPRA)
- ⇒ 1990 - Native American Languages Act

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Overview of Federal Policies

- ⇒ 1994 - Federal Crime Control Bill
- ⇒ 1998 - OVC began direct funding to tribes

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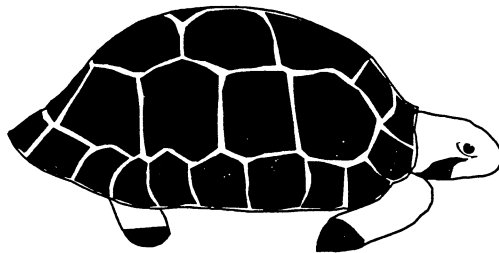




Upon the Back of a Turtle...

*A Cross Cultural Training Curriculum
for
Federal Criminal Justice Personnel*

Historical Trauma and Present Impact



Background Information **(Trainer's Information)** **for** **Historical Trauma and Present Impact**

Lecture Presentation :

There are historical events that have affected all Native American people. The most critical has been the attempts made to destroy and/or eliminate tribes. The historical trauma and consequent impact are addressed in this section. There were many activities either encouraged or engaged in by the U.S. government that created an unsafe, hostile, destructive environment for Native people. There were other activities not sanctioned that resulted in annihilation of total villages, families, and tribes. The actions to destroy and terminate the original inhabitants of this country affects tribes collectively, and continues to affect individuals and families presently.

Individuals may reason that events that occurred several generations ago, have little or no bearing with current situations and that appreciation for the present is much more critical than rehashing old topics. However, the process of understanding the impact of the past is part of understanding the cultural aspect of Native life and what has held to be consistent with Native people. There is the desire to be who they are and live within Native teachings and traditions. This does not mean the present is not important, it means that the present links the future with the past and that Native people do not isolate themselves from their ancestors or their children. However the traumatic events that have impacted Native people have made it difficult for individuals to care for themselves, their children, and their families.

Trainer is to address each of the topics and elaborate each point so that participants may fully understand the impact of the trauma inflicted on American Indian tribes, families and individuals.

The activity in this section is designed to be conducted in smaller groups and reported back to the large group. This facilitates a better opportunity for participants to share in the discussion. Discussion questions can be used with the large group, or smaller groups can review and discuss the questions and report back to the large group.



Materials in this section :

The following section provides material for trainers to use in presenting the information, including materials for overheads, handouts and trainer information.

The overheads are indicated with a divider page and can be reproduced on transparencies. Training information is provided for use with each overhead in the background information for trainers. This information also corresponds with handouts.

Handouts are duplicates of the overheads with three overheads on each page of the handout.



Historical Trauma and Present Impact

Objectives:

1. Participants will acquire an understanding of the historical trauma from the past and realize the present impact this trauma has had on tribes as a whole as well as individuals and families.
2. Participants will identify and examine specific risk factors and protective factors within the Indian culture.
3. Participants will better understand the treatment of Indian children by the federal and state governments and the impact this has had on Indian families.
4. Participants will be able to identify how, in their current position, past governmental actions impact their current interaction with American Indian people.
5. Participants will increase their awareness regarding the relationship of cultural oppression to multi-generational trauma.

Activities:

Small group activity:

Break into groups of about 4 - 6. Within the group select a spokesperson to report back to the large group. The small group should re-examine the trauma that was inflicted upon American Indians (i.e., loss of religion, language, land, children, etc.).

Discuss the factors that helped them to survive.

1. What worked for American Indians?
2. What factors within their culture helped to maintain the culture, traditions and the tribe as a whole?

Brainstorm these factors and prepare to report back to the large group why each factor was selected and how/why the group feels this factor was a survival technique.

The importance of this exercise is that we must look toward positive aspects of culture versus negative aspects. In looking at positive aspects, we begin to gain respect for both the people and the culture.

Master Overheads : N = 57

Master Handouts : N = 20

Discussion Questions :

1. How have the actions taken by the U.S. government contributed to the potential for child maltreatment and other violent crimes in Indian country?
2. How do past governmental actions impact your ability to provide services in Indian Country?



The terms Native American and American Indian are used interchangeable. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.

In the training video...

- 1) The sweatlodge holds as much historic religious meaning as any other religious denominations do today. The sweatlodge is an important ceremony for spiritual and physical cleansing. It is used to meditate, to prepare for other ceremonies, or to answer important questions. The ceremony combines the elements of fire, wood, water and stone. The sweatlodge is a dome-like tent made from fresh cut willow branches and covered with hides, tarps and blankets. The sweatlodge ceremony typically consists of prayers, spiritual songs, and drumming. As the participants pray, the leader throws water and herbs on the heated rocks. Sweet grass is burned and pipes are smoked as offerings to the Spirits. Sweatlodge ceremonies are still practiced today by Natives and non-Natives alike.
- 2) The concept of the giveaway dates back to time immemorial and continues today. American Indians had no coin or paper money to bless in the area of giveaways so material things were given as a showing of love and respect. It is often a family affair in which the whole family becomes involved in the preparations. Giving away is done for a variety of reasons. One of the most typical reasons is to honor a relative who has passed on or to honor a relative that you wish well in their new endeavors. Generosity is a highly prized value in Native American society. At the same time, through these public displays of wealth distribution, a person demonstrates his or her love and respect for their family, their culture and their community.
- 3) Indian children were forcibly taken from their homes and families in an effort to educate them in boarding schools. The maltreatment they received at the hands of the authorities still affects the lives of many American Indians. They did not learn to live as a family or tribal member. They were used as slaves and forced to do away with anything pertaining to their culture, i.e., their dress, their actions, their religion, their language, etc. Parents were not allowed to visit their children. If they did attempt to visit, rations and land lease monies due them by the government were withheld and the student's parents were often locked up.
- 4) The removal of tribes from their traditional lands to Indian Territory has had significant impact on tribes and individuals. Many were removed by force and hundreds of individuals, mostly elders, were not strong enough to make the journey. In some cases, the journeys were in freezing temperatures and when they died enroute, they were not allowed to stop to bury the dead.



Many tribes and tribal members still grieve their lost homelands. Many tribes declared war on the U.S. and were killed at massacres. The one's who fought back were locked up as P.O.W.'s and often executed by the U.S. Army. This has led to many American Indians having the feeling of being displaced throughout their lives.

- 5) Storytelling is an oral tradition that has thrived despite hundreds of years of cultural suppression. Stories are usually told by elders and used as learning tools for the young. They tell the history and legends of the tribe, where the tribe came from, about the animals and their relationship to the tribe, families, communities, as well as the earth, moon, and sky. There are literally hundreds of stories from each tribe that are told, and many times they are told over and over again. Therefore, it is the turtle that plays a vital role in the storytelling and teaching of young Indian children in numerous tribes historically and today.



Historical Trauma and Present Impact

Events Contributing to the Destruction of Many Tribal Cultures

- **Retaliation for forming alliances** – There are many tragic events during the early expansion of this country. This period produced increased levels of hostilities toward Indian nations. Warfare, disease, and removal resulted in the complete destruction of many tribal cultures.
- **Removal from the traditional homelands (Trail of Tears)** – The ideal of “progress” was invoked to rationalize the forced migrations as inevitable and to obscure the material greed of American expansionism. This period has been described as one of the blackest chapters in American history: “Tens of thousands of helpless Indians, many of whom had white blood, were wholly or partly civilized, and owned homes, livestock, and farms, suffered incredible hardships.... All their efforts to halt or reverse the government’s policy failed, and in the end almost all the members of each of the tribes were removed to different areas in the present State of Oklahoma. Some of them went reluctantly but without defiance; others went in chains. Most of them streamed westward under the watchful eyes of troops who made sure that they kept moving (Josephy, 1968, p.323).” There were many “Trails of Tears” involving tribes from the eastern part of the U.S. to the coast of California.
- **Introduction of new diseases** – The recent immigrants introduced new diseases and practiced unfamiliar medical treatment. Diseases foreign to Native people wiped out over half of the American Indian population and the impact of these diseases is still being felt in Indian Country. Disease killed many leaders and elders, thus cutting off tribal leadership, as well as the sources for knowledge and tradition. Furthermore, the power of the medicine people was undermined, because there were no cures for alien diseases about which they had no knowledge. Memories remain among Native Americans about what non-Indians did through deliberately providing them with infected blankets as “gifts” – an early form of germ warfare (Vogel, 1972).
- **Justification of behavior in support of westward expansion and forced relocation** – Forced relocation was another factor which caused many deaths as well as numerous other problems, many of which were mental health related. Dealing with the reality of being conquered, the shame, the forced dependency upon the U.S. government, and the stripping of traditional roles from men, women, and children has impacted tribes for centuries. Other impacts of forced relocation include dealing with broken treaties, being restricted to reservations (historically an Indian had to have a permit to leave



the reservation), poverty conditions, and the consequences of not relocating, which often meant destruction and death (O'Sullivan & Handal, 1988; Vogel, 1972).

- **Emerging governmental regulations of Indian tribes and families** – As the increments of white settlements moved westward, there was an increase in the restrictions on tribal migrations, hunting, fishing, and gathering activities. There began tolerance and acceptance toward the killing or murdering of tribal members for bounties. The stage was set to justify discarding or destroying the lifestyle of Native people if it conflicted with westward expansion.
- **Disregard for traditional leaders and tribal consensus in decisions** – The newly established democracy retaliated against tribal groups for forming alliances; it negotiated the removal of tribes to areas away from the traditional homelands. The new government disregarded the process of listening to the traditional tribal leadership with the method of consensus in decision making. There began the encouragement and ready accessibility of alcohol to Native people. Alcohol availability increased as the land base for tribal people decreased. The Washington based government was highly influenced by increasing numbers of settlements being established within tribal boundaries and the increased potential for conflict.
- **Confinement to limited locations with limited resources** – It was not uncommon for Native Americans to need a pass or a permit to leave the reservation. In 1876, Standing Bear, a Ponca Indian Chief sued the U.S. government when he was arrested and detained for leaving the reservation. Standing Bear petitioned the court by a writ of Habeas Corpus. The Judge had to rule on whether an Indian had the rights of freedom guaranteed by the Constitution. The government tried to prove that an Indian was neither a person nor a citizen so couldn't bring suit against the government. On April 30, 1879 the Judge stated that an Indian is a person within the law and that Indians could not be detained illegally.
- **Removal of children from their homes to boarding schools** – Forced education through boarding schools caused considerable damage to the structure and function of tribal societies as well as to the mental health of Natives. Historically, Native American children were taken from their tribal homes to attend boarding schools, sometimes hundreds of miles away from their homes and families. They were forbidden to speak their tribal language, given "christian" names, they were usually forced to wear a uniform, their hair was shorn, and they were taught the ways of the non-Indian society. The early charters for Native American education were the same: to remove the child from the influence of his or her "savage" parents.



- **The losses of culture, language, children, land and spiritual beliefs caused Native people grief and depression** – The horrible effects of boarding schools on tribes extend to the undermining of tribal ways of parenting, traditional child-rearing, use of language (many a story about a child finally returning home and being unable to speak to his or her parents), the negative messages about Natives, and the forced assimilation of non-Indian ways have had devastating consequences.

Contributing Factors to Child Victimization in Indian Country

Different Native communities experienced different degrees of factors contributing to child victimization which include:

- stress
- unemployment
- limited resources (personal, family, community)
- harsh punishment
- alcohol/drug abuse
- no role models
- anger
- shame/grief/pain
- no sanctions against abuse
- limited tribal/native jurisdiction for non-tribal/native members
- children not valued
- helplessness/hopelessness
- lack of teachings and limited reward for teachings
- lack of sufficient housing
- isolation
- denial and/or acceptance

Historically Native families used the extended network of family members to rear children. The survival of the family depended on the interdependent relationships among its members.

Methods the U.S. government employed to provide for Indian children:

- **Education** - the purpose of boarding schools and missions was to “provide the U.S. government with a method to educate and civilize Indian children away from the influences of their savage lifestyle and unchristian ways.” This was the first method.
- **Child Safety and Protection** - purpose of protecting children was to offer children an “opportunity out of poverty.” Eventually as child protection became a social issue, Indian children became a target.



What Children Experienced in Boarding School

- **Children were chained, whipped and beaten** - The outcome of children being removed from their tribes was the immediate elimination of culture and teachings to the next generation. Children fought back the best they could but they were punished for running away; they were whipped for speaking their own language; they were denied food and substance as punishment for minor infractions; or they ended up in "isolation" if they dared to be "defiant" and show disrespect toward school authorities. It is not surprising that they developed defenses to guard against becoming emotionally attached and increased those behaviors that were destructive.
- **Denied medical care** - Children became exposed to diseases and unsanitary conditions that increased the likelihood of illness and death.
- **Denied contact with their family** - Families knew only that children went away from them and many of them never returned. Children were taken for several years at a time. Those taken at young and vulnerable ages forgot who they were and how to live in the villages as Native adults.
- **Abandonment, abuse and victimization** - Children felt abandoned because they were not allowed to see their families for years at a time. The additional cruelty was that they were subject to physical and sexual abuse by school personnel who had the power to control their lives. Most boarding schools created the climate for emotional, physical and sexual abuse of Indian children resulting in generations of children learning about victimization. They were five or six years old when they arrived and were almost twenty when they left. They learned early that it was not desirable to be Indian or to be children.
- **Poor preparation for adulthood** - Children were used as servants to boarding school personnel. They learned only how to obey for fear of punishment, and did not learn how to become a contributing member of tribal society.
- **Lack of adequate food, clothing and shelter** - Upon entering boarding school, children were made to cut their hair, wear clothing that they were not familiar with, live in structures that were foreign to them and fed food that was not adequate nor could they physically tolerate what they were given. Often, food was withheld as punishment for minor infractions.
- **High death rate (burials without notification to parents)** - School grounds contained cemeteries with unmarked graves of children whom died without parents ever being told of their child's condition or death.



- **Punished for speaking their language** - Children would speak their tribal language to each other to make them feel less homesick and to converse about their life in the boarding school. Boarding school personnel did not want them speaking to each other and would punish them harshly for not speaking English.
- **No parental role models** - Several generations of children were raised in boarding schools and never had the opportunity to participate in a family environment. They were not taught their roles within the family and within their society. This has been called the boarding school legacy.

Indian people were conditioned not to fight back , each time they fought back something was taken away. Such things as:

- **Children** – children were moved to boarding schools without parents having any idea of where they were going or when they would be back.
- **Food** – with the movement of tribes out of traditional lands, they no longer knew the lands and were denied the opportunity to hunt and fish. The government provided rations of food. The quality and quantity of the rations were inadequate for the villages and communities.
- **Shelter** – their homes were destroyed and tribes were forced to move into prison like camps. They no longer had the natural shelter of the trees, rivers and open lands.
- **Land** – forced removal was devastating to Indian people. They lost sacred grounds that had been theirs from the beginning of time.
- **Warmth** – they no longer had the warmth of fires or each other. Many tribes were separated when forced to move, as some tribal members chose not to go, hiding wherever they could find.
- **Religion/Spirituality** – tribes were forbidden to practice their religions as they had always done. Many of their religious practices were outlawed and were only made legal with the Religious Freedom Act in 1978.
- **Language** – much of the language was lost during the boarding school era which lasted until the early 1970's. Children were punished harshly when caught speaking tribal languages. Head Start, introduced approximately 25 years ago, has been one program instrumental in encouraging Native languages. However, the parents of Head Start children are increasing unlikely to have access to family who taught them in their own tongue.



- **Homes** – not only homes but traditional and sacred lands were lost when tribes were forced to move to Indian Territory. Building material was inaccessible.
- **Elders** – many elders died during the forced removal period. They were not strong enough to make the move to the new lands.
- **Teachings** – much of the traditional teachings were lost due to many of the children being forced into boarding schools and not able to learn traditional tribal practices.

Types of personalities attracted to Indian reservations

Missionaries/religious individuals

- sincere desire
- seeking to help
- no understanding of Indian lifestyle or religion/spirituality
- no understanding of the impact of the removal of their children
- possessed the mentality of the era
- zealous in effort to “christianize” Indians
- rigid and punitive
- escaping from consequences of illegal behavior

Social “rejects and misfits”

- alienated from dominant American culture
- high level of idiosyncratic traits and characteristics
- high level of aberrant behavior
- behavior less tolerated in dominant culture
- behavior more tolerated in isolated areas
- less likelihood of confrontation with peers
- rigid and punitive

For the most part, agents, missionaries, and school authorities were not accountable for how they disciplined or managed their areas. They did not necessarily have to account for children who died or were beaten. In all honesty, concerned citizens did raise the issues of treatment of children in schools and the treatment of tribes at different points in time. Little effort was exerted by those in authority to change the conditions surrounding the education of Native children or their treatment (Merriam Report, 1928).



Ex-Military/Authoritarian

- placement for former military leaders and soldiers
- appeal of isolated locations
- valued independence
- valued freedom to interpret law/justice
- justice was self-serving
- income generating
- rigid and punitive

It was very common for the military to assign ex-military men as agents at the Indian schools. Many such individuals were very authoritarian in nature while not wanting to be constantly accountable for their behavior. The remote sites provided the distance whereby they could govern without direct interference from authorities. Most frontier individuals valued independence and interpreted the interdependency of tribal clans and bands as being of lesser value. As independent thinkers and doers, most were accustomed to utilizing vicious and brutal solutions when conflict arose. Others were fearful and retaliated before any physical harm could befall their own persons. Many individuals interpreted justice as meeting their own needs by taking advantage of those who were helpless or measured as unworthy opponents. The measure for justice was self-serving. Typically, these individuals became the interpreters, married into the tribes and became the go-between. They then began to control the economy.

Indian parents today can be described as:

- a higher likelihood of a history of substance abuse and usage within the family
- a higher likelihood of first pregnancy as an adolescent
- an increased likelihood of having children longer and later in life
- a long period of child bearing years
- a higher likelihood of having a high diploma or GED
- a higher likelihood of three generations living within the same household
- a collective and individual history of oppression, generational grief, depression, anxiety and shame
- if male, a suicide rate seven time higher than non-white males
- if male, most likely to have a history of incarceration or probation
- higher likelihood of living below the poverty level, living in substandard housing, and living in isolated or rural areas
- an age of less than 21
- if an elder, the likelihood of living on a reservation
- if young adult or child, the likelihood of living in an urban area
- the likelihood of dying before their non-Indian peers



Traditional Practices of Parenting

- **Children were disciplined to increase compliance with cultural expectations** – children and youth were provided lengthy explanations of the reasons for family and tribal guidelines and for preferred behaviors. Children were encouraged to see and follow the examples set by others. Positive self concept was taught by letting a child practice and succeed at a task appropriate for that age level (Primeaux, 1977).
- **Children were not punished out of anger** – children are accorded the same degree of respect as an adult. Children are considered important units of the family and are central to the family. They are considered more important than material possessions. Talking loudly and reprimanding children is considered ill mannered.
- **Punishment was determined by behavior of the child** – depending on the infraction, punishment could be swift and unforgiving. For example, a child that disrespected fire would be allowed to test the fire and may actually be burned in order to learn to respect fire. A child that cried out with loud wailing may jeopardize the tribe and alert enemies to their location. That child would be left out in the bush to cry until the child learned not to cry. Natural consequences were believed to be a great teacher. The discipline was to teach a child that everyone depended on the group for survival.

Mental Health Issues Affecting American Indians

Risk Markers in Indian Families:

- historical context of abuse
- historical shame and grief
- historical trauma
- generational impact
- cultural oppression
- boarding school legacy
- generational use of alcohol
- alcohol related injuries and deaths
- fetal alcohol syndrome
- fetal alcohol effects
- illegal behavior
- incarceration and probation
- cultural displacement
- cultural confusion
- cultural assimilation
- cultural conformity
- identity conflict



- tribal vs. Indianness
- out of home placements
- suicide risks
- cluster suicides
- school drop out rates

Risk Markers for American Indian Adolescents

Developmental:

- learning disabilities
- psycho-social dysfunctional behavior
- FAS/FAE
- criminal behavior
- poor academic performance
- gang violence
- alcoholism
- inhalant abuse
- depression
- suicide
- poor self esteem
- alienation
- poverty
- domestic violence
- family disruption
- injuries and accidents
- out of home placement
- school drop out
- sexual and/or physical abuse victim
- neglect
- emotional abuse

Mental Health Issues of American Indian Children

Prenatal

- teenage pregnancies (30 times more likely to give birth)
- little or no prenatal care
- premature births

Chemical Exposure/Abuse

- prenatal exposure to alcohol, cocaine, inhalants, and other drugs
- prenatal exposure to tobacco



Developmental Disorders

- mental retardation
- FAS/FAE
- Otitis Media (middle ear infection) 75%
- language and speech - 1st in speech impairments; hearing disorders
- lack of immunizations
- lack of preventative care - dental
- behavioral and emotional problems (non-compliance, acting out, severely emotionally disturbed, out of home placements)

School Age Children and Cross-Over Effect

- increase in behavioral problems
- increase in out-patient treatment
- decrease in academic achievement
- runaways - go earlier, stay longer, become lost

Human Development Potential: A Native Traditional Perspective

The following material is copyrighted and used by permission of the author: Avis Archambault, M.A. (Lakota/Gros Ventre), Native Traditional Treatment Practitioner, Trainer and Cultural Consultant, 2014 N. Pima Road, Scottsdale, AZ 85257, (602) 941-5844.

Native American Traditional Philosophies have in common a unique view of humankind in relationship *with* the world. One of the greatest gifts from our Ancestor Nations is an *interdependent/respectful/powerful* and unlimited “*World View*.” When we come to understand and begin to live from the value that “all life is indeed Sacred” and that we are part of that “web of sacredness,” our potential becomes unlimited. Our Ancestor’s taught us that humility, power and responsibility go hand in hand. They taught that all perceptions of the World are unique and valid. Our perceptions and our values create a *different reality* for each individual, each tribe, each culture, and each nation; yet all were to be respected and valued. Participants will identify, define and process the historical factors which altered both our “Native World View” and our perceptions about ourselves. Participants will reach beyond the cultural oppression and resultant historical trauma; to focus their *unlimited* potential for Human Spiritual Development and the reclaiming of our Heritage and Destiny.

The following presents information regarding the American Indian World View, perceptions and values, as well as the impact of historical trauma. You may utilize this as the basis for lectures, discussions, and/or small group activities.



OPPRESSION

Author: Avis Archambault, MA

Oppression - a burdensome, unjust manner of governing that weighs heavily upon the spirit and the senses.

Internalized Oppression - "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.'

Racism - "a belief in the superiority of one race over another and the resultant discriminatory treatment."

Institutionalized Racism - "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
- trauma
- disconnectedness
- anger
- fear
- loneliness
- isolation
- powerlessness
- sadness
- generational grief
- embarrassment
- shame
- apathy
- self-hate
- family disintegration
- numbness
- self destructiveness
- violence



Results of Internalized Oppression upon Dominant Culture Members:

- racism
- fear
- hatred
- denial of the psychosocial historical meaningfulness of the oppressed
- deep seated guilt and shame
- violence
- denial of all of the above



Discussion Questions for Historical Trauma and Present Impact

FEDERAL VICTIM/WITNESS COORDINATORS:

- While you work with victims and are not involved in the prosecution of cases, you are housed in the same office with the U.S. Attorney and her/his staff. People may think there is a connection even where a connection does not exist. How does this perception impact your work?
- Does your understanding of historical trauma change how you view American Indian victims and witnesses?
- What about your understanding of those who abuse substances?
- How does an understanding of historical trauma impact your approach to dealing with American Indian victims and witnesses?

FBI/LES:

Various law enforcement agencies have been the instruments of carrying out government policies which created the events now described as leading to historical trauma.

- When you interact with crime victims today, how might historical trauma be influencing your interactions?

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

Court action has often been used to limit the rights of American Indian people. The case of Standing Bear, presented in this lesson, is a stark example. As federal prosecutors, the same type of professionals who 120 years ago argued that Indians are not people.

- How do you overcome the potential lingering mistrust based on these types of realities?
- What do you know about the legal history (including all treaties) of U.S. government/tribal relations in general, and particularly with the tribes in your jurisdiction?

IHS:

Historically, health providers have not provided adequate care for American Indian people. The governmental use of biological warfare (e.g., the purposeful introduction of smallpox) and prevention of access to traditional healers has added to potential mistrust. Today, many American Indian people receive their primary health care from IHS but may believe that the care they receive is not of the highest quality. Historical trauma represents an on-going level of stress which may impact behavior and physical health.

- Given what you have learned today, how will you change your approach to thinking about and interacting with your patients?



Upon the Back of a Turtle... A Cross Cultural Training Curriculum for
Federal Criminal Justice Personnel

- Discuss how the issue of historical trauma could impact how your patients react to you as a health care provider.

BIA:

The BIA is the agency most involved with the historical maltreatment of American Indians. In particular, the legacy of the boarding school experience has had a devastating impact on American Indian families and culture.

- How does the historical trauma experienced by American Indian people impact how you, as a representative of the BIA, interact with tribal people?
- Many BIA employees are themselves American Indians are also subject to historical trauma. For those of you who are tribal members, what are some of your concerns when you represent an agency which has been responsible for causing such trauma?
- How do you deal with any conflicting feelings you experience?
- How do you feel when people make fun of the BIA or make negative comments about the agency?



Worksheet for Historical Trauma and Present Impact

Small group activity

Break into groups of approximately 4 - 6. Within the group select a spokesperson to report back to the large group.

Re-examine the survival techniques of American Indian tribes and tribal members

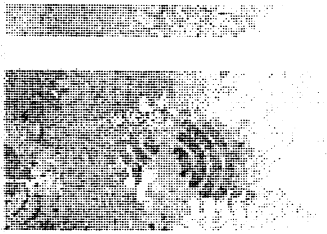
1. How have the actions taken by the U.S. government contributed to the potential for child maltreatment and other violent crimes in Indian country?
2. Discuss the trauma that was inflicted upon American Indians (i.e., loss of religion, language, land, children, etc.).
3. Discuss the factors that helped them to survive.
 - a. What worked for American Indians?
 - b. What cultural factors helped to maintain the Indian culture, traditions and the tribe as a whole?

Reporting back to the large group


1. Why each survival factor was selected.
2. Why does the small group feel these factors were survival techniques?
3. How do past governmental actions impact your ability to provide services in Indian country?



Master Overheads



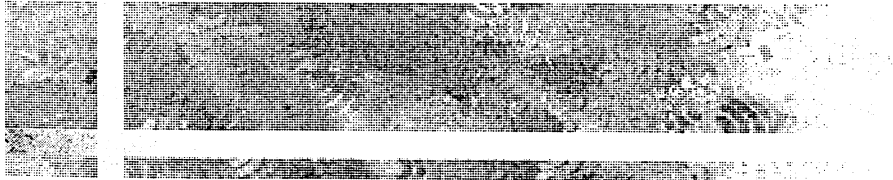
Historical Trauma and Present Impact



Events Contributing to the Destruction of Many Tribal Cultures

- ⇒ Retaliation for forming alliances
- ⇒ Removal from traditional homelands
- ⇒ Introduction of new diseases
- ⇒ Justification of behavior in support of westward expansion





Events Contributing to the Destruction of Many Tribal Cultures

- ⇒ Emerging governmental regulations
- ⇒ Disregard for traditional leaders
- ⇒ Confinement to limited locations with
limited resources

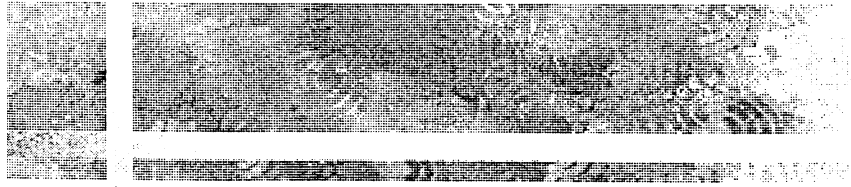




Events Contributing to the Destruction of Many Tribal Cultures

- ⇒ Removal of children to boarding schools
- ⇒ Loss of culture, language, children, land
and spiritual beliefs causing grief and
depression





Events Contributing to the Destruction of Many Tribal Cultures

⇒ Challenge of coping with major changes
that took order and meaning out of life
and the imposed values and institutions
which tore at the structure of the
individual and group.





Contributing Factors to Child Victimization

⇒ Stress

⇒ Unemployment

⇒ Limited resources

- personal
- family
- community



Contributing Factors to Child Victimization

- ⇒ Harsh punishment
- ⇒ Alcohol/drug abuse
- ⇒ No role models
- ⇒ Shame - grief - pain - anger





Contributing Factors to Child Victimization

- ⇒ No sanctions against abuse
- ⇒ Limited tribal/Native jurisdiction for non-tribal/Native members
- ⇒ Children not valued
- ⇒ Helplessness and hopelessness

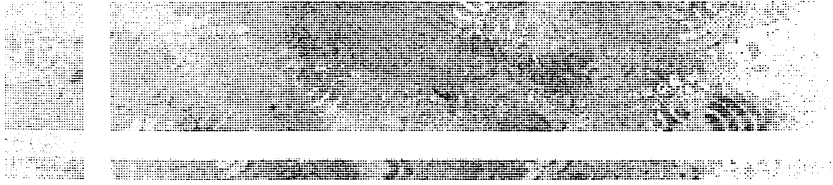




Contributing Factors to Child Victimization

- ⇒ Lack of teachings and limited reward for teachings
- ⇒ Lack of sufficient housing
- ⇒ Isolation
- ⇒ Denial and/or acceptance





**Historically, Native families
have used the extended
network of family members to
rear children. The survival of
the family depended on the
interdependent relationships
among its members.**



Methods the U.S. government employed to provide for Indian children:

⇒ Education - the purpose of boarding schools and missions:

- “provide the U.S. government a method to educate and civilize Indian children away from the influences of their savage lifestyle and unchristian ways.”



Methods the U.S. government employed to provide for Indian children:

⇒ Child Safety and Protection - purpose of protecting children was to offer children an “opportunity out of poverty.”



What Indian children experienced in boarding schools

⇒ Chained

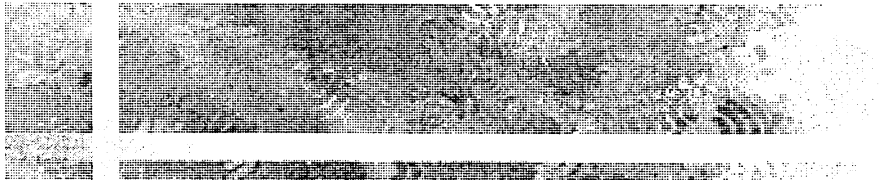
⇒ Whipped

⇒ Beaten

⇒ Denied medical care

⇒ No parental role models

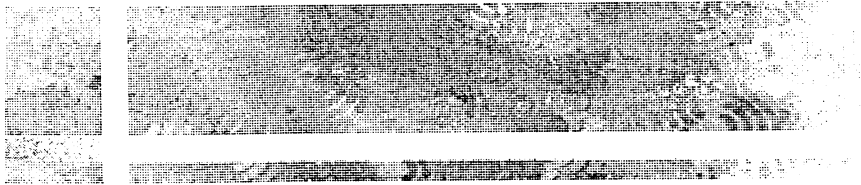




What Indian children experienced in boarding schools

- ⇒ Denied contact with their family
- ⇒ Abandonment, abuse and victimization
- ⇒ Poor preparation for adulthood
- ⇒ Lack of adequate food, clothing and shelter







What Indian children experienced in boarding schools

- ⇒ High death rate
- ⇒ Used as indentured servants
- ⇒ Isolated for infractions





What Indian children experienced in boarding schools

- ⇒ Burial without notification to parents
- ⇒ Harshly punished for speaking their Native language
- ⇒ Loss of Native name - received “Christian” name





**Indian people were conditioned
not to fight back, each time
they fought back something
was taken away:**

⇒ **children**

⇒ **land**

⇒ **food**

⇒ **warmth**

⇒ **shelter**

⇒ **spirituality**





**Indian people were conditioned
not to fight back, each time
they fought back something
was taken away:**

⇒ **language**

⇒ **religion**

⇒ **homes**

⇒ **teachings**

⇒ **elders**



Types of Personalities Attracted to Indian Reservations

⇒ Missionaries and religious individuals

- sincere desire and seeking to help
- no understanding of Indian lifestyle or religion/spirituality
- no understanding of the impact of the removal of their children



Types of Personalities Attracted to Indian Reservations

⇒ Missionaries and religious individuals

- zealous to christianize Indians
- rigid and punitive
- escaping from consequences of illegal behavior
- possessed the mentality of the era



Types of Personalities Attracted to Indian Reservations

⇒ Social “rejects and misfits”

- alienated from dominant American culture
- high level of idiosyncratic traits and characteristics
- high level of aberrant behavior



Types of Personalities Attracted to Indian Reservations

⇒ Social “rejects and misfits”

- behavior more tolerated in isolated areas
- less likelihood of confrontation with peers
- rigid and punitive
- behavior less tolerated in dominant culture



Types of Personalities Attracted to Indian Reservations

⇒ Ex-Military - Authoritarian

- placement for former military leaders and soldiers
- appeal of isolated locations
- valued independence and freedom to interpret law and justice



Types of Personalities Attracted to Indian Reservations

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- justice was self serving
- income generating
- rigid and punitive



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- ⇒ The likelihood of dying before their non-

Indian peers





Traditional Practices of Parenting

- ⇒ Children were disciplined to increase compliance with cultural expectations
- ⇒ Children were not punished out of anger



Traditional Practices of Parenting

- ⇒ Punishment was determined by behavior of the child
- ⇒ Disciplinarians were usually clan/band uncles or aunts or other extended family members



Risk Markers in Indian Families

- ⇒ Historical context of abuse
- ⇒ Historical shame and grief
- ⇒ Historical trauma
- ⇒ Generational impact



Risk Markers in Indian Families

- ⇒ Cultural oppression
- ⇒ Alcohol related injury and deaths
- ⇒ Fetal Alcohol Syndrome





Risk Markers in Indian Families

- ⇒ Fetal Alcohol Effect
- ⇒ Illegal behavior
- ⇒ Incarceration and probation
- ⇒ Tribal vs. Indianness



Risk Markers in Indian Families

- ⇒ Identity conflict
- ⇒ Cultural displacement
- ⇒ Cultural conformity





Risk Markers in Indian Families

- ⇒ Cultural assimilation
- ⇒ Boarding school legacy
- ⇒ Generational use of alcohol
- ⇒ Cultural confusion



Risk Markers in Indian Families

- ⇒ Out of home placements of children
- ⇒ Suicide risks
- ⇒ Cluster suicides
- ⇒ School drop out rates



Risk Markers for American Indian Adolescents

⇒ Developmental:

- Learning disabilities
- Psycho-social dysfunctional behavior
- Fetal Alcohol Syndrome
- Fetal Alcohol Effect

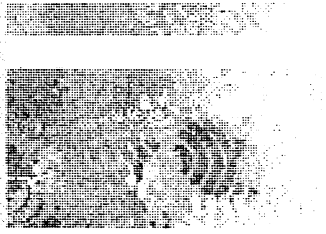


Risk Markers for American Indian Adolescents


⇒ Developmental:

- Criminal behavior
- Gang violence
- Domestic violence
- Family disruption






Master Handouts



Events Contributing to the Destruction of Many Tribal Cultures

- ⇒ Removal of children to boarding schools
- ⇒ Loss of culture, language, children, land and spiritual beliefs causing grief and depression


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Events Contributing to the Destruction of Many Tribal Cultures

- ⇒ Challenge of coping with major changes that took order and meaning out of life and the imposed values and institutions which tore at the structure of the individual and group.

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Contributing Factors to Child Victimization

- ⇒ Stress
- ⇒ Unemployment
- ⇒ Limited resources
 - personal
 - family
 - community

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Contributing Factors to Child Victimization

- ⇒ Harsh punishment
- ⇒ Alcohol/drug abuse
- ⇒ No role models
- ⇒ Shame - grief - pain - anger


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Contributing Factors to Child Victimization

- ⇒ No sanctions against abuse
- ⇒ Limited tribal/Native jurisdiction for non-tribal/Native members
- ⇒ Children not valued
- ⇒ Helplessness and hopelessness

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Contributing Factors to Child Victimization

- ⇒ Lack of teachings and limited reward for teachings
- ⇒ Lack of sufficient housing
- ⇒ Isolation
- ⇒ Denial and/or acceptance

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Historically, Native families have used the extended network of family members to rear children. The survival of the family depended on the interdependent relationships among its members.

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Methods the U.S. government employed to provide for Indian children:

⇒ Education - the purpose of boarding schools and missions:

- “provide the U.S. government a method to educate and civilize Indian children away from the influences of their savage lifestyle and unchristian ways.”


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Methods the U.S. government employed to provide for Indian children:

⇒ Child Safety and Protection - purpose of protecting children was to offer children an “opportunity out of poverty.”

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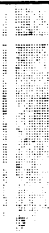




What Indian children experienced in boarding schools

- ⇒ Chained
- ⇒ Whipped
- ⇒ Beaten
- ⇒ Denied medical care
- ⇒ No parental role models

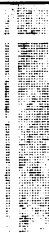
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What Indian children experienced in boarding schools

- ⇒ Denied contact with their family
- ⇒ Abandonment, abuse and victimization
- ⇒ Poor preparation for adulthood
- ⇒ Lack of adequate food, clothing and shelter

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What Indian children experienced in boarding schools

- ⇒ High death rate
- ⇒ Used as indentured servants
- ⇒ Isolated for infractions

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What Indian children experienced in boarding schools

- ⇒ Burial without notification to parents
- ⇒ Harshly punished for speaking their Native language
- ⇒ Loss of Native name - received "Christian" name

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Indian people were conditioned not to fight back, each time they fought back something was taken away:

- | | |
|------------|----------------|
| ⇒ children | ⇒ land |
| ⇒ food | ⇒ warmth |
| ⇒ shelter | ⇒ spirituality |

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3-16


Indian people were conditioned not to fight back, each time they fought back something was taken away:

- | | |
|------------|-------------|
| ⇒ language | ⇒ religion |
| ⇒ homes | ⇒ teachings |
| ⇒ elders | |

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Types of Personalities Attracted to Indian Reservations

⇒ Missionaries and religious individuals

- sincere desire and seeking to help
- no understanding of Indian lifestyle or religion/spirituality
- no understanding of the impact of the removal of their children

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Types of Personalities Attracted to Indian Reservations

⇒ Missionaries and religious individuals

- zealous to christianize Indians
- rigid and punitive
- escaping from consequences of illegal behavior
- possessed the mentality of the era

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Types of Personalities Attracted to Indian Reservations

⇒ Social "rejects and misfits"

- alienated from dominant American culture
- high level of idiosyncratic traits and characteristics
- high level of aberrant behavior

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Types of Personalities Attracted to Indian Reservations

⇒ Social “rejects and misfits”

- behavior more tolerated in isolated areas
- less likelihood of confrontation with peers
- rigid and punitive
- behavior less tolerated in dominant culture

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Types of Personalities Attracted to Indian Reservations

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Types of Personalities Attracted to Indian Reservations

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- income generating
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Indian parents today can be described as:

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- ⇒ If male, a suicide rate 7 times higher than white males

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Indian parents today can be described as:

- ⇒ If an elder, the likelihood of living on a reservation
- ⇒ If young adult or child, the likelihood of living in an urban area
- ⇒ The likelihood of dying before their non-Indian peers

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Traditional Practices of Parenting

- ⇒ Children were disciplined to increase compliance with cultural expectations
- ⇒ Children were not punished out of anger

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3-30

Traditional Practices of Parenting

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- ⇒ Disciplinarians were usually clan/band uncles or aunts or other extended family members

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Risk Markers in Indian Families

- ⇒ Historical context of abuse
- ⇒ Historical shame and grief
- ⇒ Historical trauma
- ⇒ Generational impact

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3-32






Risk Markers in Indian Families

- ⇒ Cultural oppression
- ⇒ Alcohol related injury and deaths
- ⇒ Fetal Alcohol Syndrome

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Risk Markers in Indian Families

- ⇒ Fetal Alcohol Effect
- ⇒ Illegal behavior
- ⇒ Incarceration and probation
- ⇒ Tribal vs. Indianness

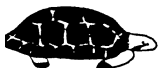
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Risk Markers in Indian Families

- ⇒ Identity conflict
- ⇒ Cultural displacement
- ⇒ Cultural conformity

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Risk Markers in Indian Families

- ⇒ Cultural assimilation
- ⇒ Boarding school legacy
- ⇒ Generational use of alcohol
- ⇒ Cultural confusion

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Risk Markers in Indian Families

- ⇒ Out of home placements of children
- ⇒ Suicide risks
- ⇒ Cluster suicides
- ⇒ School drop out rates

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Risk Markers for American Indian Adolescents

- ⇒ Developmental:
 - Learning disabilities
 - Psycho-social dysfunctional behavior
 - Fetal Alcohol Syndrome
 - Fetal Alcohol Effect

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Risk Markers for American Indian Adolescents

⇒ Developmental:

- Criminal behavior
- Gang violence
- Domestic violence
- Family disruption

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



Risk Markers for American Indian Adolescents

⇒ Developmental:

- Poor academic performance
- Alcoholism
- Inhalant abuse
- Depression
- Suicide

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Risk Markers for American Indian Adolescents

⇒ Developmental:

- Poor self esteem
- Alienation
- Poverty
- Injuries and accidents

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Risk Markers for American Indian Adolescents

⇒ Developmental:

- Out of home placements
- School drop out
- Sexual and/or physical abuse victims
- Neglect
- Emotional abuse

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Mental Health Issues of American Indian Children

⇒ Prenatal

- teenage pregnancies (30 times more likely to give birth)
- little or no prenatal care
- premature births

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3-43

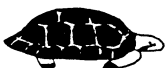
Mental Health Issues of American Indian Children


⇒ Chemical Exposure/Abuse

- prenatal exposure to alcohol, cocaine, inhalants, and other drugs
- prenatal exposure to tobacco

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Mental Health Issues of American Indian Children

⇒ Developmental Disorders

- mental retardation
- FAS/FAE
- language and speech (1st in speech impairments; hearing disorders)

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Mental Health Issues of American Indian Children

⇒ Developmental Disorders

- Otitis media (middle ear infection)
- lack of immunizations
- lack of preventative care (including dental)

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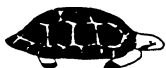
Mental Health Issues of American Indian Children


⇒ Developmental Disorders

- behavioral and emotional problems (acting out, non-compliance, severely emotionally disturbed, out of home placements)

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Mental Health Issues of American Indian Children

⇒ School age children and cross over effect

- increase in behavior problems
- increase in out-patient treatment

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Mental Health Issues of American Indian Children

⇒ School age children and cross over effect

- decrease in academic achievement
- runaways - leave earlier, stay longer, become lost

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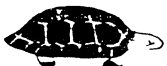



OPPRESSION

by Aile Archambault

⇒ Oppression - a burdensome, unjust manner of governing that weighs heavily upon the spirit and the senses.

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OPPRESSION

by Arle Archambault

⇒ Internalized Oppression - "having subjectively adopted unnatural, oppressive racial attitudes/behaviors as a reality in one's own life."

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OPPRESSION

by Arle Archambault

⇒ Racism - "a belief in the superiority of one race over another and the resultant discriminatory treatment."

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OPPRESSION

by Arle Archambault

⇒ Institutional Racism - "the widespread, systematic exploitation and exercise of power and control and/or maltreatment of any particular race (or individual) by institutions (or members) of the dominant culture infrastructure."

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Results of Internalized Oppression/Racism
by Arlo Archambault

- ⇒ Pain and trauma
- ⇒ Disconnectedness
- ⇒ Anger and fear
- ⇒ Loneliness


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Results of Internalized Oppression/Racism
by Arlo Archambault

- ⇒ Powerlessness
- ⇒ Sadness
- ⇒ Generational grief
- ⇒ Numbness
- ⇒ Self destruction


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Results of Internalized Oppression/Racism
by Arlo Archambault

- ⇒ Violence
- ⇒ Embarrassment
- ⇒ Shame, apathy and self hate

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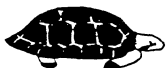


Results of Internalized Oppression upon Dominant Culture Members

by Aile Archambault

- ⇒ Racism
- ⇒ Fear
- ⇒ Hatred
- ⇒ Violence

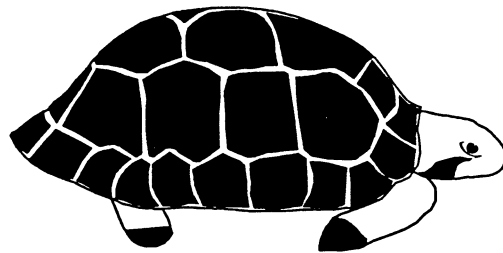
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Upon the Back of a Turtle...

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History of Federal Victim Assistance Services and Programs in Indian Country



Background Information (Trainer's Information) for History of Federal Victim Assistance Services and Programs in Indian Country

Lecture Presentation:

This presentation will provide information on the Federal Victim Assistance Program in Indian Country. The information to transmit to participants is how the program got started, why it was started, how things are working now in Indian Country and how the relationship between the federal government and Indian tribes has contributed to the success of the program.

Trainer is to address each of the topics and elaborate each point for participants to better understand the impact of the issues. The activities and discussion questions can be used with the large group, or smaller groups can review the questions and report back to the large group.

Materials in this section:

The following section provides material for trainers to use in presenting the training, including trainers information, overheads, handouts, and resources and other information.

Trainer information (background information) is provided for use with each section. This information corresponds with overheads and handouts.

The overheads are indicated with a divider page and can be reproduced on transparencies.

Handouts are indicated with a divider page and can be reproduced and distributed to the attendees. Handouts are duplicates of the overheads with three overheads per page of the handout.

In addition, other related resources and information are provided that can supplement the presentation.



History of Federal Victim Assistance Services and Programs in Indian Country

Objectives:

1. Participants will understand the development of the Victim Assistance in Indian Country (VAIC) and other Department of Justice (DOJ) programs for Native Americans.
2. Participants will increase their awareness of the working relationship between VAIC and State VOCA programs.

Activities:

Have a large group discussion on:

1. The impact of crime in Indian Country.
2. How have American Indians traditionally dealt with crime?
3. What systems did they have in place that provided assistance to victims and their families? Formally and informally.
4. What are the reasons the Victim Assistance in Indian Country (VAIC) grants were sub-granted to tribes by the State VOCA Administrator?
5. What was the result of this arrangement?

Master Overheads : N = 15

Master Handouts : N = 5

Discussion Questions :

1. What were some concerns of tribes in the initial funding of the VAIC?
2. How were these concerns dealt with and by whom? Was this effective?
3. What can be done by both tribes and the federal government in assisting each other in the delivery of appropriate services to victims of crime in Indian Country?

The terms Native American and American Indian are used interchangeably. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.



In the training video...

- 1) The use of informal systems of support in Native American families and communities is very common. Many times, American Indians will not approach formal systems of support until they have already tapped into the informal systems, i.e., family members, neighbors, traditional leaders/healers, etc.
- 2) Many traditional American Indians use tribal ceremonies to aid in healing. The belief that these ceremonies will heal not only physical but spiritual wounds is paramount. American Indians believe that your whole being must be in harmony before you are fully healed.
- 3) It is impossible to ignore the historical fact that "outsiders" have repeatedly come into Indian Country to advise 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.
- 4) There are a myriad of factors which influence Native American victims of crime of which a typical victim service provider may be unaware: historical grief, discrimination, limited 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.
- 5) 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.



History of Federal Victim Assistance Services and Programs in Indian Country

How it all began:

A Native mother in North Carolina questioned the behavior of a Bureau of Indian Affairs (BIA) employed schoolteacher toward her son. In response to her lengthy inquiry, this schoolteacher was eventually transferred to a BIA school in the Southwest. It was after repeated attempts by parents in this new area to very questionable behavior by this same BIA schoolteacher, that his behavior was finally determined to be sexually inappropriate. It was during this period that authorities were confronted with the reality of children being molested in Indian Country. It was also discovered that lack of reporting criteria, lack of protocol, and questions of jurisdiction seriously hampered efforts of investigation and conviction. It was against the backdrop of multiple victim molestation cases that the need for victim assistance programs in Indian Country evolved.

1988 – Realization of victims in Indian Country

- **Multiple victim molestation on two Indian reservations exposed the lack of resources for assisting victims of crime in Indian Country**

In 1988, the revelation of multiple victim molestation on two American Indian reservations in the southwest dramatically exposed the lack of on-reservation resources for assisting American Indian victims of crime. While the Victims of Crime Act (VOCA) of 1984 established a Crime Victims Fund to provide resources for all victims of crime, including federal victims, these funds were not being utilized by American Indian communities.

- **Funding to on-reservation victim assistance programs was virtually non-existent**

State funded victim assistance programs may have been providing some services to American Indian crime victims but the provision of funding to on-reservation victim assistance programs was virtually non-existent.

- **OVC funded two therapists to go onto the reservation - two times per month for two days**

In an initial response to the multiple victim molestation in one reservation community, OVC began funding the services of two therapists. Although the community had its own mental health program, the program staff were not trained in the treatment of child sexual abuse, and they requested assistance in identifying and funding therapists with the appropriate training and experience. Due to the geographic isolation of the community and the need to utilize professional mental health service providers with experience in dealing with child



sexual abuse, the best option at the time was to fly in two therapists twice a month for two days. It was recognized that this arrangement was not ideal over a long-term period but children and families were able to receive therapeutic services while a longer-term solution evolved.

1989 – Victim Assistance in Indian Country (VAIC) Discretionary Grant program established

Recognizing the severe need for on-reservation, culturally appropriate victim assistance services, the Office for Victims of Crime (OVC) has taken a strong leadership position in developing programs to serve American Indian victims of crime. This situation and other reservation-based multiple victim sexual abuse cases were elements in OVC's decision to develop the Victim Assistance in Indian Country (VAIC) Discretionary Grant Program in 1989.

The Plan for VAIC:

- **\$1,000,000 available for three years, to states with Indian/federal jurisdiction on behalf of tribes**

As initially conceived, the VAIC program offered a total of \$1,000,000 in the first year of a three year life span. The million dollars was made available to states in which there was Indian Country with federal jurisdiction over criminal activity (non-P.L. 280 states).

- **State VOCA Administrators were to work with tribes to develop applications for VAIC funding**

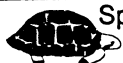
These P.L. 280 states were eligible to apply for VAIC funds on behalf of the tribes in their state. State VOCA Administrators were to work with tribal entities to develop their applications for VAIC funding.

- **The intent was to develop a working relationship between tribes and the state VOCA Administrator during the three years of funding**

This arrangement was developed with the intent of fostering a working relationship between tribal programs and their state VOCA Administrator. The states which were awarded VAIC grants then sub-granted funds to tribal communities on a competitive grant basis. Tribal programs applied to the state VOCA program for funding. This arrangement was established to familiarize tribes with the VOCA application forms and process so that when VAIC funding ended, the tribes would be able to apply to the state VOCA program for non-discretionary VOCA funding

- **Funding was to decrease each of the three years**

The plan was to establish the VAIC program for a three year period in order to introduce tribal communities to the state administered VOCA program. The hope was that as tribal communities became aware of the existence of funds to establish and maintain victim assistance programs, they would begin to apply on their own. In accordance with this plan, the VAIC program began with



\$1,000,000 in funding, with second and third year funding scheduled to decrease each year.

- **By year four, tribal programs would be integrated into state VOCA programs**

In year four, it was anticipated that tribal programs would be integrated into the state VOCA programs and there would no longer be a need for a separate Indian Country discretionary grant program. The initially funded tribal programs would begin to apply for the state administered VOCA program funds and the discretionary VAIC program could be phased out.

For various reasons this plan did not work

- **State programs did not have the financial resources, and in some cases the willingness, to fund new Indian Country programs**

When the discretionary VAIC funding decreased, so did programmatic funding for the 15 programs funded during the first year of the VAIC program. Fragile VAIC projects who were struggling to get started faced an uncertain funding future and the real possibility that there would be no money available at the end of three years.

1998 – OVC began direct funding to tribes

In response to the above funding concerns, OVC continued to offer VAIC discretionary funding. Starting in Fiscal Year 1998, OVC began direct funding to tribes, eliminating the state pass-through of the past decade (OVC, 1997). Today, many American Indian victim assistance programs do receive some funding from state VOCA monies as well as VAIC grants. Since its inception in 1989, the VAIC program has funded 52 reservation based victim service programs in 19 states. As of FY 1996 OVC has provided over \$6,000,000 in VAIC funding.

Unfortunately, some state VOCA programs which established criteria for services, require that Native victims of crime proceed through other programs such as the Indian Health Service and be denied services before becoming eligible for state aide. This requirement is an additional barrier to services that non-Natives are not required to meet. It is also critical to note that Mental Health Services are extremely limited with tribal and Indian Health Service programs, yet state programs limit access to services.



Children's Justice Act in Indian Country

- **Began in 1988 to improve the investigation and prosecution of child physical and sexual abuse cases**

The CJA programs have aided in the development of multi-agency protocols to improve the investigation of child abuse cases, development of interview rooms, increasing community awareness and education, development of data collection and tracking systems, and the development of Child Protection and Multidisciplinary Teams.

- **Has since provided support to 40 tribes and tribal organizations**

The Children's Justice Act (CJA) Discretionary Grant Program for Indian Country, administered by OVC, was initiated in 1988 to improve the investigation and prosecution of cases of child sexual and physical abuse. The discretionary CJA program has provided \$6,629,745 to support 40 tribes and tribal organizations (OVC, 1997).

Children's Justice Act in Indian Country has aided in the development of...

- Multi-agency protocols in investigation and prosecution of child physical and sexual abuse
- Interview rooms
- Increasing community awareness and education
- Data collection and tracking systems
- Child Protection Teams
- Multi-Disciplinary Teams

Violence Against Women Act (VAWA) in Indian Country

- **Funding for Indian Country began in 1995**

Since 1995 the STOP Violence Against Indian Women discretionary grant program has made a total of \$12.04 million available for Indian organizations to enhance the tribal justice system response to domestic violence and improve services to Indian women in abusive situations. These funds have been instrumental in assisting tribal communities in developing reservation-based domestic violence services including shelters, domestic violence courts, and domestic violence task forces.

- **Provides for set-aside funds for Indian Country**

The Violence Against Women Act Grants Office (VAWGO) has been very active in the past three years in funding tribal domestic violence programs. The Violence Against Women Act (VAWA) provided for a set-aside for funding programs in Indian Country.



(VAWA) funds have been instrumental in assisting tribal communities to develop:

- Reservation based domestic violence services, including shelters
- Domestic violence courts
- Domestic violence task forces

Other OVC training initiatives in Indian Country:

The Department of Justice has funded a number of training initiatives to improve the skills of tribal and federal employees who deal with crime victims. These initiatives have included:

- legal education training to tribal and federal judges
- a conference on prosecution and investigation of child abuse and domestic violence in Indian Country
- an semi-annual national conference (Indian Nations: Justice for Victims of Crime)
- yearly district-specific conferences
- training seminars on issues relevant to American Indian Child Protection Teams and Multidisciplinary Teams

U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, *Report to Congress*, 1997.

U.S. Department of Justice, Office of Justice Programs, *Office of Justice Programs Fiscal Year 1998 Program Plans*.

U.S. Department of Justice, Office of Justice Programs, February, 1997, *Office of Justice Programs Partnership Initiatives in Indian Country*.

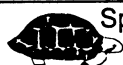
Office of Tribal Justice

The Office of Tribal Justice, OTJ, established within the Office of the Deputy Attorney General, serves as a coordination center for all Department of Justice activities relating to Native Americans.

At the May 1994 Listening conference in Albuquerque, NM, tribal leaders conveyed to the Department the need to establish a permanent channel for tribes to communicate their concerns to the Department. The Office of Tribal Justice was created in January 1995, to provide such a point of contact within the Department for Indian tribes. This office has ensured better communication between the Department and Native Americans.

I. Mission of the Office of Tribal Justice

The mission of the Office of Tribal Justice is to coordinate and focus the Department's policies and positions on Native American issues, maintain liaison with the federally recognized Indian tribes, and work with appropriate federal, state, and local officials, professional associations, and public interest groups. The major functions of the Office of Tribal Justice are to:



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- Communicate with tribal representatives on Department issues of concern to Indian tribes;
- Ensure that the Department clearly communicates policies and positions to tribal leaders;
- Maintain liaison between the Department and the various divisions and bureaus of the Department and the state, county, and local governments, professional organizations, special interest groups, and private entities with interests in, or responsibilities for, tribal matters;
- Promote internal uniformity of Department policies and litigating positions relating to Indian Country; and,
- Coordinate, together with the Office of Legislative Affairs, the Department's legislative efforts relating to Indian Country.

Within the Department, the Office coordinates the on-going work of Justice agencies with responsibilities in Indian Country, such as the Department of the Interior, the Indian Health Service at the Department of Health and Human Services, the Departments of Housing and Urban Development, Agriculture, Education, and the Environmental Protection Agency. OTJ will serve as the primary means within the Department of coordinating federal Indian policy.

The Office of Tribal Justice is responsible for coordinating relations with elected tribal officials. OTJ serves as the clearinghouse for all correspondence relating to Indian matters and produces a tribal newsletter regarding the Department's efforts and actions on behalf of federally recognized tribes.

II. Functions of the Office of Tribal Justice

Below is a representative list of some current Department of Justice activities for Indian Country for which OTJ has coordination and liaison responsibilities.

- A. Religious Freedom and the Protection of Sacred Sites and Resources
- B. Environmental Enforcement in Indian Country
- C. IGRA and Tribal Gaming Issues
- D. Funding to Indian Country and other Indian Grant Programs
- E. Tribal Justice Systems, Law Enforcement, Public Law 280 Policy
- F. State and Federal Taxation of Indian Tribes
- G. International Indigenous Peoples Rights

The Office of Tribal Justice enables the Department to address issues that are of importance to the Nation's first Americans with renewed effectiveness.



Discussion Questions for History of Federal Victim Assistance Services and Programs in Indian Country

FEDERAL VICTIM/WITNESS COORDINATORS:

- Ten years ago, before the VAIC program, what types of services did your office provide to American Indian crime victims?
- Discuss the changes in the numbers of Indian crime victims in the federal system now versus 10 years ago.
- What are the expectations of OVC, your U.S. Attorney, and tribal people about the services you will provide in Indian Country?

Even if you are not from a district with a large number of reservations, please discuss what you know about urban Indians who are victimized, where to get assistance in working with American Indian crime victims, and the resources available for dealing with these victims.

FBI/LES:

- What is the role of the FBI Victim/Witness Specialist?
- Describe the development of this position and the training received by those staff assigned to this position.
- Often tribal communities have difficulty getting consistent law enforcement representation at Child Protection Team and Multidisciplinary Team meetings. What are some of the factors that may explain this difficulty?
- Discuss the role of law enforcement in victim services; include the role of law enforcement as a leader in collaborative efforts.

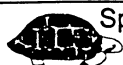
U.S. ATTORNEY'S OFFICE (PROSECUTORS):

- Describe your participation in tribally-based MDTs. Include a discussion of how these teams came about, obstacles in team formation and development, and the role of the VAIC programs in team development.

IHS:

It is often difficult for medical personnel to get away from service delivery to participate in CPT or MDT meetings, yet medical information is crucial to the discussions of team members. In rural and remote areas there may not be experts available to perform examinations on child sexual abuse victims, or the health clinic may not be open after 5:00 p.m.

- Discuss innovative approaches to the provision of medical and mental health services to crime victims (including medical examinations).
- Describe the services available to crime victims in your service area.



- Also, discuss how you work with the tribal, federal, and/or county victim service providers, (i.e., victim advocate, domestic violence shelter, rape crisis counselor, etc.).

BIA:

Many tribes have either BIA run Social Services Departments or they have contracted from the BIA to establish their own tribal Social Services Departments. Even those tribes who have 638 contracts to administer their own programs interact with BIA Social Services or Social Workers on the Area level.

Since Social Services usually includes child protective services (CPS), this is the agency which is responsible for investigating child abuse and neglect cases. Once a case is opened on a suspected abuse or neglect case, Social Services often offers services to families to restore safety to the family, usually with a focus on family preservation.

- What role did BIA Social Services play in obtaining services for child abuse victims prior to the VAIC program?
- How has VAIC funding impacted this role?
- Discuss how BIA personnel (social services, education, law enforcement) work collaboratively with other agencies (state/tribal) to improve services to crime victims.
- Where has the BIA played a leadership role in delivering services to crime victims?



Worksheet for History of Federal Victim Assistance Services and Programs in Indian Country

Large group discussion

1. What has been the impact of violent crime in Indian Country?
2. How have American Indians traditionally dealt with crime?
3. What systems did tribes have in place that provided assistance to victims and their families? Formally and informally?
4. What are the reasons the Victim Assistance in Indian Country (VAIC) grants were sub-granted to tribes by the State VOCA Administrator?
5. What was the result of this arrangement?
6. What were some concerns of tribes in the initial funding of the VAIC?
7. How were these concerns dealt with and by whom? Was this effective?
8. What can be done by both tribes and the federal government in assisting each other in the delivery of appropriate services to victims of crime in Indian Country?



Master Overheads

The History of Federal Victim Assistance Programs in Indian Country

Victim Assistance in Indian Country

⇒ 1988 - multiple victim molestation on
two American Indian reservations

- exposed lack of resources for assisting
victims of crime in Indian country
- funding to on-reservation victim assistance
programs virtually non-existent



Victim Assistance in Indian Country

⇒ OVC funded two therapists to go onto
the reservation - two times a month for
two days

⇒ 1989 - Victim Assistance in Indian
Country (VAIC) Discretionary Grant
Program established



Victim Assistance in Indian Country

⇒ The Plan for VAIC:

- \$1,000,000 available for three years, to states with Indian/federal jurisdiction on behalf of tribes



Victim Assistance in Indian Country

⇒ The Plan for VAIC:

- state VOCA administrators were to work with tribes to develop VAIC funding applications
- the intent was to develop a working relationship between tribe and state VOCA administrator during the 3 years



Victim Assistance in Indian Country

⇒ The Plan for VAIC:

- funding was to decrease each of the 3 years
- By year 4, tribal programs would be integrated into state VOCA programs



Victim Assistance in Indian Country

⇒ For various reasons this plan did not
work

- state programs did not have the financial resources, and in some cases the willingness, to fund new Indian Country programs



Victim Assistance in Indian Country

⇒ As a result, when the VAIC funding decreased, so did programmatic funding for the 15 existing programs in Indian Country

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Victim Assistance in Indian Country

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 - has since provided support to 40 tribes and tribal organizations



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 - interview rooms



Victim Assistance in Indian Country

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- increasing community awareness and education
- data collection and tracking systems



Victim Assistance in Indian Country

- ⇒ Children's Justice Act in Indian Country
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 - Multidisciplinary Teams



Victim Assistance in Indian Country

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- funding for Indian Country began in 1995
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Victim Assistance in Indian Country

⇒ VAWA funds have been instrumental in assisting tribal communities to develop

- reservation based domestic violence services, including shelters
- domestic violence courts
- domestic violence task forces



Victim Assistance in Indian Country

⇒ Other OVC training initiatives in Indian Country

- legal education to tribal and federal judges
- conference on prosecution and investigation of child abuse and domestic violence
- semi-annual national conference on Victim Assistance in Indian Country



Victim Assistance in Indian Country


⇒ Other OVC training initiatives in Indian Country

- yearly district specific conferences
- seminars on issues relevant to Child Protection Teams and Multidisciplinary Teams in Indian Country






Master Handouts



The History of Federal Victim Assistance Programs in Indian Country




Victim Assistance in Indian Country

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Victim Assistance in Indian Country

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Victim Assistance in Indian Country

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4-6

Victim Assistance in Indian Country

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4-7

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4-8






Victim Assistance in Indian Country

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Victim Assistance in Indian Country

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- Multidisciplinary Teams

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Victim Assistance in Indian Country

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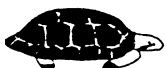



Victim Assistance in Indian Country

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- legal education to tribal and federal judges
- conference on prosecution and investigation of child abuse and domestic violence
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Victim Assistance in Indian Country

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- seminars on issues relevant to Child Protection Teams and Multidisciplinary Teams in Indian Country

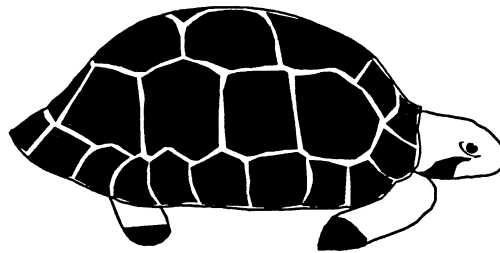
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Upon the Back of a Turtle...

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Cultural Issues and Considerations in Delivery of Victim Services in Indian Country



Background Information
(Trainer's Information)
for
Issues and Cultural Considerations in Delivery of
Victim Services in Indian Country

Lecture Presentation :

This presentation should be used to familiarize participants to some of the common cultural differences and similarities within and between Native populations. This session is important in that it is intended to be an overview of the various cultural aspects that are the foundation for Native Americans' beliefs and practices. This information is not designed to be inclusive of all Native American behavior or nuances, nor does it intend to categorize all American Indians into a single culture. Each tribe has their own culture and values that are adhered to by members, therefore this overview can only provide information for persons not familiar with Native American culture to some basic elements of culture and values when dealing with Native Americans in Indian Country.

The trainer is to address each of the topics and elaborate each point for participants to better understand the basis for behavior and how issues may evolve based on different orientations to the world. The activities and discussion questions can be used with the large group, or as smaller groups can review the questions and report back to the large group. This session will be much more effective if the presenter is willing and able to talk about his or her own culture and offer their own personal and cultural experiences.

Materials in this section :

The following section provides material for trainers to use in presenting the training, including trainers information, overheads, handouts, and resources and other information.

Background information (trainer information) is provided for use with each section. This information corresponds with overheads and handouts.

The overheads are indicated with a divider page and can be reproduced on transparencies.

Handouts are indicated with a divider page and can be reproduced and distributed to the attendees. Handouts are duplicates of the overheads with three overheads per page of the handout.



Issues and Cultural Considerations in the Delivery of Victim Services in Indian Country

Objectives:

1. Participants will recognize common cultural differences in working with American Indian victims of crime.
2. Participants will better understand the cultural differences and be able to identify and respond to them when working with American Indians.
3. Participants will identify and discuss stereotypes and characteristics of various cultures.
4. Participants will develop a better understanding of the American Indian culture by examining their own culture.

Activities:

PRESENTER: *Be prepared to offer your own ideas to increase group discussion. Please remind all participants that this is an exercise to facilitate recognition of other cultures as well as their own, and that there should be honesty and openness to learning without fear of degradation of culture or characteristic associated with a culture.*

All cultures have various characteristics that are unique and it is important to recognize them to better understand ones own cultural values and beliefs before trying to understand others. The importance of this exercise is to note that everyone has a culture, some may have more awareness of their cultural and historical foundations than others. Members of ethnic minority cultures may vary in their level of knowledge and understanding just as majority culture members may. To better understand a different culture, it is helpful to first understand ones own culture and how beliefs and practices of the culture affects everyday living.

Ask participants to develop a list of things that they see as unique to their individual culture, including behaviors associated with culture, beliefs associated with culture, and attitudes associated with culture. Give them about 10 - 15 minutes. After they complete their list, break them into small groups of about 4 - 5 and ask them to discuss their list and add additional items if necessary. Give them about 15 minutes to finish.

Ask for volunteers to present to the large group the list of characteristics they identified for their culture.

Master Overheads: N = 33

Master Handouts: N = 12



Discussion Questions :

1. After hearing the information in this section, can you identify any policy changes your office may need to make?
2. Identify the central beliefs of your culture. How do these beliefs complement or conflict with American Indian beliefs?
3. What "mainstream" values present the most difficulty for Native Americans?

The terms Native American and American Indian are used interchangeably. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.

In the training video...

- 1) In tribal custom there is a respect for the elders who have lived a long time and are highly regarded for their wisdom and knowledge. Indians respect a person who has knowledge of the people and the natural world. The non-Indian society places a greater importance on youth, an emphasis seen daily on television and in politics, for example.
- 2) Indian people seek a balance with nature and accept the circumstances in whatever area they live. They respect the elements and the trials they have had to endure to survive. To show their appreciation of the gifts from the earth, they try to use the natural resources in a beneficial and reasonable manner that will enhance the whole tribe. Tribal people will usually place offerings in exchange for the use of food or shelter from the earth. Respect for the earth, sharing of whatever one had, and seeking harmony with each other and the surroundings formed the foundations of the teachings. Traditions were built on these values held by the tribe and were taught to children as beliefs, attitudes, and rituals.
- 3) The Indians of today, and of the past, present a picture of broad diversity of culture. It is inaccurate to state that all American Indian tribes value or practice to the same degree all traditional concepts or tribal beliefs. It is important not to assume that all Indian tribes have similar traditions. In fact, most tribes wish to maintain their uniqueness and their tribal integrity. However, respect can be given to unique tribal traditions while recognizing the overall values that seem to be held by tribal groups collectively. Tribal differences diminish when contrasted with the majority population so that these differences between tribes seem less significant when one considers the differences between values held by American Indians generally and those of Anglo-Americans.



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- 4) The impact of the history of genocide and broken treaties cannot be over estimated. Many non-Indian people view the past as a separate set of events from those of the present. For many American Indian people, the past is part of the present. Historic events, particularly, the relationships between American Indian people and representatives of the federal government, impact everyday life. An American Indian person may expect federal employees not to bargain in good faith or to intentionally mislead them due to historical events. Relationships between American Indians and federal employees do not start as relationships between equals.
- 5) It is important to remember that in discussing American Indian cultures there is much diversity. There are also core values that appear to be central to Native cultures. Values are central ideas and beliefs that influence every aspect of behavior. Since most values are internalized it may be difficult for the non-Native person to fully appreciate their importance. It is not uncommon, for example, for a non-Native to make the assumption that since a specific American Indian person did not grow up on the reservation, or currently lives off reservation, that this person lacks the core values of other American Indians.



Cultural Considerations in Delivery of Victim Services in Indian Country

Values, Traditions, and Teachings

- **Definitions:**

Culture can be defined as consisting of all those things that people have learned to do, believe, value, and enjoy from their history (Sue, 1981).

Values can be defined as attributes of worth or esteem attached to practices, attitudes, and teachings.

Traditions can be defined as expressions and practices of those values, beliefs, and attitudes that are being passed from one generation to the next within the culture.

Rituals may be those behaviors that are engaged in to display unique aspects of beliefs but may not necessary have a current obvious purpose or explanation, other then it has always been done this way.

- **Dominant majority values** have been applied among Native American groups based on the assumption that the dominant values were appropriate. The issue is not only that the dominant values may be inconsistent, but also the assumption that no differences exist and ethnic minority cultures automatically embrace majority culture values. The contrast in different values between cultural groups has resulted in conflict and destruction. A significant fact is that American Indian cultures have endured over 500 years of exposure to immigrating Euro-Western cultures. Within the merging U.S. culture, American Indians retain a desire to maintain a separate cultural identity. Also, American Indians and non-Indians may be unaware of how much contrast exists between some Indian cultural values and Anglo values.

Values and beliefs held consistent over time

The following are core values about which some generalizations may be made. Since there are exceptions, one must allow for individual differences in behavior and personality.

Cooperation

- Harmony is extremely important, however when conflict is inevitable, it may be addressed indirectly and by someone else. Conflict and confrontation was not unknown; rather it was acknowledged indirectly rather than being obvious and overt.
- American Indians believe in the importance of personal orientation (social harmony) rather than task orientation. This is directly evident in the relationships between family members and among social groups within



communities. Everyone was to acknowledge the network of extended family members and how individuals are connected. A visitor would “link” with a member of the group. In some cases, informal adoptions occurred.

- American Indians have a great deal of respect for an individual's dignity and autonomy. Personal exploits and accomplishments were recognized and retold in tales. Many times namesakes were given in honor of someone's personal traits. Shame and dishonor was considered a serious violation against the individual, the family, the clan, and the tribe. This is one reason why Native culture has experienced the depth of despair since shame has seeped into all encounters and robbed individuals of honor.
- Most Native people believe that the center of the circle is not the people but a part of the circle. Therefore people are not meant to be controlled or to direct the elements and one does not interfere in the affairs of another. Each should choose by vision or revelation the direction the Creator gives them.

Competition

- Because of group solidarity, competing within the group occurs less frequently. Competition was seen as a method of upholding the group rather than one individual. As the solidarity among families dissolved, individuals became more isolated and less reliant on group consensus. Competition has always been an integral part of Native life, but the focus was for the benefit of the whole versus a single person. One example: At a major university, several Indian boys who played basketball together in junior high and high school, tried out for the college junior-varsity team. It was a week-long elimination process, a smaller number of players remaining after each cut. The seven Indian boys made it after each cut until the last day. On that day, the coach came up to one of the Indian boys, tapped the young Native male on the shoulder and told him to “hit the showers.” A euphemism for “you're out of here.” He dropped the ball and walked off the court. His Indian friends saw him leaving, and in unison without speaking or visibly acknowledging one another, moved off the court after him. The coach was seen running behind, telling them to come back, they were not cut (yet). These seven guys played intramural basketball for the next four years and reservation ball together until they started dying from alcohol related injuries.
- Improving and competing with one's own past performance is approved.
- Traits discouraged in children include boasting and loud behavior.

Generosity

- Sharing is greatly valued. Possessions are seen as a process for helping others and a way to acknowledge good works. Certain items existed for the sole use of the individual, but that was typically items that were specific for blessings or were spiritually significant for the person. If something is available it is to be used by all.
- Individual ownership exists as being in possession of items versus exclusive use and property. Initially ownership was not given prominence. As the



amount of landbase diminished and individual allotments became the norm, possession of land created a new level of ownership. The land was not valued for its economic productivity, but for the connection with the cost that occurred to be able to live on it and have a link with extended families members that paid for it with their lives.

- Stinginess is a trait that is discouraged. Teasing and taunting was typical when someone appeared stingy or possessive.

Materialism

- Acquiring material goods is not as important as being a good person. Conspicuous consumption is a recent sociological term that evolved as many Americans acquired "middle-class status" and purchased "homes with two car garages, boats, bicycles, fireplaces, etc." Acquisition of goods within Native communities served as barter in exchanging items during ceremonies.
- Status consciousness and upward mobility are not highly prized.

Saving

- American Indians traditionally have not seen value in amassing large quantities of goods, i.e., household possessions, savings accounts, life insurance policies, etc., that would be consumed by themselves. The reality of this is that marginal and poverty stricken conditions created limited opportunity for financial security. Typically, the purpose of acquiring goods was to save them to be given away during ceremonies.
- In the past, nature's bounty provided all necessary food, clothing and shelter. Several items, such as iron pots, blankets, canvas, etc., made living much easier and were the items valued and distributed at ceremonies.
- Certain seasons in certain locations created more of a hardship for survival. In those places food caches were essential to make it from one harvest to the next. Native people knew about drying, pickling, fermenting, and preserving food and other items to ensure sufficient substance until other food sources were available or until the next harvest.

Orientation to Present

- American Indians are more oriented to the meaningfulness of the present than to the future. This does not mean that Native people do not appreciate the past or the future, but that being in this creation today is important. American Indians are very aware of what the past has contributed and what the future can offer.
- American Indians have always been more interested in being, as opposed to becoming. Most understood that death was inevitable and was not removed from acknowledging the ebb and flow of life and death. Being born and being welcomed into creation allowed for the acceptance that the spirit would walk with the body and then walk away from it at death.



- This acceptance may have reached a point where death may seem the only outcome for many Native people and they may find it difficult to have an appreciation for living or the joy of knowing a positive self.

Time

- American Indians view time as flowing rather than as something that one can control. Increments of time marked by precision is a recent phenomena for Native people. This does not mean Native people did not recognize time and the passage of time. Native people used calendars, sticks, pictures, etc., to record events, but focus was on the event and the meaning of the event not the timeframe of the event. Today, calendars and clocks are measured by finite degrees of seconds, minutes, hours, days, weeks, months, years. The time element takes on more importance than the event for non-Native people.
- In the past, only natural phenomena that made up the elements such as the sun, the moon, and the seasons were used to mark the passage of time.

Work Ethic

- American Indians have not been ingrained with the same Puritan work ethic as most Americans have because they have not the same orientation to schedules, property, and being self-sufficient and independent. For the most part, American Indians understand the need for work and subsistence living but it was interwoven with spirituality and harmonious lifestyles.
- In the past, with nature providing one's needs, there was little need to work just for the sake of working.

Courtesy

- American Indians have always believed in polite, courteous behavior towards others.
- The avoidance of direct eye contact is based on the desire not to be rude.
- In social situations, American Indians frequently speak in a soft, slow, deliberate manner, stressing the feeling or emotional component rather than the verbal.
- American Indians are very expressive but can be very reserved if there is a history of hostility, aggression, or other questionable behavior by others.
- To avoid embarrassment of oneself or others, American Indians often mask feelings of discomfort, and when ill at ease, they observe silently while inwardly determining what is expected of them. Many would not call attention to discomfort.
- American Indians use the full range of expression available to them including conveying ideas and feelings through behavior and consequently easily perceives non-verbal messages. Verbal expression is a quality that may not be fully appreciated because for many American Indians, speech may be seen as secondary to behavior and may determine the intent by viewing the behavior rather than the words used.



- Silence is valued and most Native people feel comfortable with silence.

Old Age

- American Indians value wisdom, which comes with age and experience, whereas the dominant society values youth.
- The family unit is close and discourages attempts to separate older family members from the rest of the family.
- Since the family is still a strong unit, American Indians have not had as many problems contending with the generation gap.
- Elders are viewed as essential and valued for their wisdom and contribution.

View of Nature

- American Indians believe that all things in nature are for the good of all and cannot be owned by individuals.
- American Indians believe in living in balance and in cooperation with nature rather than in controlling it.

Spiritualism

- American Indians hold to contemplative rather than a utilitarian philosophy.
- Spirituality pervades all areas of lives for American Indians.
- American Indians do not believe in forcing their beliefs on others.
- Spirituality has been the protection and has provided the foundation for Native beliefs and practices.
- Native spirituality has sustained different assaults but has remained a powerful part of Native life.

Criticism and Humor

- Traditionally, criticism is communicated indirectly through another person or through non-verbal signs, whereas direct criticism is taken for granted in non-Indian culture. Criticism is also communicated through teasing and humor.
- Criticism is often communicated through storytelling, using examples to reach a point showing right and wrong.
- American Indians will often use humor instead of confrontation. This may be directly or indirectly through a third party.

There are some general principles of interpersonal relationships that have been identified. They include:

Principle of Self-Reliance – Traditionally, American Indians were taught to rely on the Creator for assistance and that after great effort has been exerted, one could seek counsel and advise. The principle of self-reliant is based in this practice but also in the recent history of knowing that if one ask for help, that put one at a disadvantage with the majority culture. Therefore, many were hesitant to ask for or accept help. Non-Indians may perceive this as being stubborn or



belligerent, however it also confirms the tendency of an American Indian not to seek help until the absolute last minute of an emergency or crisis.

Principle of Non-Interference – Most American Indian groups consider interference in other's lives as a sign of disrespect. They generally adhere to the philosophy of natural consequences, allowing others to make their own mistakes and decisions. This would create as situation for learning. Most expected the same attitude would be directed toward them, however when the behavior became dangerous to the group, typically someone highly respected would offer advice or counsel so the group would not be harmed. But the decision was still left up to the individual and the rest tried to minimize the negative outcomes.

Principle of Non-Confrontation – Many people prefer not to confront people when they disagree with them, instead they will avoid them. This is especially true of Native people. Much of Native people interpersonal interactions were symbolic and ritual based, so that direct confrontation was highly irregular. In today society, this may be interpreted as inappropriate, passive-aggressive, belligerent, stubborn, non-cooperative or immature behaviors. It is important to understand the dynamic in inter-personal relationships and that confrontation has not be beneficial for Native people.

Principle of Diversity – In many prayers, offerings are given to the two-legged ones, the four-legged ones, the crawlers, etc., this demonstrates the principle of diversity. This is a principle that American Indians understand and respect. Now only is there diversity in creation but among the different tribes and villages that make up Indian Country. It is important that non-Indians understand so that they do not generalize American Indians inappropriately, or assume they are all one large category or definition.

Principle of Respect for Elders – American Indians traditionally revere elders in their society. It is believed that elders have a broader perspective of life because they have had a longer experience with it and more time to adhere to the philosophical constructs of their society. It is expected that years and age will increase wisdom and understanding of life and the methods to make life more harmonious.

Principle of the Extended Family – The kinship bonds in most American Indian groups extend beyond the blood relatives on both sides, to non-related friends and members of the tribe or clan. Adoptions and taking of relatives is a very critical and meaningful way of acknowledging kinships and obligations.

Revised from an article written by Eddie Brown, DSW and Tim Shaughnessy, PhD, Education for Social Work Practice with American Indian Families. Arizona State Univ. (undated)



Traditional Teachings –

- **Most traditions are passed down from the elders to the young children through the use of storytelling.**

Young children learn early in life the traditions of their tribe by listening to the elders. The older generations often occupy a position much closer to the young children than their parents do.

- **Learning by watching and then by doing.**

Elders take the responsibility very serious of teaching the young, as they know that if the young are not taught the tribal traditions and how to carry them out, the traditions will eventually die. This is a very real threat to each tribal member as most traditions are passed down through the use of stories and very few, if any, are in written form.

Extended Family Systems –

- **American Indian extended family is very close knit.**

All cousins are treated as siblings, and although children are aware of a special relationship to their biological parents, aunts and uncles share parental functions. Grandparents, and great aunts and uncles are often much closer to the younger children than their parents.

- **Extended family has existed among American Indians since their beginning and has always been an important part of their social and religious/spiritual life.**

The emphasis of the extended family is very different from the non-Indian's nuclear family, which includes only parents and children and defines extended and nuclear as two different parts. In recent times, the traditional extended family has been harder to keep together because many families have been unable to stay within their reservation and/or tribal area due to limited employment opportunities. When the family removes itself from an extended family environment and becomes more nuclear, the change can have drastic effects; confusion can result about the nature and utilization of existing support systems.

- **The American Indian extended family interdependence is a part of life.**

Family roles are well defined and provide for the immediate identification of needed resources. The person in need can determine which family resources should be available to them by comparing the closeness of the relationship to the severity of the need.

- **The extended family network is seen most effectively at work in the child rearing practices of most groups.**

Parents, especially new parents, are not expected to assume complete responsibility for raising their children. All adult members of the family and



community serve in parental roles - elders as educators, cousins and friends as child caretakers, aunts and uncles as teachers and disciplinarians. Therefore, it is not unusual or considered abandonment for a child to be left in the care of grandparents or other relatives for an extended period of time.

Spirituality –

- **Spirituality is a broad term.**

Spirituality encompasses 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.**

Adolescents could not be initiated into their tribal 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 languages led to children unable to speak their language. Participation in traditional religious ceremonies typically requires an ability to speak one's language.

- **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 and spiritual 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 that 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 issues and therefore they ignore this dimension.

- **Integration of traditional healing practices into victim services program may pose difficulties.**

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. This is an important part of the healing process in Native life.

- **Integrate spirituality initiatives into programs.**

This initiative has both improved services and identified the difficulties of attempting to integrate programs developed by 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 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.

Time Consciousness –

- **Indian cultures conceive of time in the sense of the natural order of things.**

There is an appropriate time for all activities and all activities will take place in the appropriate time. "Life's purposes are accomplished by the right action at the right time" (Greyeyes, 1995). While this logic may appear circular to the non-Indian, it is a guiding principle for many American Indians. Religious ceremonies, for example, are scheduled in accordance with the time of year as marked by lunar events, not dates on a calendar. A Native American may believe that there is always time to accomplish things even if the tasks are not completed today (Brown, 1997).

- **Timeframes are perceived differently from the non-Indian.**

The majority of Indian Country represents remote, geographically isolated communities, often lacking in effective public transportation. Meetings, including court appearances, cannot necessarily be scheduled overnight. Many families include young children. Childcare is often unavailable on an immediate basis.

Very often American Indians living in rural communities will not have access to transportation, childcare, telephone services and other resources, which are readily available in urban communities. Whenever possible, timely notice of mandatory appearances should be provided. Some federal employees, especially those working with victims may have to expand the services they usually provide to facilitate transportation, childcare, check-cashing services, provision of meals, shopping, etc. for American Indian clients.



In one instance, a witness and her daughter, who was the victim, was informed the night before that they must show up in federal court the next morning. The federal courthouse was several hundred miles away. They were offered the choice of traveling by bus or by plane. However, they both had infants in their care. Either transportation arrangement required them to leave their home very early the next morning. They had no opportunity to arrange for any type of childcare for the babies. In the end, they traveled by plane with two infants.

In the example above, the victim and her mother had no money when they arrived in the state capitol where the courthouse was located. They needed to purchase formula and diapers for the babies. A check for witness fees was useless because no one would cash their check and they had no form of transportation to get to the store. The purchase of baby formula and diapers may be out of the ordinary for an FBI Agent or a Victim Witness Coordinator, but it may also be very necessary in some circumstances.

Ritual –

- **The importance of ritual cannot be overstated.**

The need to participate in a religious/cultural ritual can surpass the importance of any other commitment. Some view rituals as a means of protecting a person's spiritual connection to the Creator (Greyeyes, 1995). Appointments or meetings that are scheduled during the time of a ritual, including preparation for the event, may be disrupted or simply ignored. Most rituals require preparation time, some taking from one week to several months. Some of these preparations require that certain actions must take place at certain times. Any other appointment scheduled during this time may be disregarded.

- **Although a person does not have a specific role in a ritual or religious event that does not mean that they do not have an obligation to attend.**

One former employee of a residential treatment facility for emotionally disturbed adolescents, recalled that when the young men of a certain tribe told the staff that they had to go home to the reservation to attend a specific event, the staff would not give them passes to leave the facility unless they were direct participants. They were not direct participants. The young men then went AWOL from the program to go home and attend. As a result of going AWOL they were dropped from the program. It was not until years later, when this counselor worked for the tribe that she truly understood that the young men were in fact, obligated to attend this ceremony.

- **Lack of understanding of the central role of spirituality and active involvement in cultural events can lead to mistaken interpretation of actions.**

A witness who does not show up for a scheduled interview may be viewed as "hostile" or "uncooperative." In reality, the person may have a competing priority.



Religious cultural events may not be scheduled as far in advance as an appointment with a prosecutor. Similarly, unexpected events, such as deaths, may demand that a person change their plans to fulfill their cultural/family obligations.

- **It is difficult to differentiate between “social” events and events with cultural/spiritual significance.**

Events that are referred to as social (e.g., pow-wows, social dances) may also have a significant cultural component. The language utilized to describe an event may not reveal the full nature of the event to an outsider. If a person mentions some type of event or “doings” it is important to ask for additional information to assess the person’s level of involvement in the upcoming event. It is important not to make assumptions regarding someone’s availability without gathering sufficient information from the people themselves. Many times pow-wows are social events. However, there are often times that they must be attended because of close relatives being honored during the event. It of course, is not mandated that all family members attend, but it shows respect for the person that is being honored and will be remembered and appreciated by them and their families.

Priorities –

- **American Indian people may not be accessible at precisely the date and time of a scheduled appointment.**

Since events will occur in their natural time it is not out of the ordinary for someone to show up for an appointment several hours late, or even the next day. If some event interfered with the person’s ability to be at their appointment they may show up at a different time expecting to be able to talk with the person they were scheduled to meet with. It is important to note that this type of behavior does not necessarily reflect disrespect. Rather, a person’s priorities may not allow them to attend a scheduled meeting. If a loose horse is sighted and needs to be caught, this event must take place right away while the opportunity is available. A meeting with a person can take place anytime.

- **American Indians feel that things happen when they are supposed to happen.**

It is also important to remember that many American Indians living in rural, isolated areas do not have phones, and there usually aren’t phones within several miles. Therefore, as a non-Indian would typically contact the person they were to meet to let them know they will be late or not be there until the next day, this is not a common activity for American Indians. They will show up when they can and most scheduled appointments are not ignored. American Indians typically have a more informal and casual attitude toward the attendance of such meetings.



Comfort Level –

- **A service provider must feel comfortable interacting with American Indian families.**

Some people are uncomfortable interacting with people of another culture. In many cases there is a particular mystique in dealing with American Indians by non-Indians. Respecting a family's offer of hospitality, for example, is a way to show acceptance. Offering food or drink is an important sign of comfort. While many American Indian families may not have much money, the offer of coffee or a soft drink should not be refused. If a person is offended during the first set of interactions, it may be difficult to develop a positive working relationship.

- **Some people hide their discomfort by avoiding dealing with sensitive topics.**

Such avoidance can doom a relationship. In one instance a crisis response team was visiting the survivors of a multiple homicide. The team included three non-Indian males, two of whom were federal employees. The team entered the home, commented on the view, and never asked the victim how she or her mother, who was also in the home, were dealing with their loss. The purpose of the crisis response team was to provide counseling but their initial interaction with the family of the survivors was a disaster and they were never able to accomplish their task.

- **Social customs may govern interpersonal communication.**

The non-Indian may feel out of place within the American Indian's social or physical environment. Aspects of communication such as gestures, personal space, eye contact, and how a question is answered differ among various cultural groups. Lack of familiarity with social customs may make a non-Indian uncomfortable. A law enforcement officer who is trying to gather information about a crime may become frustrated by a victim who will not look him/her in the eye, uses gestures to convey information, and "tells a story" full of "irrelevant" details instead of providing a direct answer to a question. Protocol about how to approach a home, what type of information is to be presented as part of a greeting, how to show respect, etc. may all be foreign to the non-Indian provider. Many of these rules are informal and are best learned by watching and learning from respected members of the local community.

- **Cultural or religious clashes can inhibit a person's ability to be comfortable.**

Some religious teachings suggest that American Indian spiritual beliefs are "evil" or unchristian. A service provider with such a belief system may have a difficult time feeling comfortable with an American Indian person discussing aspects of their spirituality or may be dismissive of the importance of spiritual/religious practice in the person's life. Some people may have religious beliefs which require them to challenge "evil." Religious beliefs are always a controversial topic and are usually not included in casual conversation. The centrality of



spirituality for many American Indians may make it impossible to avoid this topic when working with Indian clients.

Generosity and Sharing –

- **Native cultures include the concept of gift giving or “giveaways” for visitors.**

Federal employees face a unique conflict regarding the acceptance of gifts. It is particularly true for those who are in the Native community to offer help to community members. It is not uncommon for a tribal person or group to present a gift to a person upon completion of an on-site visit or training event. Federal law limits the ability for federal employees to accept such gifts for personal use. Refusal of such a gift would be a major insult to those offering the gift.

- **The simple act of refusing an offered cup of coffee may set the tone for an entire relationship.**

Federal employees who fail to appreciate the importance of sharing may offend an American Indian person by not making such an offer, such as offering coffee or some other drink to the American Indian person who comes into their office.

Humor –

- **American Indians will often use humor instead of confrontation.**

American Indians use humor in many ways, and most common is when they are around strangers and are nervous or uncomfortable. It is important that you only return humor when you know the person well and are aware that he/she is making jokes because they are your friend. Humor is freely used among family and friends, and typically strangers will not be included until they know you well and can trust you.

Issues of Cultural Perspective

The following piece is adapted from the National Organization for Victim Assistance

Culture and crisis

Most literature on trauma and appropriate intervention strategies is based on theoretical and philosophical paradigms drawn from a white, Anglo-Saxon, Judeo-Christian perspective in the United States. Yet it is clear that people with different cultural backgrounds, including those backgrounds that are drawn outside of race, ethnicity, nationality or religion, may perceive trauma and appropriate treatment differently. Native people have been in trauma for several generations and many families will respond to crisis on a routine basis.

“All ethnicity focused clinical, sociological, anthropological, and experimental studies converge to one central conclusion regarding ethnic America: Ethnic identification is an irreducible entity, central to how persons organize experience, and to an understanding of the unique “cultural prism” they



use in perception and evaluation of reality. Ethnicity is central to how the patient or client seeks assistance (help seeking behavior), what he or she defines as a 'problem,' what he or she understands as the causes of psychological difficulties, and the unique, subjective experience of traumatic stress symptoms.

"Ethnicity also shapes how the client views his or her symptoms, and the degree of hopefulness or pessimism towards recovery. Ethnic identification, additionally, determines the patient's attitudes towards his or her pain, expectations of the treatment, and what the client perceives as the best method of addressing the presenting difficulties."

E.R. Parsons, "Ethnicity and Traumatic Stress: The Intersecting Point in Psychotherapy," in Trauma and Its Wake, ed. Charles R. Figley, Brunner/Mazel: New York, 1985.

Cultural Assessment

For purposes of illustration on how an assessment might be made, the following is a 'checklist' for determining the level of ethnic identification that a Native American victim may have.

- **Determine the extent that the traditional language is spoken in the home:** this will determine the need for an interpreter. In determining how well English is spoken it is important to keep in mind that many people who speak English as a second language will go back to their traditional language when under stress or when they are trying to explain a traumatic event. Many times there is no English word for what they are trying to say.
- **Determine the stresses of the community as a whole:** this will help in determining the coping skills of individuals and the community as a whole. This will help in assessing how the community will react to violent crime within their community.
- **Determine the community make up and the closeness of the neighbors and extended family:** Indian communities tend to be very close knit and long time neighbors and friends, if not related. Often, Indian communities will pull together and assist each other when in crisis. However, they will not always identify a perpetrator if this person is the son/daughter of a relative, neighbor or good friend.
- **Determine the level of acculturation of the family and how well they are prepared to seek assistance from family, friends and other resources:** often, American Indians are reluctant to seek help from family and friends because they do not want to trouble them with their problems.



Upon the Back of a Turtle... A Cross Cultural Curriculum for
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- **Determine the degree of spirituality of the individual or the community:** in many Indian communities the community as a whole is very spiritual and is typically practiced as a community. These communities will often come together very quickly and are willing to assist each other in times of crisis.
- **Determine the degree of traditional values the family adheres to:** if the individual practices traditional customs they will most often be willing to seek help from traditional healers and/or medicine persons. This will help them, their family and the community to work through their trauma.
- **Determine prior victimization and how that was handled, i.e., was the victim willing to testify, willing to identify the perpetrator, seek assistance:** in talking with and asking family members, friends and neighbors to determine any prior victimization, you can determine how the individual or family handled any prior crisis. Did they seek help from family and friends? Did they seek help from traditional healers? Were they willing to assist law enforcement? Did the community assist and how? Was it effective?
- **Determine prior victimization to assess if family is in a continual grieving process:** if the family or individual has had previous victimizations, how many and how long ago? American Indian families may respond to a crisis in a routine way due to the number of crisis they encounter.



Discussion Questions for Cultural Issues and Considerations in Delivery of Victim Services in Indian Country

FEDERAL VICTIM/WITNESS COORDINATORS:

Use examples from your experience to illustrate the concepts that have been discussed today.

- How have you dealt with issues such as spirituality, language, generosity, extended family, etc.?
- Prior to today's training, what types of training did you receive in working with American Indian clients?
- Please discuss the types of training situations which you have found to be the most useful and the situations you have handled for which you were unprepared.

FBI/LES:

Many of the traditional ways that American Indian people communicate involve more time than the communication styles of Anglo-Americans (e.g., time, storytelling, non-interference, non-verbal communication). When it is necessary to interview a victim or witness, such interviews may take a long period of time because victims, especially children, rarely tell what happened concisely from beginning to end.

- Discuss how your interviews of Indian victims are similar and different to those of non-Indians.
- Discuss cultural factors (as outlined in this section) you have encountered and how you have dealt with these factors.

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

- Please discuss how you sensitize your staff and jurors to cultural considerations relevant to American Indian people.
- As prosecutors, how do cultural values (such as orientation to present, spirituality, principle of self-reliance, principle of non-interference, extended family, ritual, and priorities) impact your interaction with American Indian victims?

IHS:

- For non-Indian service providers, please discuss the types of training or orientation you received prior to working in a tribal community.



Upon the Back of a Turtle... A Cross Cultural Curriculum for
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- Include a discussion of how you became aware of different cultural issues and considerations discussed today.
- Discuss how your professional training prepared you to work with a culture different from your own and what you wish that your training had included to better prepare you.
- What type of information/training would be helpful to new employees who will be working in Indian Country?

BIA:

- As an agency with a long history of working in Indian Country, how do you train new, non-Indian employees to work with American Indian people?
- What types of cross-cultural training initiatives have been the most successful?
- Please discuss how the BIA incorporates cultural considerations in their social services and educational programming.
- When a tribal cultural issue is in conflict with Bureau policy, how is such conflict resolved?



Worksheet for Cultural Issues and Considerations in Delivery of Victim Services in Indian Country

Exercise One:

Ask participants to think about their culture. Do they participate in any cultural activities with their family or community?

Ask participants to develop a list of things that they see as unique to their own culture. Give them about 8 - 10 minutes. After they complete their list, break them into small groups of about 4 - 5 and ask them to discuss their list and add additional items if necessary. Give them about 15 minutes to finish.

Ask for volunteers to present to the large group the list of characteristics they identified for their culture. Discuss each of these characteristics and why they are identified with a specific culture. Are these typically positive or negative toward the culture? Why?

Exercise Two:

In a small group, discuss:

1. What are some American Indian tribal beliefs and values?
2. What are some positive aspects of American Indian traditional lifestyle?
3. What "mainstream" values or expectations seem to present the most difficulty for American Indians?
4. What assumptions are made by mainstream society about contemporary Native persons who choose to live by their "traditional" values?
5. What historical events and factors altered the Native world?

Reporting back to large group:

1. What affected the answers in the small group discussion?
2. Was it experience, personal observation or knowledge acquired from other sources?



Master Overheads

Issues for Cultural Consideration



Definitions

⇒ Culture - consisting of all those things people have learned to do, believe, value, and enjoy from their history.



Definitions

⇒ Values - attributes of worth or esteem attached to practices, attitudes, and teachings.



Definitions

⇒ Traditions - expressions and practices of those values, beliefs, and attitudes that are being passed from one generation to the next within the culture.



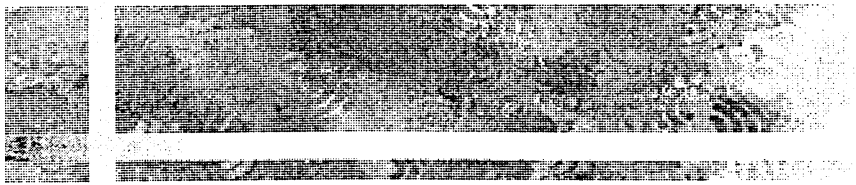


Issues for Cultural Consideration

⇒ American Indian Core Values

- Cooperation
 - harmony with others very important
 - personal orientation rather than task orientation
 - respect for individual dignity and autonomy
 - people are not meant to be controlled
 - one does not interfere in the affairs of another



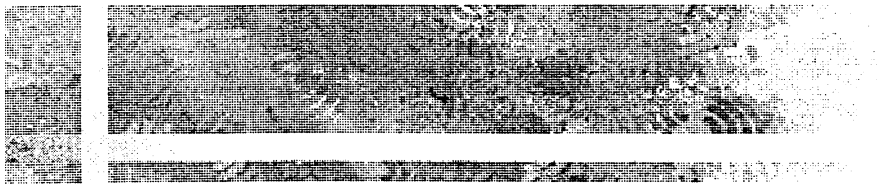


Issues for Cultural Consideration

⇒ American Indian Core Values

- Competition
- competing with group rarely occurs
- improving past performances is approved
- boasting and loud behavior are discouraged in children





Issues for Cultural Consideration

⇒ American Indian Core Values

- Generosity
 - sharing is greatly valued
 - individual ownership is not given prominence
 - stinginess is discouraged



Issues for Cultural Consideration

⇒ American Indian Core Values

- Materialism
 - material goods not as important as being a good person
 - upward mobility is not highly prized



Issues for Cultural Consideration

⇒ American Indian Core Values

- Saving
- little value in amassing large quantities of goods and money
- in the past, nature's bounty provided food, clothing, shelter

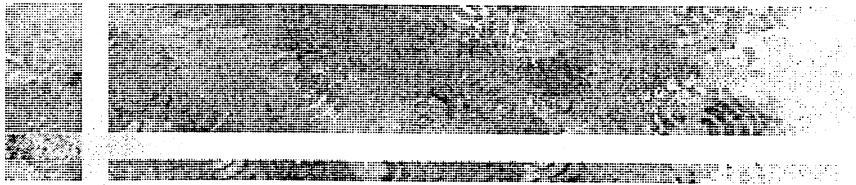


Issues for Cultural Consideration

⇒ American Indian Core Values

- Orientation to present
- more orientated to present than to future
- more interested in being as opposed to becoming





Issues for Cultural Consideration

⇒ American Indian Core Values

- Time
 - view time as flowing rather than something one can control
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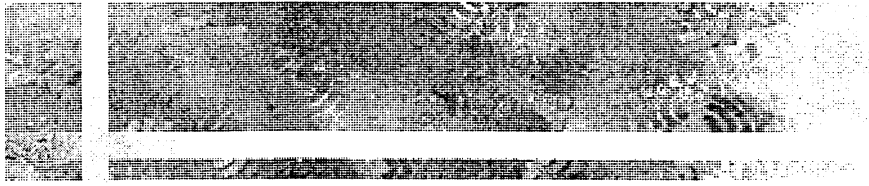


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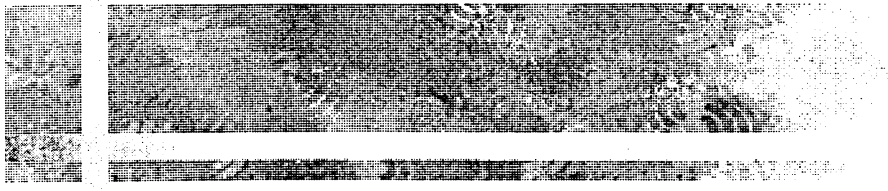


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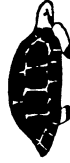




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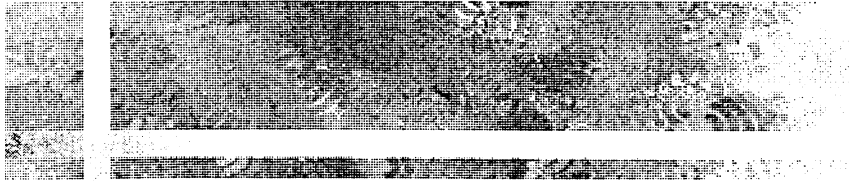


Issues for Cultural Consideration

⇒ American Indian Core Values

- Old age
- wisdom comes with age and experience
- attempts discouraged to separate older family members from rest of family
- no problem of generation gap





Issues for Cultural Consideration

⇒ American Indian Core Values

- View of nature
 - all things in nature are for the good and cannot be owned by individuals
 - living in balance and cooperation with nature rather than controlling it



Issues for Cultural Consideration

⇒ American Indian Core Values

- Spiritualism

- contemplative rather than a utilitarian philosophy
- spirituality pervades all areas of life
- do not believe in forcing beliefs on others
- silence is highly valued



Issues for Cultural Consideration

⇒ American Indian Core Values

- Criticism and Humor
 - usually communicated indirectly through third party
 - often communicated through storytelling
 - will often use humor instead of confrontation



Issues for Cultural Consideration

⇒ General Principles of Interpersonal Relationships

- Self-Reliance - hesitant to ask or accept help
- Non-Interference - disrespectful to interfere in others lives



Issues for Cultural Consideration

⇒ General Principles of Interpersonal Relationships

- Non-Confrontation - prefer to avoid and not confront when disagree
- Diversity - all tribes and individuals are different

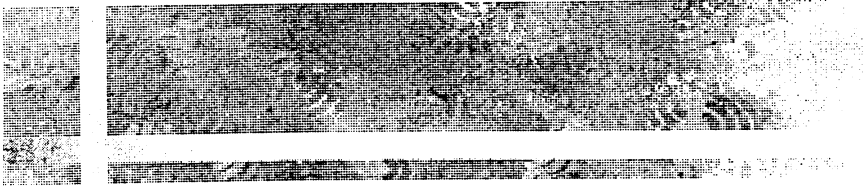


Issues for Cultural Consideration

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- Extended Family - extends beyond blood relatives to friends, other tribal and clan members





Issues for Cultural Consideration

⇒ Traditional teachings

- traditions passed down by elders through storytelling
- children learn by watching and then by doing




Issues for Cultural Consideration

⇒ Extended family systems

- very close knit
- important part of social, religious and spiritual life
- extended family interdependence is an important part of life
- effective in child rearing practices





Issues for Cultural Consideration

⇒ Spirituality

- a broad term encompassing beliefs, practices and sense of self
- forced conversion from traditional religions to Christianity
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Issues for Cultural Consideration

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- an often ignored aspect of assisting victims to heal
- integrate spirituality into healing programs



Issues for Cultural Consideration

⇒ Time consciousness

- conceive of time in the natural order of things
- timeframes perceived differently from the non-Indian



Issues for Cultural Consideration

⇒ Ritual

- need to participate in religious/cultural rituals is very important
- lack of understanding can lead to mistaken interpretation of event and actions
- difficult to differentiate between social events and spiritual significance





Issues for Cultural Consideration

⇒ Priorities

- may not be accessible for scheduled appointment
- have the belief that things happen when they are supposed to

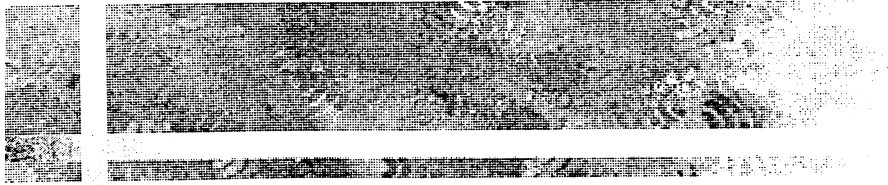


Issues for Cultural Consideration

⇒ Comfort level in dealing with American Indians

- must look and feel comfortable when dealing with American Indians
- do not avoid sensitive topics
- social customs may govern interpersonal communication





Issues for Cultural Consideration

⇒ Generosity and sharing

- Native cultures include the concept of gift giving or “giveaways”
- refusal of cup of coffee may doom a relationship



Issues for Cultural Consideration

⇒ Humor

- use of humor instead of confrontation
- humor often used when uncomfortable or nervous
- humor among family and friends is almost constant

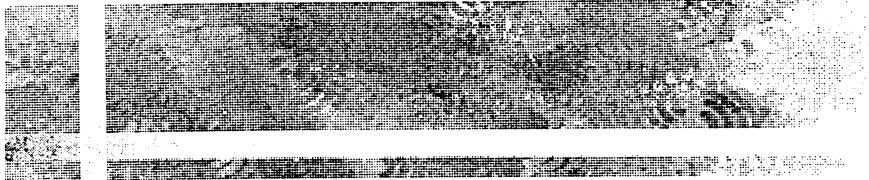


Issues for Cultural Consideration

⇒ Cultural Assessment

- determine...
- extent that traditional language is spoken in the home
- stresses of the community
- community make up and closeness of neighbors and family





Issues for Cultural Consideration

⇒ Cultural Assessment

- determine...
 - level of acculturation and how well they might seek assistance
 - degree of spirituality of the individual and community
 - degree of traditional values of the individual and family




Issues for Cultural Consideration

⇒ Cultural Assessment


- determine...
- prior victimization and how it was handled
- if family is in continual grieving process



Master Handouts




Issues for Cultural Consideration



Definitions

⇒ Culture - consisting of all those things people have learned to do, believe, value, and enjoy from their history.

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Definitions

⇒ Values - attributes of worth or esteem attached to practices, attitudes, and teachings.

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Definitions

⇒ Traditions - expressions and practices of those values, beliefs, and attitudes that are being passed from one generation to the next within the culture.

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Issues for Cultural Consideration

⇒ American Indian Core Values

- Cooperation
 - harmony with others very important
 - personal orientation rather than task orientation
 - respect for individual dignity and autonomy
 - people are not meant to be controlled
 - one does not interfere in the affairs of another

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Issues for Cultural Consideration

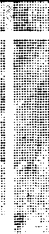
⇒ American Indian Core Values

- Competition
 - competing with group rarely occurs
 - Improving past performances is approved
 - boasting and loud behavior are discouraged in children

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Issues for Cultural Consideration

⇒ American Indian Core Values

- Generosity
 - sharing is greatly valued
 - Individual ownership is not given prominence
 - stinginess is discouraged

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Issues for Cultural Consideration

⇒ American Indian Core Values

- Materialism
 - material goods not as important as being a good person
 - upward mobility is not highly prized

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Issues for Cultural Consideration


⇒ American Indian Core Values

- Saving
 - little value in amassing large quantities of goods and money
 - In the past, nature's bounty provided food, clothing, shelter

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Issues for Cultural Consideration

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Issues for Cultural Consideration

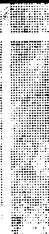
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Issues for Cultural Consideration

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Issues for Cultural Consideration


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- Old age
 - wisdom comes with age and experience
 - attempts discouraged to separate older family members from rest of family
 - no problem of generation gap

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Issues for Cultural Consideration

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Issues for Cultural Consideration

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- Spiritualism
 - contemplative rather than a utilitarian philosophy
 - spirituality pervades all areas of life
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 - silence is highly valued

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Issues for Cultural Consideration


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- Criticism and Humor
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 - often communicated through storytelling
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Issues for Cultural Consideration

⇒ General Principles of Interpersonal Relationships

- Self-Reliance - hesitant to ask or accept help
- Non-Interference - disrespectful to interfere in others lives

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Issues for Cultural Consideration

⇒ General Principles of Interpersonal Relationships

- Non-Confrontation - prefer to avoid and not confront when disagree
- Diversity - all tribes and individuals are different

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Issues for Cultural Consideration

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- Respect for Elders - elders have a broader perspective with more experience
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Issues for Cultural Consideration

⇒ Traditional teachings

- traditions passed down by elders through storytelling
- children learn by watching and then by doing

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Issues for Cultural Consideration

⇒ Extended family systems

- very close knit
- important part of social, religious and spiritual life
- extended family interdependence is an important part of life
- effective in child rearing practices

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⇒ Spirituality

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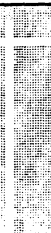


Issues for Cultural Consideration

⇒ Spirituality

- spiritual beliefs form the foundation of their entire way of life
- an often ignored aspect of assisting victims to heal
- integrate spirituality into healing programs

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Issues for Cultural Consideration

⇒ Time consciousness

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- timeframes perceived differently from the non-Indian

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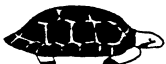



Issues for Cultural Consideration

⇒ Ritual

- need to participate in religious/cultural rituals is very important
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Issues for Cultural Consideration

⇒ Priorities

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- social customs may govern interpersonal communication

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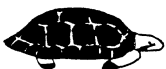


Issues for Cultural Consideration

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- refusal of cup of coffee may doom a relationship

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Issues for Cultural Consideration

⇒ Humor

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Issues for Cultural Consideration

⇒ Cultural Assessment

- determine...
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 - stresses of the community
 - community make up and closeness of neighbors and family

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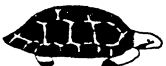
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Issues for Cultural Consideration

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- determine...
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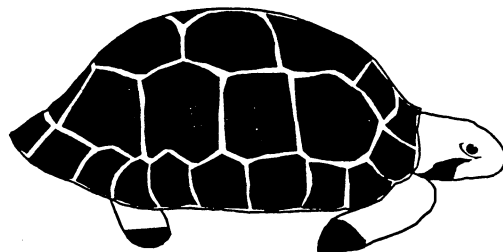
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Upon the Back of a Turtle...

*A Cross Cultural Training Curriculum
for
Federal Criminal Justice Personnel*

Justice in Indian Country



Background Information

(Trainer's Information)

for

Justice in Indian Country

Lecture Presentation:

This presentation will provide information on jurisdictional issues in Indian Country. Many times it is difficult and time consuming in determining jurisdiction when working in Indian Country. Because there are many reservations, checkerboard areas and trust land that are adjacent to state jurisdiction it must first be determined who has jurisdiction before it is decided who responds, investigates and prosecutes.

Trainer is to address each of the topics and elaborate each point for participants to better understand the impact of the issues. The activities and discussion questions can be used with the large group or smaller groups can review the questions and report back to the large group. Worksheets to be used for large and small group activities can be found in the back of this section.

Materials in this section:

The following section provides material for trainers to use in presenting the training, including trainers information, overheads, handouts, resources and other information.

Trainer information (background information) is provided for use with this section. This information corresponds with the overheads and handouts.

The overheads are indicated with a divider page and can be reproduced on transparencies.

Handouts are indicated with a divider page and can be reproduced and distributed to participants. Handouts are duplicates of the overheads with three overheads on each page of the handouts.

In addition, other related resources and information is provided that can supplement the presentation.



Justice in Indian Country

Objectives:

1. To provide participants with an overview of the policies that affected law enforcement in Indian Country since the development and implementation of the U.S. Constitution.
2. To provide an overview of the development of CFR, Court of Indian Offenses and Tribal Court systems in Indian Country.
3. To provide participants with specific information on state, federal and tribal jurisdiction in Indian Country, whether dealing with Indian or non-Indian victims and suspects.

Activities:

Lead participants in large or small group discussion of:

- 1) What is the jurisdiction of the federal government with Indian tribes as you see it today? What treaty or policy governs this jurisdiction? Is Indian Country jurisdiction the same throughout the U.S.? Why or why not?
- 2) What are the issues of jurisdiction in your area and how does it affect the work you do? How does it affect the people you serve? How does it affect the working relationships you have developed with other agencies in your area?
- 3) What different criminal jurisdictions are applicable to American Indians, Indian land, trust land, and reservation land?

Master Overheads: N = 15

Master Handouts: N = 6

Discussion Questions:

1. What is the difference between tribal jurisdiction and federal jurisdiction in Indian Country?
2. What is the difference between sovereignty and jurisdiction? How does this affect state and federal jurisdiction?
3. How does one group assume the authority to pass and enforce laws affecting the property and conduct of another group?
4. How can the federal government impose laws in Indian Country when it is a sovereign land?

The terms Native American and American Indian are used interchangeably. Both terms are used to describe the Native American, American Indian, Alaska Native and Eskimo population.



Justice in Indian Country

contributed by Ron Hall, Esq.

Introduction

The maintenance of tribal jurisdiction and the effective administration of justice in Indian Country are the heart and soul of tribal sovereignty and the survival tools for the various cultures and traditions of Native Americans. There are many facets to the concept of "Justice in Indian Country." Many on the "law enforcement" side see the justice issue in terms of cause and effect. The diverse nature of criminal activity and the societal forces that produce contributing factors occupy the law enforcement analysis. A related side of the issue is the victim assistance realm that has emerged as a significant area of activity, supporting victim recovery and participation in the prosecution of alleged offenders. A bit further removed is the civil rights component of justice issues, reflecting the need for fair enforcement and application of criminal statutes against Indian citizens and the equal protection and enforcement of such laws for Indian individuals and communities.

The face of crime has shown itself to be illusive. Common economic crimes such as theft, burglary, and larceny are accepted as events that will be committed by a given portion of the population. However, the recognition of more difficult covert activities such as child sexual abuse, elder abuse, gangs and an epidemic of highly addictive substances have challenged the traditional mode of law enforcement to develop special techniques, training, and multi-disciplinary teams.

Crime involves itself in Native American society on many levels. Native Americans are disproportionately over-represented in our nation's prison systems. We know from personal experience the roles of crime victim and criminal. Some issues are more prominent in a Native American context than in other communities. Examples include:

- the inflexibility of federal sentencing guidelines mean Native offenders often serve longer sentences than persons convicted under comparable state statutes;
- the fact that tribal communities have little or no role in passage of federal or state criminal statutes;
- the fact that tribal communities have little or no role in establishing federal or state priorities for allocation of law enforcement resources;
- federal and state juries are rarely composed of people from reservation communities; and,



- federal and state witness-victim coordinators are often located long distances from tribal communities.

Definition of Indian Tribe and Sovereignty

- There is no single federal statute defining an Indian tribe for all purposes, although the Constitution and many federal statutes and regulations make use of the term.
- The Supreme Court has repeatedly ruled that the determination of whether, to what extent, and for what time a group is recognized and dealt with as a dependent tribe requiring the guardianship and protection of the United States to be determined by Congress, and not by the courts. United States v. Sandoval, 231 US 28 (1913).
- Defining Indian tribes as sovereign entities has two significant implications for their relationship with the United States government. First, the tribes are said to be “dependent” upon the federal government for protection. This protection has taken the form of the trust relationship with the federal government having a trustee role in administering the trust property of the beneficiary Indian tribes. The second result of the tribe’s sovereign status is that tribes continue to be ruled by their own laws. Today it is clear that tribal governments exercise legislative, judicial, and regulatory powers and that authority is derived from aboriginal sovereignty, not delegated from the federal government. Indian governments are rapidly expanding their operations to implement their police power through tribal courts, zoning ordinances, taxation bureaus, environmental controls, business and health regulation, and fisheries and water management codes.
- Webster’s Dictionary defines sovereignty as, a) supreme power especially over a body politic; b) freedom from external control, autonomy; c) controlling influence; d) one that is sovereign, *especially* an autonomous state.
- The concept of defining an Indian tribe as a sovereign entity with a defined structure and membership was largely for the convenience of invading European governments and the federal government. Originally, the definitional question arose in connection with treaty relations, as it was necessary to determine which groups were political entities for the purpose of negotiating treaties. Treaty making was part of the colonizing process and tribes were identified and treated as sovereigns to the extent necessary to procure their consent to cession of their right to occupy the land.
- More recently, it has been necessary to identify eligible tribal participants in federal programs including environmental protection, infrastructure development, public housing, and local government programs.



- Tribal sovereign rights to make and enforce laws without federal or state constraints, continue so long as those rights are not voluntarily ceded in treaties or other negotiations approved by Congress, or not extinguished by Congress. When cessions are made or rights are extinguished by an Act of Congress, the cession or Congressional act is to be construed narrowly as affecting only matters specifically mentioned.

Definition of Indian Country

- While the public is probably most familiar with the term Indian reservation, for most jurisdictional purposes the governing legal term is "Indian Country." Originally enacted in 1949, Indian Country is defined comprehensively at 18 U.S.C. §1151 as follows:

§ 1151. Indian Country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian Country," as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

- In 1913 the Supreme Court held that an Indian reservation is Indian Country, and Congress relied on this decision in enacting §1151 in 1949. However, the wording of §1151(a) comes primarily from the Indian Major Crimes Act, whose jurisdiction was not tied to the term "Indian Country" until 1948. The Indian Major Crimes Act was first passed in 1885 to provide for federal punishment of seven felony offenses when committed by an Indian within a federal territory or "within the boundaries of any State of the United States, and within the limits of any Indian reservation." The term "Indian reservation" originally meant any land reserved from an Indian cession to the federal government regardless of the form of tenure. During the 1850's, the modern meaning of Indian reservation emerged, referring to land set aside under federal protection for the residence of tribal Indians, regardless of origin. This meaning of Indian reservation was intended in the 1885 Indian Major Crimes Act.
- The statutory words "all land" and "notwithstanding the issuance of any patent" were added in the 1948 codification of the definition of Indian Country.



These terms include in the definition of Indian Country, Indian allotments within reservations; this continued prior case law both as to Indian Country and the Major Crimes Act. The quoted terms also include federal land located within Indian reservations but reserved for the Bureau of Indian Affairs or other government purposes. The most important effect of these terms is to resolve several problems generated by the prior law regarding unrestricted fee simple lands within reservation boundaries, which had tied Indian Country status to Indian land title.

- Fee lands are fee in simple patents given to Indian allottees after the 1892 allotment, to be held in trust by the U.S. for 25 years. After 1917 if the individual allottee did not get fee in simple for the allotment, their land remained Indian land in trust by the U.S.
- While §1151 appears in the federal criminal code, the Supreme Court has stated that the statute's definition generally applies also to questions of federal civil jurisdiction and to tribal jurisdiction.

Historical Context of Indian Country Justice (Who's In Charge Here Anyway?)

- Tribal culture has experienced over 200 years of change. With the arrival of Europeans, and their willingness to kill for the sake of property in the name of their religion and foreign government, came the demise of traditional communities and traditional law enforcement. Tribes have experienced reformist paternalism at the hands of federal and state governments. With a few exceptions, through the process of war, all Indian men, women, and children were forced to surrender and experienced prisoner of war conditions. United States military personnel replaced the authority of traditional law enforcement, and eventually tribal members were selected and hired by the military.
- Even though most of the federal laws governing Indian affairs were enacted by Congress after adoption of the Declaration of Independence, the treatment of Native Americans and notions of justice have important historic roots. How does one group assume the authority to pass and enforce laws affecting the property and conduct of another group?

Pre-Columbian

- Tribes established justice systems within the parameters of cultural needs and customs. Social norms for punishment, retribution, and responsibility were derived from a wide range of tribal groups, associations, and confederations. Intra and inter-tribal constructs for justice administration evolved through purely tribal means.



- Law enforcement has a traditional role in most, if not all, tribal cultures. In any given tribe one could expect to find a society, clan or organization that functions to identify and punish wrongdoers, and obtain some measure of retribution or compensation for victims. The authority of such law enforcement groups was defined and communicated through oral traditions and storytelling. People learned from an early age who "law enforcement" was, what behavior they were authorized to correct, the punishments that were administered, the expected conduct of the law enforcers, and other attributes of that system through stories. In that traditional communal lifestyle, close living with others meant few secrets were kept, especially acts of violence or abuse. The pace of life was slower and many members easily observed much of the community activity. To a large extent, the welfare of individuals depended on the welfare of the group, so individuals took an interest in the security and safety of others.

Assertion of Foreign Sovereignty – the Catholic Church

- The Catholic Church, and in particular the Pope, constituted the dominant political and legal institution of Western Europe throughout the Middle Ages and early Renaissance. Through early Church doctrine, the Pope was divinely designated as shepherd of Christ's Universal Flock and claimed supreme spiritual jurisdiction over the souls of all humankind. The Crusades to the Holy Lands of the 11th through 13th Centuries represented the first large-scale effort by the Catholic Church and Christian European military leaders to implement the Papacy's theoretical universal authority over non-Christian peoples outside Europe. These Papally sanctioned and directed holy wars were fought under the legal justification that as "heathens and infidels," the non-Christian peoples who occupied and possessed Jerusalem and the eastern Mediterranean could be conquered and displaced by Christian European princes and their armies, acting on orders from the Pope in Rome.
- Though seemingly unrelated to the events following Christopher Columbus' emergence in the New World in 1472, the Crusades generated a large collection of legal opinions and theories on the rights and status of non-Christian peoples. It was the same Crusading-era ideas that were later applied to the "discovery" of new territories by Christian Europeans, first in Africa and then in the New World.
- Columbus apparently presumed that he could lawfully claim "discoveries" of already inhabited territories for the Spanish Crown wherever he encountered indigenous peoples who diverged from Christian European cultural norms of religious belief and civilization. Upon hearing word of Columbus' encounters, the Pope issued a series of pronouncements confirming Columbus' "discoveries" on behalf of Spain.



The U.S. Constitution

- The U.S. Supreme Court has alluded to several federal constitutional powers as supporting legislative and executive authority over Indian affairs. This includes the Treaty Clause, the War Power, and the Property Clause.
- Today federal power over Indian affairs is accepted as tracing primarily to the Indian Commerce Clause, Article I, Section 8, Clause 3. This is the only express grant of federal power over Indians; Congress is authorized "to regulate Commerce . . . with the Indian Tribes."

War Department

- Law enforcement became bureaucratic in the military structure of the War Department. During the first five weeks of the first Congress of the United States four statutes were enacted that established the basic outlines of early Indian legislation. The first of these statutes, the Act of August 7, 1789, established the Department of War. The Act provided that the Department had responsibility for, in addition to its primary military affairs, "such other matters . . . as the President of the United States shall assign to the said department . . . relative to Indian affairs."

Department of the Interior

- Eventually, administrative responsibility passed to the Department of the Interior and the Bureau of Indian Affairs. External forces (Congress) assumed authority to establish the framework of law enforcement, including the definition of criminal acts, punishment for violators, jurisdiction to enforce laws, and funding for the high overhead system. The practical elements of a law enforcement system were dictated by and funded through Congress.

Code of Federal Regulations Courts

- In the 1870's, the federal government placed "Indian police" on the reservations to maintain law and order. In 1878, Congress appropriated money to pay them. By 1881, Indian police could be found at 49 of the 68 agencies.
- Until 1884, Indians arrested by the Indian police were tried and sentenced by federal agents. In that year, codes of offenses were drafted for the reservations and Courts of Indian Offenses were established. Despite widespread resistance to the imposition of these judicial systems, by 1890 such courts existed at most of the agencies. Most of the Pueblos, however, retained their traditional methods of justice. Courts of Indian Offenses operated according to Department of Interior regulations; no legislation was enacted to define their jurisdiction or to govern their procedures. No procedural protections were extended to criminal defendants.



- The tribal constitutions that resulted from the Indian Reorganization Act of 1934 (IRA) did little to remedy the deficiencies of the Courts of Indian Offenses. They did not expressly create tribal courts, nor did they outline their structure; the typical IRA constitution, patterned after a model prepared by the Department of the Interior, merely authorized the tribal council to establish a court system by ordinance and to adopt a law and order code. This subordination of the judicial system to the tribal council began what has become a major hindrance to the development of effective tribal court systems - lack of separation of powers between these branches of government.
- In 1935, the Department of the Interior issued revised regulations to govern the Courts of Indian Offenses and the Indian police. These regulations have not been changed substantially since that time. The courts became known as C.F.R. courts, a reference to the source of the regulations governing them (Code of Federal Regulations). The regulations indicated that they would remain effective on the reservations of tribes newly organized under the IRA until a tribe adopted and implemented its own law and order code.
- Like the tribal constitutions, the law and order codes that resulted were generally patterned after the Department of the Interior model, the 1935 regulations. In practical terms, then, the new "tribal courts" which came into existence were, by and large, simply C.F.R. (Code of Federal Regulation) courts by another name; in terms of structure and procedures; the two systems were practically identical. Lacking independent legal expertise, many of the tribes that did not adopt standard IRA constitutions also used the 1935 regulations as models for their law and order codes. On those reservations that did not establish tribal courts, C.F.R. courts continued to administer justice.
- The regulations and Solicitor opinions restricted the jurisdiction of courts operating in Indian Country. Specifically, the 1935 regulations and the codes which used them as models provided for the assertion of criminal jurisdiction over members of federally recognized tribes only. In addition, these codes excluded from tribal court jurisdiction, offenses covered by the Major Crimes Act, even though the act does not expressly make federal jurisdiction exclusive. Many of the tribal constitutions limited civil jurisdiction to "Indians" and required the consent of non-Indian defendants to civil suit.

Federal Policies

Pre-Constitution Policy (1533-1789)

- Representatives of British and Spanish colonies negotiated treaties with Indian tribes. Treaties are agreements between two sovereign governments, and are considered to be the supreme law of the land.



- These treaties had the effect of according tribes an equivalent status to that of the colonial governments.

The Formative Years (1789-1871)

- The new U.S. government assumed the role of the British and Spanish governments in making treaties with Indian tribes. U.S.-tribal treaties are indexed in international law publications with treaties made by all other nations of the world.
- Federal policy instead of state policy dominated because the United States Constitution specified in Article 1, Section 8 (Commerce Clause) that, "The Congress shall have the power to... [t]o regulate Commerce with foreign nations and among the several states, and with the Indian tribes."
- The Marshall Trilogy (*Johnson v. McIntosh* - 1823; *Cherokee Nation v. Georgia* - 1831; *Worcester v. Georgia* - 1832) handed down by the Supreme Court further defined the relationship tribes had with the U.S. government, and established the doctrine of federal trust responsibility.

The Era of Allotment and Assimilation (1871-1928)

- The U.S. quit making treaties with tribes during this time. One of the reasons for this was that treaty making was seen as an impediment to the assimilation of Indians into "white" society.
- To encourage assimilation, Congress passed the General Allotment Act of 1887 (also called the Dawes Act). This act changed the communal ownership of tribal lands to individual ownership. Each Indian male over 18 years old was given an allotment of acres and the rest of the tribal lands, considered to be "excess" were sold to non-Indians.
- The Indian Citizenship Act was passed in 1924. This granted Indians United States citizenship for the first time.

Reorganization Era (1928-1945)

- The Merriam Report of 1928 set the tone for reform. It declared allotment to be a complete disaster.
- The Indian Reorganization Act of 1934 set up Reservation Business Councils to govern tribes, and provided for the adoption of constitutions and the granting of federal charters.



Termination Era (1945-1961)

- Legislation passed that called for a reversal of the tribal self-government movement previously endorsed and called for an end to the trust relationship between federal and tribal governments.
- This resulted in the termination of more than 50 tribal governments. The federal government simply no longer recognized them as Indian Nations.
- Public Law 280, passed in 1953, gave six states mandatory and substantial criminal and civil jurisdiction over Indian Country. The states included were Alaska (except for Metlakatla Reservation), California, Minnesota (except Red Lake Reservation), Nebraska and Oregon (except Warm Springs Reservation). Ten other states also opted to accept some degree of P.L. 280 jurisdiction. They are: Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, Utah and Washington.

Self-Determination Era (1961-present?)

- The abuses of the termination era led to reforms. This period has been characterized by expanded recognition of the powers of tribal self-government.
- Important legislation includes: Indian Civil Rights Act of 1968, Indian Self-Determination and Education Assistance Act of 1975, Indian Child Welfare Act of 1978, American Indian Religious Freedoms Act of 1978 and Native American Graves Protection and Repatriation Act of 1990.



Jurisdiction: The Modern Quagmire

Indian Country Jurisdiction for Public Safety Dispatchers *by Alan Mentzer*

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Former Chief of Police Alan Mentzer is a Professor and Chairman of the Criminal Justice Department of the Truckee Meadows Community College in Reno, Nevada.

Dispatcher: "9-1-1 dispatch, do you need police, fire, or medical assistance?"

Citizen: "Help! There's a dog chasing kids and it just bit one bad. Send someone to Fourth and Jackson Streets in Wadsworth."

Dispatcher: "Yes, ma'am, I'll have Tribal police, deputies, and an ambulance on the way. Do you know if it's an Indian or non-Indian dog?"

While this conversation may sound bizarre to public safety operators in locations outside Indian Country, this is not an unheard of conversation in dispatch centers who provide services to Native American reservations. While the dispatch center will send the closest unit to stabilize an emergency, the ownership of the vicious dog may decide whether this incident is handled by Tribal police or deputy sheriffs and whether the case is adjudicated in Tribal or State court.

Even for experienced dispatchers working multi-jurisdiction communication centers, there remains a great deal of confusion when dispatching calls-for-service in areas within and adjacent to Indian Country. Misunderstanding jurisdiction has led to criminal cases being dismissed, cover units being refused, and failures to serve the public properly.

What is "Indian Country?"

"Indian Country" is defined by Chapter 18, Section 1151 of the United States Code. In simple terms, Indian Country is any land granted by treaty or allotment to Native American nations, tribes, reservations, communities, colonies, or individuals and recognized by the federal government. There are about 285 federally recognized reservations, colonies, and communities in the United



States. Reservations may consist of two or more traditional tribes because of relocation dating from the 1800s.

Most reservations are in isolated rural settings. But there are several reservations, like the Salt River Pima-Maricopa Community outside Phoenix, Arizona or the Reno-Sparks Indian Colony in Nevada, which are located within major metropolitan areas.

Indian Country Jurisdiction

Congress in 1953 enacted Public Law 88-280 (P.L. 280) which eliminated criminal jurisdiction for tribes in California, Nebraska, and Wisconsin. It also eliminated criminal jurisdiction in Oregon and Minnesota except the Warm Springs (Oregon) and Red Lake (Minnesota) reservations. In Alaska, only the Annette Islands and the Metlakatla Indian Community retained sovereignty in criminal matters.

These tribes' previous criminal jurisdiction over Indians was conveyed to state authorities. Indian lands in these states are policed by local or state officers and adjudicated in state courts; tribes retained civil authority over non-Indians in P.L. 280 states.

Indian Country in non-P.L. 280 states has been policed in two ways. The traditional manner was the use of police officers from the U.S. Bureau of Indian Affairs (BIA). The current trend is for tribes to administer their own police departments like any other governmental entity. In a few instances, tribes have contracted police services from local or state agencies.

In non-P.L. 280 states there exists what the Indian Country Section of the International Association of Chiefs of Police calls a "tripartite" system of law enforcement. Criminal jurisdiction is shared between tribal, state, and federal authorities. Table 1 graphically explains this matrix of jurisdiction.

In deciding jurisdiction, one of the first things that a dispatcher has to determine is whether the crime took place on Indian Country. This requires a dispatcher to be aware of tribal boundaries. The second question is whether the victim or suspect is Indian or non-Indian. In a time when most professional public safety agencies pride themselves on being "color blind" in their service to the public, ethnicity in Indian Country is the major issue in deciding jurisdiction. To further complicate matters, there is no one definition of what being Indian is.

Who is an Indian?

Native Americans are legally defined as members of one of the 545 federally recognized Indian tribes. A Native American tribe is a group which share a common social, political, religious, and geographic heritage. Each of these tribes



decides its own requirements for membership. Some tribes demand 50% or 25% blood ancestry while others require only proof of lineage to a tribe.

Indians are not required to live on reservations, but many do so by choice. Native Americans can be elected to public office, are subject to the military draft, and pay taxes. Contrary to popular beliefs, Indians do not receive monthly checks from the government just for being Indian and the vast majority of tribes are not earning major revenues from gambling or mining. There are many "urban Indians" who maintain their cultural identities, but are generations removed from living on a reservation.

Jurisdictional Questions For The Dispatcher:

Dispatchers in non-P.L. 280 states who serve jurisdictions in or adjacent to Indian Country, should be aware of the following:

1. State Jurisdiction in Indian Country

Local and state law enforcement agencies have jurisdiction over non-Indian against non-Indian crimes in Indian Country. These crimes will normally be adjudicated in state court. A highway patrol trooper or deputy sheriff in Indian Country can arrest a non-Indian for reckless driving or for domestic battery and prosecute the defendant in state court. Dispatchers can send local and state officers to non-Indian crimes on a reservation.

2. Exclusive Jurisdiction over Indian Offenders

Federal and tribal law enforcement agencies have exclusive jurisdiction over Indian offenders in Indian Country. Tribal or BIA officers will normally arrest misdemeanor offenders within Indian Country and prosecute in tribal court. The FBI, BIA investigators, or tribal investigators with federal authority will arrest felony offenders and prosecute in federal court.

State courts have no jurisdiction to prosecute Indian offenders for offenses committed in Indian Country. Local or state agencies, absent a cross-deputization or mutual agreement, can legally detain (but not arrest) an Indian offender for federal or tribal officers. Local or state officers who have BIA Deputy Special Officer Commissions cannot normally arrest Indian offenders for traffic or misdemeanors, but only assist in felony arrests. Under the Indian Law Enforcement Reform Act, such arrests cannot be made unless the reservation involved has granted tribal jurisdiction to BIA Officers or cross-deputized local or state officers.

3. Service of Warrants and Civil Process

Local and state peace officers can serve non-Indians with arrest or search warrants on non-Indians in Indian Country. They cannot serve state warrants, subpoenas, domestic violence protection orders, or other civil process on Indians in Indian Country.



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Local or state officers have inadvertently made false arrests and illegal searches because the officers did not realize they were inside tribal boundaries. The courts view tribal sovereignty in same light as state sovereignty. A local officer entering a reservation to make an arrest is viewed the same way as a California officer going to Oregon, arresting a suspect, and bringing him back to California without extradition proceedings.

Dispatchers will often receive telephone calls from citizens and victims about a suspect, a subject to be served process, or stolen property located at a residence in Indian Country. A dispatcher needs to be able to explain to a caller how jurisdiction greatly complicates these kinds of calls.

To make a legal arrest or properly serve state legal process in Indian Country, a state warrant or process needs to be endorsed by tribal or federal court. Tribal or BIA officers can then make the arrest or service. This situation is really no different than warrants and process being served across state lines. A domestic violence protection order from Kansas City, Missouri cannot be immediately served in Kansas City, Kansas. A search warrant issued in Stateline-Lake Tahoe, Nevada cannot be automatically served in the adjacent city of South Lake Tahoe, California.

4. Fresh Pursuits

Dispatchers need to be aware of the unique legal circumstances in cases of fresh pursuits of Indian offenders from state land onto Indian Country by local or state officers. The incident is similar to chasing a suspect from one state into another. Normally the pursuing local or state officers will continue the pursuit while notifying the tribal jurisdiction that a pursuit has entered the reservation. Should the local or state officers stop the suspect, they can only detain the defendant until tribal or BIA officers arrive.

A local and state officer cannot immediately remove the Indian offender from Indian Country and return him to state land. Tribal sovereignty is comparable to national or state sovereignty. An Arizona officer cannot arrest a pursued offender who was chased into New Mexico and return him to Arizona without a formal extradition hearing.

After the defendant is stopped in Indian Country, there are two courses of action for tribal or BIA officers to follow. The first is for the tribal officer to arrest for violations committed within the reservation (i.e., reckless driving). If the tribal police department books its arrestees at a jail located off Indian Country, state charges may be filed once the Indian offender is off the reservation. Such an arrest made by tribal officers, though, must be for a legitimate offense, not as a pretext arrest to circumvent extradition.

In the second case, if the arrestee is booked at a tribal jail located within Indian Country or if no offense was committed on the reservation, a state arrest warrant



needs to be sought. The state arrest warrant needs to be endorsed or a formal extradition hearing held in tribal or federal court. Once the tribal or federal magistrate approves extradition, tribal or BIA officers can arrest and surrender the defendant to local or state officers. While this procedure seems unwieldy, it is the same procedure that takes place everyday between states and the U.S. and Canada.

Three-Prong Test for Determining Jurisdiction

At the Federal Law Enforcement Training Center, B.T. Baker instructs Indian Country jurisdiction to federal officers and investigators. Because of his background as both a working federal agent and attorney, he created a simple three-prong test that can help dispatchers decide appropriate jurisdiction. The use of B.T. Baker's Three-Prong test, detailed in Table 2, by telephone complaint takers or dispatchers can help clear up confusion in most multi-jurisdictional incidents.

These tools can help dispatchers have a better understanding of Indian Country jurisdiction and help them serve the public while recognizing the unique legal right of tribal sovereignty. As professionals in Public Safety Communication, knowledge of this unique area of law will greatly assist dispatchers in providing all citizens with public safety services including America's original people.



Table 1

Indian Country Jurisdiction In Criminal Cases
(Non-PL-280 States)

SUSPECT	VICTIM	JURISDICTION
Indian	Indian	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction• No state jurisdiction• No federal jurisdiction for misdemeanors
Indian	Non-Indian	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction• No state jurisdiction
Non-Indian	Indian	<ul style="list-style-type: none">• Misdemeanor: Federal jurisdiction• Felony: Federal jurisdiction• Normally no state jurisdiction, but U.S. Attorney may elect to defer prosecution to the state.• No Tribal jurisdiction
Non-Indian	Non-Indian	<ul style="list-style-type: none">• Misdemeanor: State Jurisdiction• Felony: State jurisdiction• Normally U.S. Attorney will decline prosecution.• No Tribal jurisdiction
Indian	Victimless	<ul style="list-style-type: none">• Misdemeanor: Tribal jurisdiction• Felony: Federal jurisdiction
Non-Indian	Victimless	<ul style="list-style-type: none">• Misdemeanor: Usually state jurisdiction• Felony: Usually state jurisdiction• Normally U.S. Attorney will decline prosecution.

Reference:

1. "Crime in Indian Country," Indian Country Section, International Association of Chiefs of Police.
2. U.S. Attorney's Manual, Title 9, Criminal Chapter 20, Section 230.



Table 2

Public Safety Dispatcher's Three-Prong Test for Determining Criminal Jurisdiction in Indian Country (Non-PL-280 states)

1. Did the crime occur on state land or Indian Country land?

a. If offense occurred on state land, it is state jurisdiction whether or not the victim or offender is Indian. (Local and state officers or federal and tribal officers with state authority can make arrests and the cases are prosecuted in *state court*.)

b. If the crime occurred in Indian Country (a federally recognized Native American reservation, community, colony, or allotment), go to Question 2.

2. Is the offender or victim a Native American?

a. If neither subject is Indian, it is state jurisdiction. (Local and state officers or federal and tribal officers with state authority can make an arrest and the case is normally prosecuted in *state court*.)

b. If the offender or victim is Indian, go to Question 3.

3. Is the crime a felony or misdemeanor?

a. Felony and Major Crimes committed by Indians and non-Indians are normally prosecuted in *federal court*. Federal or tribal officer may arrest, state officers normally have to have authority. (In some cases the U.S. Attorney will exercise comity and refer prosecution of non-Indian offenders who victimized Indians to state courts.)

b. Misdemeanor offenses committed by Indians are criminally prosecuted in *tribal court*. (Tribal officers or federal officers with tribal authority may arrest or cite.)

c. Misdemeanor offenses committed by non-Indians may be *civilly* prosecuted in *tribal court* or *criminally* prosecuted in *state court*. (Tribal officers or federal officers with tribal authority may arrest or cite into tribal court; local or state officers or tribal officers with state authority may arrest or cite into state court.)

Reference: B.T. Baker, Legal Instructor, Federal Law Enforcement Training Center, U.S. Department of the Treasury.



Public Law 280

- State laws have generally been held to be inapplicable within the boundaries of an Indian reservation, based upon the rationale of infringement upon tribal self-government and federal pre-emption.
- Public Law 280 adds further complexity to the jurisdictional scheme. Enacted in 1953, it resulted from an attempt by Congress to resolve the question of state jurisdiction over Indians. It provided for the assumption of criminal and civil jurisdiction over Indians by six states, and gave other states the option of assuming such jurisdiction, "at such time and in such manner as the people of the State shall, by an affirmative legislative action, obligate and bind the State to assumption thereof." In 1968, the act was amended to require tribal consent to the assumption of jurisdiction by "optional" states and to authorize retrocession by a state of jurisdiction already assumed under the act.
- Public Law 280 departs from the traditional principle that a state has no jurisdiction on an Indian reservation, by conferring upon six specified states general civil and criminal jurisdiction within reservations. Public Law 280 explicitly stated that it did not authorize the "alienation, encumbrance, or taxation of any real or personal property," nor was it to be applied in such a manner as to deprive an Indian tribe or group "of any right, privilege, or immunity afforded under federal treaty, agreement, or statute with respect to hunting, trapping, or fishing, or the control of licensing or regulation thereof." The extension of civil jurisdiction under Public Law 280 is limited to the availability of state courts to hear civil causes of action arising upon Indian reservations. Bryan v. Itasca County, U.S. (No. 75-5027, June 14, 1976).

Major Crimes Act

18 USC § 1153. Offenses committed within Indian country

- (a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian Country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.
- (b) Any offense referred to in subsection (a) of this section that is not defined and punished by federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense



- By virtue of the Major Crimes Act, the federal government is vested with jurisdiction over fourteen specific offenses committed by Indians against the person or property of other Indians. With the exception of the fourteen offenses enumerated in the Major Crimes Act, tribes retain sole and exclusive jurisdiction over offenses committed by Indians which do not affect the person or property of non-Indians. The tribal and federal governments share concurrent jurisdiction over offenses committed by Indians against the person or property of non-Indians, and appear also to share concurrent jurisdiction over conduct punishable under the Major Crimes Act.

Assimilative Crimes Act

- In 1825, Congress enacted a second jurisdictional statute known as the Assimilative Crimes Act. This Act provided that state criminal laws not otherwise included in the federal criminal code were incorporated into federal law by reference and made applicable to federal enclaves. A violator of the Assimilative Crimes Act is charged with a federal offense and is tried in federal court, but the crime is defined and the sentence is prescribed by state law.
- In 1946, the U.S. Supreme Court ruled that the Assimilative Crimes Act applies in Indian country. Under this ruling, the criminal laws applicable to Indian country and subject to federal jurisdiction include both federal enclave crimes and state crimes not otherwise included in the federal criminal code. The Assimilative Crimes Act is relevant because it is one of the general laws of the United States that is extended to Indian country by the General Crimes Act.
- The scope of the General Crimes Act and the Assimilative Crimes Act is limited by two statutory exceptions and one judicially created exception. The exemptions include:
 1. offenses committed by one Indian against the person or property of another Indian;
 2. offenses over which criminal jurisdiction has been conferred on a particular tribe by treaty; and
 3. according to Supreme Court cases, crimes committed in Indian Country by a non-Indian against another non-Indian.
- The General Crimes Act extends only to crimes in which an Indian is involved as either a defendant or a victim.



Indian Civil Rights Act

- In 1968 Congress enacted the Indian Civil Rights Act. The act mandates restrictions on the exercise of tribal government similar to those imposed by the first ten amendments to the United States Constitution. Section 1303 authorizes federal jurisdiction in certain cases:

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

American Indians and Crime

The following information represents a compilation and new analysis of data on the effects and consequences of violent crime among American Indians. This report uses data from a wide variety of sources, including statistical series maintained by the Bureau of Justice Statistics (BJS), the FBI, and the Bureau of the Census. Data are reported from American Indian crime victims on how they were affected by the victimization and about who victimized them. The report also includes the first BJS estimates of the total number of American Indians under the custody or supervision of the justice system.

This report is the first step in a vigorous effort to document issues of crime and justice affecting American Indians. Statistical programs have been instituted to learn more about tribal criminal justice agencies, such as law enforcement and confinement facilities, and these will complement data available from other BJS series covering the justice system.

Highlights

- American Indians are more than twice as likely as others to become victims of violent crimes.
- American Indians suffer 124 violent crimes - murders, assaults, robberies and rapes - for every 100,000 persons. This is double the violent crime rate for Blacks and 2.5 times the national average of 50.
- The murder rate among American Indians is no higher than for Whites and only one-fifth as high as among Blacks.
- American Indians are twice as likely as Blacks and three times more likely than Whites to become victims of rape or aggravated assault.
- On any given day, 25 Indian adults are either incarcerated or on probation or parole.



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- Indian children are more likely to be abused than those of any other ethnic group. Reports of child abuse and neglect among American Indians jumped 18 percent between 1992 and 1995 as the national rate was falling by 8 percent. Law enforcement officials suspect this is due to better reporting.
- An estimated 63,000 American Indians, or 4 percent of the adult population, are jailed or otherwise under control of the criminal justice system on an average day. This compares to 2 percent of Whites and 10 percent of Blacks.
- Family violence is no bigger a problem among American Indians than for the rest of the population.
- American Indians are more likely to be abused than those of any other ethnic group.
- There are 1,600 bureau and tribal law enforcement officers patrolling 56 million acres of Indian land. This is 1.3 officers for every 1,000 residents compared with 2.9 officers per 1,000 residents in non-Indian rural communities.

Violent Victimizations, 1992-96

Number of violent victimizations per 1,000 persons age 12 or older	
All races	50
American Indian	124
Black	61
White	49
Asian	29

- American Indians* experience per capita rates of violence which are more than twice those of the U.S. resident population. (* Include Alaska Natives and Aleuts. Asians include Hawaiian Natives and Pacific Islanders).
- The murder rate among American Indians is 7 per 100,000, a rate similar to that found among the general population. The rate of murder among Blacks is more than 5 times that among American Indians.



Age of Victim, 1992-96

Rate of violent victimization per 1,000 persons in each group		
Age of Victim	All races	American Indians
12-17	116	171
18-24	100	232
25-34	61	145
35-44	44	124
45-54	27	43
55 or older	9	14

- Nearly a third of all American Indian victims of violence are between ages 18 and 24. This group of American Indians experienced the highest per capita rate of violence of any racial group considered by age - about 1 violent crime for every 4 persons of this age.

Sex of Victim, 1992-96

Rate of violent victimization per 1,000 persons age 12 or more in each group		
Sex of Victim	All Races	American Indians
Male	60	153
Female	42	98

- Rates of violent victimization for both males and females are higher among American Indians than for all races. The rate of violent crime experienced by American Indian women is nearly 50% higher than that reported by Black males.

Offender Race, 1992-96

Race of Victim	% of Violent Victimization that were interracial
American Indian	70%
Black	19
White	31
Asian	68

- At least 70% of the violent victimizations experienced by American Indians are committed by person not of the same race - a substantially higher rate of interracial violence than experienced by White or Black victims.

Alcohol use by the Offender, 1992-96

Race of Victim	% of Victims of Violence Reporting Offender Drinking
American Indian	46%
Black	28
White	36
Asian	22



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- American Indian victims of violence were the most likely of all races of victims to indicate that the offender committed the offense while drinking.

Weapon Use by Offender, 1992-96

Percent of violent victimizations or murders		
	All Races	American Indians
Firearm in non-lethal violence*	11%	13%
Handgun in lethal violence**	50%	28%

*Average annual percentage, 1992-96

** Percent of murders, 1976-96

- More than 10% of American Indian non-lethal violent victimizations involved a firearm. American Indian murder victims were less likely to have been murdered by a handgun than victims of all races.

Crimes Reported to the Police, 1992-96

Race of Victim	% of Violent Victimization Reported to the Police
American Indian	46%
Black	50
White	41
Asian	39

- American Indian victims of violence reported the crime to the police at about the average rate for all races.

Arrests of Adults and Youth, 1996

Number of arrests for violent crimes per 100,000 persons in each group		
Race of Arrestees	All Ages	Under Age 18
American Indian	291	294
Black	937	1,356
White	182	283
Asian	98	192

Arrests for Drug and Alcohol Offenses, 1997

Number of arrests per 100,000 persons		
Arrest Offense	All Races	American Indian
Drug	592	344
Alcohol related	1,064	2,550

- The 1997 arrest rate among American Indians for alcohol-related offenses (driving under the influence, liquor law violations, and public drunkenness) was more than double that found among all races. Drug arrest rates for American Indians were lower than average.



Under Correctional Supervision or Control, 1997

Total under correctional supervision or control pr 100,000 adults	
U.S. Total	2,907
American Indian	4,193
Black	9,863
White	2,036
Asian	414

- An estimated 63,000 American Indians are under the care, custody, or control of the criminal justice system on an average day - about 4% of the American Indian population age 18 or older.
- On average in 1997 about 2,000 American Indians per 100,000 adults (persons age 18 or older) were serving a sentence to probation, about half the rate found among Blacks.
- In 1997, about 16,000 American Indians were held in local jails - a rate of 1,083 per 100,000 adults, the highest of any racial group.
- The rate of American Indians on parole is similar to that of the general population, about 300 per 100,000 adults.

In State or Federal Prison, 1997

Number in prison per 100,000 adults	
U.S. Total	629
American Indian	870
Black	2,895
White	335
Asian	104

- On a per capita basis, American Indians had a rate of prison incarceration about 38% higher than the national rate.

American Indians convicted in Federal District Court, FY 1997

Total	854	100%
Violent		
Murder	81	9%
Assault	153	18%
Robbery	22	3%
Rape	168	20%
Other	23	3%
Property	178	21%
Drug	93	11%
Other*	134	15%

*Includes persons for whom the offense was unknown.

- American Indians accounted for 1.5% of Federal case filings in U.S. District Courts in 1997, and half of these were for violent offenses.



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- 854 American Indians were convicted in Federal court - 9% for murder and 20% for rape.

Measuring Criminal Victimization Among American Indians

- American Indians have higher per capita rates of violent criminal victimization than Whites, Blacks, or Asians in the U.S., according to data from the National Crime Victimization Survey (NCVS).

Population Estimates, July 1998		
All Races	270,029,000	100%
American Indian	2,357,000	0.9%
White	222,932,000	82.6%
Black	34,370,000	12.7%
Asian	10,370,000	3.8%

- Two demographic factors distinguish American Indians from other racial groups: in 1998 the median age of the American Indian population is nearly 8 years younger than the U.S. resident population, and American Indians are the most likely to report Hispanic ethnicity.

Violent Crime Rate Among American Indians

- The NCVS provides estimates of the violent crimes of rape, sexual assault, robbery, and assault for persons age 12 or older. During 1992-1996 the NCVS found that American Indians experienced an average of almost 150,000 violent crimes per year from among the estimated 10.8 million violent crimes occurring on average per year among all racial groups. Victimization data for 1996 indicate that American Indians accounted for about 1.4% of all violent victimizations that year, about the same percentage as in preceding years.
- The average annual violent crime rate among American Indians - 124 per 1,000 persons age 12 or older - is about 2.5 times the national rate.

Violent Victimization, 1992-96

# of violent victimizations per 1,000 person age 12 or older	
All races	50
American Indian	124
Black	61
White	49
Asian	29

- American Indians are overrepresented among victims of violence compared to their share of the general population age 12 or older.



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- The aggravated assault rate among American Indians (35 per 1,000) was more than 3 times the national rate (11 per 1,000) and twice that for blacks. The rate of robbery experienced by American Indians (12 per 1,000) was similar to that of Black residents (13 per 1,000).

Annual Average Rate of Rape and Sexual Assault, Robbery, and Assault by Race of Victim, 1992-96

Number of victimizations per 1,000 persons age 12 or older in each racial group					
	All races	A/I*	White	Black	Asian
Violent victimization	50	124	49	61	29
Rape/ Sexual assault	2	7	2	3	1
Robbery	6	12	5	13	7
Aggravated assault	11	35	10	16	6
Simple assault	31	70	32	30	15

*American Indian

- American Indians experienced about 1 violent crime for every 8 residents age 12 or older compared to 1 violent victimization for every 16 Black residents, 1 for every 20 white residents and 1 for every 34 Asian residents.

Types of Violent Crimes

- The types of violent crimes experienced by American Indians were generally similar to that found across the nation. The most common type of violent crime experienced by American Indian victims was simple assault (56%).

Violent Crime by Type of Crime and Race of Victim, 1992-96				
Percent of Violent Victimizations				
	All races	A/I*	White	Black
Total	100	100	100	100
Rape/ Sexual assault	4.3	5.6	4.3	4.4
Robbery	11.7	9.9	9.7	21.5
Aggravated assault	21.8	28.4	21.0	25.7
Simple assault	62.2	56.1	65.0	48.5

*American Indian

Simple Assault Rates, 1992-96	
Race of Victim	# of Simple Assaults per 1,000
American Indian	70
Black	30
White	32
Asian	15



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- Among all the violent crimes reported by American Indians, 28% were aggravated assault, 10 robbery, and 6% rape/sexual assault. Asian and Black victims of violence were more likely than American Indian or White victims to have reported a robbery.
- The violent crime rate among American Indian males was 153 per 1,000 males age 12 or older, more than double that found among all males (60 per 1,000 age 12 or older). The violent crime rate for American Indian females during this period was 98 per 1,000 females, a rate higher than that found among White females (40 per 1,000) or Black females (56 per 1,000).

Violent Crime Rates for Persons 12 or Older, by Age, Sex, Locality of Residence, and Race, 1992-96					
Victim Characteristics	All Races	A/I*	White	Black	Asian
Total	50	124	49	61	29
Sex					
Male	60	153	59	68	37
Female	42	98	40	56	21
Age					
12-17	116	171	118	115	60
18-24	100	232	101	105	41
25-34	61	145	61	66	34
35-44	44	124	43	51	24
45-54	27	43	27	30	15
55 & older	9	14	8	11	5
Location					
Urban	65	207	63	75	29
Suburban	48	138	48	52	29
Rural	37	89	37	33	30

* American Indian

- Among the different age groups, violent crime rates were highest (232 per 1,000 persons) for American Indians age 18-24. This violent crime rate was more than twice that found among Whites and Blacks of the same age.
- About 40% of American Indians reside in rural areas, compared to 18% of Whites and 8% of Blacks. The violent crime rate for American Indians was highest for those in urban areas, 207 per 1,000 and lowest for those in rural areas, 89 per 1,000. However, this rural crime rate for American Indians is more than double that found among rural Whites (37 per 1,000) or Blacks (33 per 1,000). The urban crime rate for American Indians is more than 3 times that found among urban Whites.



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- About half (52%) of the violent crimes committed against American Indians occurred among those age 12 to 24 years. Two percent of the violent crimes committed against American Indians were against the elderly, age 55 or older.
- Nearly 6 in 10 of the violent crimes experienced by American Indians had been committed against males, similar to the national distribution.

Percent of Violent Victimizations					
Victim age/sex	All races	A/I*	White	Black	Asian
Total	100%	100%	100%	100%	100%
12-17	24.2%	20.4%	23.8%	26.8%	24.0%
18-24	23.6	31.5	23.4	24.0	21.7
25-34	23.6	23.5	23.6	23.2	26.3
35-44	17.0	18.0	17.1	16.6	18.3
45-54	7.5	4.7	7.8	6.1	7.3
55 & older	4.1	1.9	4.3	3.3	2.4
Male	57.4%	58.9%	58.4%	50.5%	62.6%
Female	42.6	41.1	41.6	49.5	37.4

* American Indian

- American Indians with incomes under \$10,000 had the highest rate of violent victimization, 182 per 1,000. At every income category American Indians had a higher rate of violent victimization than persons of other races.

Number of victimizations per 1,000 persons				
Income	All races	A/I*	White	Black
Less than 10,000	73	182	74	71
10,000-19,000	54	137	51	70
20,000-29,999	48	104	47	56
30,000-39,999	46	72	46	54
40,000 or more	42	84	42	50

*American Indian

- More than half the violent victimizations that American Indians experienced involved victims and offenders whom had a prior relationship, about the same percentage as for all violent victimizations.



***Victim-Offender Relationship in Violent Victimization, by Race,
1992-96***

Percent of violent victimizations		
Victim-Offender Relationship	All Races	American Indians
Intimate	10.7%	8.9%
Family	4.7%	6.7%
Acquaintance	33.7%	38.7%
Stranger	50.8%	45.7%

- Overall, strangers were reported to have committed 46% of the violent crimes against American Indians.

Violent Victimization of American Indians, by Victim-Offender Relationship and Type of Victimization, 1992-96

Percent of violent victimizations against American Indians				
Type of Victimization	Total	Intimate/ Family Member	Acquaintance	Stranger
All	100%	15	38	46
Rape	100%	25	43	32
Robbery	100%	10	14	76
Aggravated Assault	100%	7	41	51
Simple Assault	100%	19	40	40

- More than half of the violent victimizations of American Indians involved offenders with whom the victim had a prior relationship. About 1 in 6 violent victimizations among American Indians involved an offender who was an intimate or family member to the victim, about the same as for victims of all races.

Percent of Violence		
Victim-Offender Relationship	All Races	American Indians
Intimates	11%	8%
Family Members	5	7
Acquaintances	34	38
Strangers	51	46

Race of Offender

- Violent crime against White or Black victims is primarily intraracial. Among White victims of violence, 69% of offenders were White. Likewise, Black victims of violence were most likely to have been victimized by a Black offender (81%).



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Percent of violent victimizations, by race of victim and race of offender, 1992-96				
Race of Victim	Total	Other	White	Black
All Races	100%	11%	60%	29%
A/I*	100	29	60	10
White	100	11	69	20
Black	100	7	12	81
Asian	100	32	39	29

* American Indian

NOTE: Table excludes an estimated 420,793 victims of violence (3.9% of all victims) who could not describe the offender's race.

- The majority (60%) of American Indian victims of violent crime described the offender as White, and nearly 30% of the offenders were likely to have been other American Indians. An estimated 10% of offenders were described as Black.
- The less serious the offense, the higher was the percentage of American Indian victims of violence describing the offender as "other race."
- American Indian victims of rape/sexual assault most often reported that the victimization involved an offender of a different race. About 9 in 10 American Indian victims of rape or sexual assault were estimated to have had assailants who were White or Black.

Intimate and Family Violence

- Intimate and family violence each account for about 9% of all violent victimizations experienced by American Indian victims, about the same percentage as found among all victims of violence.
- Most striking among American Indian victims of violence is the substantial difference in the racial composition of offenders in intimate violence incidents when contrasted with family violence. Among violence victims of all races, about 11% of intimate victims and 5% of family victims report the offender to have been of a different race; however, among American Indian victims of violence, 75% of the intimate victimizations and 25% of the family victimizations involved an offender of a different race.
- Intimate and family violence involve a comparatively high level of alcohol and drug use by offenders as perceived by victims - as is the case for Indian and non-Indian victims. Indian victims of intimate and family violence, however are more likely than others to be injured and need hospital care.



***Victim Offender Relationship in Violent Victimization, by Race,
1992-96***

Percent of violent victimizations		
Victim/Offender Relationship	All Races	American Indian
Intimate	10.7%	8.9%
Family	4.7	6.7
Acquaintance	33.7	38.7
Stranger	50.8	45.7

NOTE: Intimate violence refers to victimizations involving current and former spouses, boyfriends and girlfriends. Family violence refers to victimizations involving spouses and other relatives.

Alcohol, Drugs and Crime

- Alcohol and drug use was a factor in more than half of violent crimes against American Indians.

Violent crime, by the perceived drug or alcohol use of the offender and by race of victim					
Race of victim	Total	Alcohol	Drug	Both	Neither
Total	100%	28%	8%	7%	57%
A/I*	100	38	9	8	45
White	100	29	8	7	56
Black	100	21	7	7	65
Asian	100	20	3	2	75

NOTE: Table excludes those respondents who were unable to report whether or not they perceived the offender to have been using alcohol or drugs.

- Substantial differences can be found by race in the reports of victims of violence of their perceptions of drug and alcohol use by offenders. Among those who could describe alcohol or drug use by offenders, American Indian victims of violence were the most likely to report such perceived use by the offender.
- Overall, in 55% of American Indian violent victimizations, the victim said the offender was under the influence of alcohol, drugs, or both. The offender's use of alcohol and/or drugs was somewhat less likely in violent crimes committed against Whites (44%) or Blacks (35%).
- The perceived use of alcohol and drugs reported by American Indian victims of violence varied with the race of the offender: Intraracial violence was more likely to involve a drinking offender while interracial violence involved higher levels of offender drug use.
- According to American Indian victims of violence, offender use of alcohol was a factor in nearly two-thirds of the violent victimizations in which the offender was neither White nor Black.



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Percent of victimizations in which the offender was perceived using alcohol, drugs or both				
Victim/Offender	Alcohol	Drugs	Both	Neither
A/I*/White	30%	10%	8%	52%
A/I/Black	35	13	3	49
A/I/other	57	1	8	34
White/White	36	8	1	48
Black/Black	21	8	6	66
Asian/other	18	2	3	77

* American Indian

- An estimated 3 in 4 American Indian victims of family violence reported that they perceived the offender to have been drinking at the time of the offense. About half the persons of all races who were victims of family violence reported a drinking offender.

Percent of violent victimizations in which the victims felt certain they could distinguish alcohol use by the offender		
Victim/Offender Relationship	All Races	American Indians
Intimate	64.7%	60.9%
Family	49.2	76.5
Acquaintance	36.1	40.0
Stranger	28.9	42.0

Location of Violent Crime

- Just over 40% of American Indian victims of violence reported that the incident occurred in or around their own home or that of a friend, relative, or neighbor. This is higher than the approximately one-third of violent victimizations reported by victims of all races to have occurred at or near a home.
- Nineteen percent of violent victimizations against American Indians took place in open areas, on the street or on public transportation. Fewer than 1 in 10 violent crimes were reported to have occurred at school.
- Half of the violent crimes committed against American Indians occurred after dark. About 1 in 5 of the violent victimizations took place between midnight and 6 a.m.
- On average nearly 2 million violent crimes occurred in the workplace every year. The workplace accounted for about 1 in 5 violent crimes experienced by the public.



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- Among American Indians about 14% of the violent victimizations were reported to have occurred in the workplace. About 1 in 4 employed American Indian victims of violence said that the incident occurred in the workplace.

Weapons used in violent crime

- In about a third of the violent crime incidents American Indian victims were faced with an offender who had a weapon. About 13% of the crimes involved an offender with a firearm.
- In almost 70% of the violent crime incidents, the American Indian victim resisted the offender, most frequently through the use of physical force. American Indian victims used a weapon in self-defense in less than 3% of the violent incidents committed against them.

Injury rates, hospitalization, and financial loss

- American Indian victims of a violent crime were more likely to have been injured than were White or Asian crime victims. Nearly a third of the American Indian violent crime victims were injured during the incident. About a quarter of all violence victims of all races were injured during the incident.

Violent victimizations in which the victims sustained physical injury or received medical care, by race					
Reported physical injury	All victims	A/I*	White	Black	Asian
Yes	25%	32%	24%	31%	25%
Type of injury					
Sexual assault	2	4	2	2	3
Shot/internal injury	1	3	1	3	2
Broken bones	2	5	2	2	1
Bruises	18	18	18	19	17
Other injuries	3	2	2	4	2
Treatment					
Not treated	57%	48%	59%	45%	55%
Treated	44	53	41	55	44
At hospital	19	32	16	26	24

* American Indian

NOTE: The percent treated was calculated on those injured during the violent incident. Detail may not add total because of rounding.

- As a result of their victimizations, an estimated 18% of American Indian victims of violence sustained bruises, the most commonly reported



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injury. Among those injured, about half received some kind of medical treatment - a third at the hospital.

- Seventy one percent of American Indian crime victims who were injured during the incident and sought medical treatment had medical insurance or qualified for public medical benefits.
- Injured American Indian victims of violence who sought treatment for their injuries were as likely as other racial groups to have some form of coverage for medical benefits.

Injured Victims	% with Coverage
American Indians	71%
White	69
Black	71
Asian	64

Child Abuse and Neglect

- In the U.S. from 1992 to 1995, American Indians and Asians were the only racial or ethnic groups to experience increases in the rate of abuse or neglect of children under age 15, as measured by incidents recorded by child protective service agencies.
- The increase in reported incidents involving American Indian children was more than 3 times as large as that for Asian children. The per capita rate for American Indian children was 7 times that of Asian children.

Number of victims per 100,000 children age 14 or younger			
	1992	1995	% Change
All children	1,866	1,724	-8%
American Indian	2,830	3,343	18%
White	1,628	1,520	-7
Black	3,560	3,323	-7
Asian	454	479	6
Hispanic	1,486	1,254	-16

NOTE: Rates were calculated on the number of children age 14 or younger because they account for at least 80% of the victims of child abuse and neglect.

- Each year the National Child Abuse and Neglect Data System of the Department of Health and Human Services obtains from child protective service agencies nationwide the number of reports of alleged maltreatment of children. Published data for 1995 indicate that about 1 million children were substantiated to have been victims of neglect, physical abuse, sexual abuse, emotional maltreatment, medical neglect, or other forms of verified maltreatment.



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	# of victims of maltreatment*	% American Indian
1992	1,044,480	1.5%
1993	966,163	1.6
1994	1,011,595	1.8
1995	1,000,502	1.9

* Reported by child protective agencies. Data may contain duplicate counts of incidents.
Source: National Child Abuse and Neglect Data System

- Non-Hispanic American Indians accounted for just under 2% of the victims of child abuse/neglect in reports collected nationwide in 1995. There is evidence that their share has been increasing. Non-Hispanic American Indians, who accounted for just under 1% of the population age 14 or younger, were overrepresented twofold as victims of child abuse.
- On a per capita basis, 1995 data indicate about 1 substantiated report of a child victim of abuse or neglect for every 30 American Indian children age 14 or younger.
- Nationwide, the 1995 rates translate into about 1 child victim of maltreatment known to a child protective services agency for every --
 - 58 children of any race
 - 66 White children
 - 30 Black children
 - 209 Asian children
 - 80 Hispanic children

Reporting Violent Crime to Police

- American Indians differ little from other racial groups in their reporting of violent crime to the police or in the likelihood that the victim knows of the arrest of the offender.
- Average number of victimizations: 10,785,800

	Victims	Reported to Police	Subsequent Arrest of Offender (reported offenses only)
A/I*	149,600	45%	28%
White	8,880,100	41	28
Black	1,570,400	50	22
Asian	184,700	39	19

- Forty-five percent of American Indian victims of violent crime reported the crime to the police. This level of crime reporting was similar to that found among White (41%) and Black (50%) violent crime victims.



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- Among victims not reporting the crime to the police, the reasons that persons of different racial backgrounds had for not reporting were also similar. Nearly half of both American Indians not reporting the violent crime to the police and victims of all races who did not report the violence to the police said that they considered the matter private or too minor to bother the police.

Percent of victims of violence not reporting victimization to the police, 1992-96		
Reason for not reporting	All races	American Indians
Total	100%	100%
Personal matter	21	26
Too unimportant	24	24
Police of limited assistance	11	14
Reported to other authority	13	8
Fear of or worry about offender	7	6
Too busy	3	2
Other reasons	22	20

- For those violent crimes reported to the police victims said that police made an arrest in about a quarter of the cases.
- Violent victimizations reported to the police, by whether an arrest was made and whether victim services were provided, by race of victim, 1992-96.

Percent of violent victimizations reported to the police					
	All races	A/I*	White	Black	Asian
Arrest made?					
Yes	27%	27%	28%	22%	19%
No	66	65	65	70	71
Don't know	7	8	7	8	11
Victim service assistance?					
Yes	10%	12%	10%	9%	9%

* American Indian

NOTE: The percent reporting an arrest and the percent reporting that they had received assistance from a victim services agency were based on those victimizations reported to the police.

- Twelve percent of the victims who reported their violent crime to the police received victim services assistance.



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- American Indians differ little from other racial groups in their reporting of violent crime to the police or in the likelihood that the victim knows of the arrest of the offender.

Contact with Prosecutors

- There were no differences between victims of violence who were American Indians and victims of all races in the percentage having contacts with the prosecutor's office or a victim services agency. For all victims such contacts are higher in those cases in which an arrest was known to have occurred.
- Average annual number of violent victimizations reported to the police: 4,525,200

Resulted in --	Arrests	No arrests
Victims of all races	1,223,400	3,296,800
Subsequent contact with --		
Prosecutor's office	23%	3%
Victim Services	17	7
American Indian victims	19,000	49,000
Subsequent contact with --		
Prosecutor's office	25%	3%
Victim Services	21	8

Examining Race and Ethnicity in Violent Victimization

- The NCVS asks respondents about both race and ethnicity. For 1992-96 about 9% of all participants, or about 18.5 million residents age 12 or older in an average year, were of Hispanic origin and belonged to one of the four primary racial groups sampled in the survey - White, Black, American Indian or Asian. Hispanic residents were estimated to consist of 17.8 million White, 0.5 million Blacks, about 0.1 million Asians and a slightly smaller number of American Indians.
- Across each racial group, Hispanic residents were found to have higher average per capita rates of violent victimization. Among all racial and ethnic groups, non-Hispanic Asians were found to have the lowest estimated rates of violent victimization, about 1 violent crime for every 36 residents. By contrast, American Indian residents who also identified themselves as Hispanic reported a rate of violent victimization that translated into about 1 violent crime for every 4 residents.



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- While about 7% of all American Indian participants in the NCVS reported they were also of Hispanic ethnicity, nearly 14% of those American Indians victimized by violence were of Hispanic origin.
- Among American Indians who also described themselves as Hispanic, the rate of violent victimization was 4 times the rate found among all Hispanics and twice the rate found among non-Hispanic American Indians.

Murder Among American Indians

- Each year about 150 American Indians become murder victims. Little year-to-year variation occurred in the number of American Indian murder victims, but recent years were below the peak number reached in 1986.
- American Indians were 0.7% of all murder victims nationwide, about the same as their share of the population. From 1976 to 1996 an estimated 3,100 American Indians were murdered. Due to variations in reporting by law enforcement agencies over time, detail on these murder victims is available for 2,826 American Indian murder victims or about 92% of the total estimated number of victims.

States with largest # of A/I* murder victims	# of murders of A/I	% if all murders of A/I	% of A/I population
U.S. total	2,826	100%	100%
California	386	13.7	13.7
Oklahoma	326	11.5	11.9
Alaska	268	9.5	4.2
N. Carolina	245	8.7	3.9
Arizona	233	8.2	10.8
Washington	191	6.8	4.4
Minnesota	164	5.8	2.5
New Mexico	160	5.7	6.7
New York	75	2.7	3.1
Oregon	71	2.5	2.0
All other States	707	25.0	36.8

* American Indian

American Indian murder victims		
	Percent of all A/I murder victims	Percent of total A/I population
U.S. total	0.7%	0.8%
California	0.6	1.0
Oklahoma	6.2	8.1
Alaska	28.0	15.5
N. Carolina	2.0	1.2



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Arizona	4.1	5.8
Washington	4.2	1.8
Minnesota	7.4	1.2
New Mexico	7.5	8.9
New York	0.2	0.4
Oregon	2.7	1.4
All other States	0.3	0.4

NOTE: Supplementary Homicide Data are for 1976-96. Population data are for 1994.

- Over the 21-year period, just under 14% of the murders of American Indians occurred in California, proportional to California's share of the American Indian population. Alaska, by contrast, accounts for about 10% of American Indian murder victims over the period but just over 4% of the American Indian population nationwide. In Alaska, 1976-96, American Indians and Alaska Natives composed about 16% of the population but 28% of that State's murder victims. The 10 States in which about 63% of the American Indian population reside have accounted for about 75% of the murders.

Rates of Murder

- As observed across the other racial groups, the number of murders per capita among American Indians has been declining. The rate of murder among American Indians in 1996 was below the national average for ages under 40. For ages 40 or older, murder rates are close to the national average.

Age of murder victims, 1996					
	Total	A/I*	White	Black	Asian
17 or younger	7.9	4.0	4.9	24.3	4.3
18-24	19.6	9.1	9.5	76.6	9.0
25-29	14.5	11.2	7.4	58.2	6.2
30-34	10.8	10.8	6.2	40.8	5.3
35-39	9.2	8.8	5.8	32.7	3.4
40-49	6.6	7.2	4.3	24.1	3.2
50 and older	4.4	5.7	3.3	14	3.3

* American Indian

- For persons age 24 or younger in 1996, American Indian rates of murder closely paralleled the rates among White and Asians and were well below the rates among Black victims. For those age 25 to 29, the 37% decline in the rate of murder among American Indians reflects the largest decline of any racial group.



Circumstances of Murder

Circumstances of murder, by race, 1976-96					
Murders w/ known circumstances	All races	A/I*	White	Black	Asian
Total	100%	100%	100%	100%	100%
Violent Felony	14	11	16	11	27
Other Felony Offenses	10	5	10	11	8
Suspected Felony	4	4	4	3	3
Brawl under influence of alcohol/drugs	5	13	6	4	2
Arguments	43	45	38	50	35
Other Circumstances	24	22	27	21	25
Number	344,928	2,515	181,043	156,203	4,545

NOTE: Table excludes an estimated 101,446 murder victims for whom the circumstances were not known.

SOURCE: FBI, Supplemental Homicide Reports, 1976-96.

- Supplemental data regarding murders with known circumstances indicate that American Indian murder victims were more likely to have been killed during a brawl involving alcohol or drugs (13%) than White (6%), Black (4%), or Asian (2%) murder victims. Forty-five percent of American Indian murder victims were killed during an argument, and 11% were killed during the commission of a violent felony.
- Murders by someone of a different race from the victim, by race of victim and type of murder, 1976-96

Percent of murder victims killed by someone of a different race, committed during...		
Race of murder victim	Commission of a felony	An argument
American Indian	74%	38%
Black	8	5
White	43	9
Asian	80	27

Victim-Offender Relationship in Murder Cases

- In American Indian murder cases in which the victim-offender relationship was known, strangers accounted for approximately 16% of the murders. Acquaintances accounted for about half the murders. Victim-offender relations in American Indian murder cases were similar to those found among all murders.



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Murders, by victim-offender relationship and race, 1976-96				
	Victims of all Races	A/I*	White	Black
Total	100%	100%	100%	100%
Victim/offender had prior relationship	81.2	83.9	78.4	84.5
Victim/offender were strangers	18.8	16.1	21.6	15.5
Same race	13.8	3.9	14.4	13.4
Different race	5.0	12.2	7.1	2.1
# of murder victims	281,603	2,242	147,417	128,551

* American Indian

NOTE: Table excludes victims with unknown relationship to offender and victims and offenders of unspecified races.

Race of Murderers

- In most murder cases involving a White or Black victim, the offender was of the same race as the victim. However, when the races of the offender and victim were known, more than 40% of American Indian murder victims were killed by an offender who was not an American Indian; in 33% of the cases the offender was White.

Race of murder victims, 1976-96				
Race of Offender	All Races	A/I*	White	Black
Total	100%	100%	100%	100%
A/I*	0.8	56.9	0.6	0.1
White	47.6	32.5	85.6	5.8
Black	50.4	9.7	13.3	94.0
Number	313,032	2,381	162,609	143,854

* American Indian

NOTE: Table excludes cases in which the race of the victim or offender is unknown.

SOURCE: Supplemental Homicide Data are for the period 1976-96. Population data are for 1994.

- Compared to all murder victims, American Indian murder victims were substantially less likely to have been killed by a handgun but more likely to have been killed by a rifle or shotgun or stabbed.



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Murder weapons used, by race of victim, 1992-1996		
Weapon*	All Races	American Indians
Handgun	50.3%	28.1%
Rifle/shotgun	11.2	17
Other firearm	4.5	1.6
Knife	18.5	29.1
Blunt object	5.3	8.0
Personal weapon, including hands	6.1	11.3
Other types of weapons	4.1	4.9

* Excludes cases in which type of weapon is unknown

- American Indian murder victims were substantially less likely (28% to 50%) than all murder victims to have been killed by a handgun. Almost 30% of American Indian murder victims were killed by a knife, compared to less than 20% of all murders.

Arrests and Convictions of American Indians

- Arrest data for 1996, provided by local law enforcement agencies, indicate that American Indians account for 0.9% of the arrests for Part I violent crimes (murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault), an estimated 6,600 arrests for these offenses.
- Approximately 17% of American Indians arrested for these violent offenses are under age 18, nearly the same percentage found among arrestees for all violent crimes in 1996. The 1996 arrest rates for Part I violent crimes among American Indian youth were about the same as for White youth and were about a fifth of those of Black youth.
- Unlike the pattern of violent crime arrest rates for other racial groups - higher for youth than for the whole population - among American Indians the arrest rates for those under age 18 did not vary from the overall rate.

Arrests of Adults and Youth for Violent Crimes, by Race, 1996

Number of arrests for Part I violent crimes per 100,000 persons in each group, 1996		
Race of Arrestees	All Ages	Under Age 18
All Races	275	445
American Indian	291	294
Black	937	1,356
White	182	283
Asian	98	192

NOTE: Arrest rates for youth were based on the estimated number of arrests of persons under the age of 18 and calculated on the number of residents age 10-17.

SOURCE: FBI, Crime in the United States, 1996.



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- American Indians have a rate of arrest for alcohol violations (DUI, liquor law violations, and public drunkenness) more than double the national rate. Arrests of American Indians under age 18 for alcohol related violations are also twice the national average.

Number of arrests per 100,000 population				
	All Ages		Youth	
	All races	A/I*	All races	A/I*
Total violent	275	291	445	294
Murder	7	7	9	5
Rape	13	16	19	14
Robbery	59	37	165	67
Aggravated Assault	197	231	252	208
Total Property	1,039	1,369	2,783	3,026
Total Alcohol Violations	1,079	2,545	649	1,341
DUI	553	1,069	61	98
Liquor Laws	255	727	510	1,108
Drunkenness	271	749	78	135

* American Indian

NOTE: Arrest rate is the number of arrests per 100,000 resident population. Arrest rate for youth were based upon the estimated number of arrests of persons under age 18. The youth arrest rate was calculated on the number of residents age 10-17.

Felony Convictions in State Courts

- On average there are annually about 900,000 felony convictions in State courts. American Indians account for just over 1/2 of 1% of felony convictions across the nation.

Felony Convictions		
	Average Annual #	Percent
Total	898,290	100%
American Indian	4,980	0.6
White	468,944	52.2
Black	418,124	46.6
Asian	6,243	0.7

NOTE: The annual average estimates are based on the National Judicial Reporting Program, 1990, 1992, 1994, and 1996.

- In 1996 State and local courts throughout the U.S. convicted an estimated 1 million defendants. Among these were an estimated 7,000 felony convictions of American Indians, a rate of approximately 1 felony conviction for every 200 American Indians age 18 or older. By contrast in 1996 Whites experienced a felony conviction rate of about 1 conviction per 300 adults; among Blacks the rate of felony conviction



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was 1 for every 51 adults; and Asians reflected the lowest rate, about 1 felony conviction for every 600 Asian residents age 18 or older.

American Indians Under Correctional Supervision

- American Indians accounted for about 1% of the more than 5.7 million adults under correctional care, custody and control on a single day in 1997. The estimated 62,600 American Indians with a correctional status accounted for just over 4% of the American Indian adult population.
- By comparison, an estimated 2% of White adults, 10% of Black adults, and less than a half of 1% of Asian adults were under correctional supervision.
- In 1997, 54% of the American Indians under correctional supervision were in the community - on probation (47%) or parole (7%). Twenty five percent were held in local jails, 18% in State prisons, and 3% in Federal prisons.
- In 1997 just under half of the American Indian offenders under the care, custody or control of Federal, State or local correctional authorities were confined in prisons or jails. By contrast, less than a third of correctional populations nationwide were confined in prisons or jails.

American Indian Correctional Population	
Total	62,659
Probation	47%
Local jails	26
State prisons	18
Federal prisons	3
Parole	7

Nationwide Correctional Population	
Total	5,751,277
Probation	57%
Local jails	10
State prisons	20
Federal prisons	2
Parole	12

- American Indians comprised just over 1% of the offenders on probation or parole or in State or Federal prisons but an estimated 2.9% of persons in local jails nationwide. American Indians accounted for 2.5% of those detained in local jails who had not been convicted of crimes and 3% of the convicted offenders in jail serving shorter sentences or awaiting transfer to other institutions.



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- Compared to jail inmates of all races, when the statuses of conviction are combined, American Indians were less likely to have been jailed for a violent or drug offense. However, consistent with their higher arrest rates for driving under the influence of alcohol, a substantial percentage of American Indians reported that they were in jail charged with or convicted of an offense involving driving while intoxicated (DWI). American Indians accounted for an estimated 10% of unconvicted jail inmates charged with DWI and just over 4% of convicted DWI offenders in local jails.

Unconvicted Jail Inmates, 1996		
	All races	American Indians
Total	100%	100%
Violent	36.7%	26.6%
Homicide	6.6	2.7
Sexual Assault	3.8	--
Robbery	8.8	2.2
Assault	15.4	15.7
Other Violent	2.1	5.9
Property	25.6%	27.4%
Burglary	7.7	11.5
Larceny	5.6	2.3
Motor vehicle theft	3.3	7.3
Other property	9.0	6.3
Drugs	20.2%	6.5%
Public-order	17.4%	39.5%
Weapons	2.2	8.2
DWI	3.6	13.8
Other public-order	11.6	17.5
Number	165,733	4,241

– Too small to estimate

Convicted Jail Inmates, 1996		
	All races	American Indians
Total	100%	100%
Violent	21.7%	21.9%
Homicide	1.5	0.2
Sexual Assault	3.0	7.1
Robbery	5.5	7.9
Assault	10.0	10.1
Other Violent	1.7	1.6
Property	28.6%	27.0%
Burglary	8.0	8.1
Larceny	9.5	6.2
Motor vehicle theft	2.3	4.7
Other property	8.8	7.9



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Convicted Jail Inmates, 1996 (CON'T)		
	All races	American Indians
Drugs	23.7%	15.8%
Public-order	25.6%	35.3%
Weapons	2.4	0.7
DWI	9.6	13.1
Other public-order	13.6	21.5
Number	314,867	9,824

- About half of convicted American inmates in local jails had been consuming alcoholic beverages at the time of the offense for which they had been convicted. An estimated 7 in 10 American Indians in local jails convicted of a violent crime had been drinking when they committed the offense.

Percent of convicted jail inmates reporting alcohol use at the time of their offense		
Most serious offense	All races	American Indians
All offenses	39.5%	48.8%
Violent	40.6	71.0
Property	32.8	37.1
Drug	28.8	14.3
Public-order	56.0	60.2

- Nearly 4 in 10 American Indians held in local jails had been charged with a public-order offense - most commonly driving while intoxicated.
- Sixteen percent of convicted American Indians serving time in local jails had been convicted of a drug offense.

American Indians in the Federal Justice System

- In fiscal year 1996 U.S. attorneys investigated 1,927 suspects for offenses committed in Indian Country.

Federal District Court Filings, 1997		
Type of Offense	All Cases	American Indian Cases
Total	100%	100%
Violent	6.7	47.5
Fraud	18.3	9.1
Property	5.2	12.9
Drugs	39.5	14.7
Regulatory	3.3	2.0
Other	27.0	13.8
Number	60,403	1,126



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- In 1997 U.S. attorneys filed cases in Federal district court against 1,126 American Indians. Almost half of these cases involved a violent crime.
- The majority of cases were filed in U.S. district courts in South Dakota, Arizona, New Mexico and Montana.

American Indian Youth Detained

- In September 1994, American Indians were 75 of the 124 juvenile delinquents confined under Federal jurisdiction - about 60% of such juveniles.

American Indians and the Death Penalty

- Over the period 1973-97, 6,139 persons were sentenced to death in the U.S. During the same years 52 American Indians were sentenced to death, 0.8% of the total. Between 1976 and 1997 a total of 432 persons were executed, including 3 American Indians (0.7% of those executed). This translated into a rate of execution for those sentenced to death of about 7 per 100 persons receiving a death sentence and for American Indians, about 5.8 per 100.

	All Races	American Indians
Sentenced to death	6,139	52
Executions, 1976-97	432	3
Percent executed	7.0%	5.8%
Removed from death row by means other than execution	2,372	21
Percent removed by other means	38.6%	40.4%
Remaining under sentence of death, 1997	3,335	28
Percent remaining, 1997	54.3%	53.8%

- Among the 6,139 persons sentenced to death, 3,335 were still under a death sentence at the end of 1997 - 54.3% of those entering death row over the period. For American Indians, 28 of the 52 (53.8%) sentenced to death between 1973 and 1997 still remained under a death sentence at the close of 1997.
- About half of all death sentences imposed upon American Indians were in North Carolina (11) and Oklahoma (14). Oklahoma (8) had the largest number of American Indians currently under a sentence to death. No Federal death sentences were imposed on American Indians during the period 1973-97.



American Indian Tribal Criminal Justice

- The BJS Census of State and Local Law Enforcement Agencies, 1996 identified 135 tribal law enforcement agencies with a total of 1,731 full-time sworn officers. The Bureau of Indian Affairs (BIA), which also has law enforcement responsibility for selected tribal jurisdictions, reported 339 full-time officers authorized to make arrests and carry firearms.
- In addition to law enforcement services, American Indian tribes and the BIA operate jails in tribal areas.* (*BJS has conducted a survey of tribal confinement facilities. Analysis of survey responses will be reported in Survey of Jails in Indian Country, 1998, forthcoming, NCJ 173410) Data provided by BIA indicated that these facilities employed 659 persons and had an authorized capacity to house just over 2,000 adults and juveniles.

Tribal Jail Capacity and Jail Staff, by State and Tribe, 1998			
State	Tribe	Capacity	
		Adult	Juvenile
Alaska	Metlakatla	8	0
Arizona	Navajo Nation	208	36
	Colorado Indian Tribes	30	8
	Fort Mojave	1	1
	White Mountain Apache	31	17
	Hopi Tribe	68	28
	Tohono O'Odham	33	16
	Gila River	73	32
	Salt River Pima Maricopa	70	33
	San Carlos Apache	38	0
	Hualapai, Havasupai, Prescott Apache, Tonto Apache	36	8
	Supai	4	0
	Pascua Yaqui	1	1
California	Chehalis	2	0
Colorado	Southern Ute	4	0
	Ute Mountain Ute	14	2
Idaho	Shoshone Bannock	24	4
Michigan	Saginaw Chippewa	2	6
Minnesota	Boise Forte	8	1



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State	Tribe	Capacity	
		Adult	Juvenile
	Red Lake Chippewa	18	4
Mississippi	MS Band of Choctaw	32	8
Montana	Blackfeet	34	34
	Crow	12	2
	Gros Ventre & Assinboine	8	0
	Assiniboine and Sioux	21	21
	Northern Cheyenne	10	3
	Chippewa Cree	22	4
	Conf. Salish & Kootenai	16	4
Nebraska	Omaha	20	12
Nevada	Battle Mtn., Duckwater, Ely, Goshute, S. Fork Elko Band, Wells Band	28	0
New Mexico	Jicarilla Apache	0	8
	Laguna Pueblo	12	4
	Mescalero Apache	24	0
	Taos Pueblo	8	0
	Ramah Navajo	10	0
	Isleta Pueblo	6	0
	Zuni Pueblo	22	12
	Navajo Nation	41	14
North Dakota	Spirit Lake Sioux	25	8
	Standing Rock Sioux	42	8
	Turtle Mtn. Chippewa	22	8
	Three Affiliated Tribes	8	0
Oklahoma	Sac & Fox	0	69
Oregon	Conf. Tribes of Warm Springs	32	12
	BIA Law Enforcement	0	4
South Dakota	Cheyenne River Sioux	53	10



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State	Tribe	Capacity	
		Adult	Juvenile
	Crow Creek Sioux	10	4
	Lower Brule Sioux	14	2
	Oglala Sioux	52	32
	Rosebud Sioux	48	16
	Sisseton Wahpeton Sioux	16	4
Utah	Uintah & Ouray	24	0
Washington	Olympic Peninsula	14	4
	Puget Sound	7	1
	Kalispel & Spokane	8	0
	Conf. Tribes of Yakama	30	17
Wisconsin	Menominee	32	10
Wyoming	Shoshone Arapaho Tribe	26	4
TOTAL		1,462	536

NOTE: Data were supplied by the BIA, U.S. Department of the Interior, data for April, 1998. Staff of the facilities includes juvenile and adult detention officers and dispatchers.

Sources of Data on American Indians and Crime

One of the challenges facing all Federal statistical agencies is that representative statistical data about American Indians are difficult to acquire and use. This is true for a number of reasons with respect to crime data:

Sampling -- Most Federal surveys utilize nationally representative samples of persons, or households, thus limiting the capability to describe small population subgroups in detail. (American Indians comprise under 1% of the U.S. population) In addition, sampling procedures, relying upon selection of respondents within clustered geographical sampling units, may by chance miss those areas where concentrations of residences of small subgroups (such as American Indians) may be located. Finally, the fluidity of population movement between tribal and nontribal areas for both Indian and non-Indian populations makes it difficult to systematically describe those living in these areas. The 1990 Census revealed, for example, that nearly half the population of reservation and trust lands was non-Indian.

The design of national surveys such as the NCVS does not permit calculating separate statistics for each American Indian Tribe.

Coverage of Data -- Statistical coverage of incidents or cases in Indian Country utilizing law enforcement, judicial, or corrections data is difficult to quantify because Federal, State and local authorities may have



overlapping jurisdiction on tribal lands. Data about some crimes are collected by the Bureau of Indian Affairs (BIA) in Indian Country while other crimes by or against American Indians are recorded by local sheriffs or police. Arrest data are profoundly limited by the lack of information on arrest coverage among tribal and BIA law enforcement agencies.

Data on Trends -- Crime data relying upon either samples of population or incident and case-level data from administrative records suffers from the lack of repetitive collection so that change rates and trends can be analyzed. Much data on the employment, education, and quality of life measures of American Indians are only available from periodic collections and are often of only limited value for comparisons over time. Often many years have passed since they were last conducted. Agencies do not generally use some form of aggregation or multi-year averages for examining change or for comparisons to other racial or ethnic groups.

These limitations severely circumscribe the depth and generalizability of data on American Indians and inhibit the Nation's ability to know much of the details about victims, offenders, and the consequences of crime for both. BJS has made a strong commitment toward improving this situation through the National Crime Victimization Survey, improvements planned for the National Incident-Based Reporting System, and periodic BJS surveys of offender populations.

National Crime Victimization Survey

The National Crime Victimization Survey (NCVS) is one of two statistical series maintained by the Department of Justice to learn about the extent to which crime is occurring. The NCVS, which gathers data on criminal victimization from a national sample of household respondents, provides annual estimates of crimes experienced by the public without regard to whether a law enforcement agency was called about the crime. Initiated in 1972, the NCVS was designed to complement what is known about crimes reported to local law enforcement agencies under the FBI's annual compilation known as the Uniform Crime Reports (UCR).

The NCVS gathers information about crime and its consequences from a nationally representative sample of U.S. residents age 12 or older about any crimes they may have experienced. For personal contact crimes the survey asks about the perpetrator. Asking the victim about his/her relationship to the offender is critical to determining whether the crime occurred between intimates.

In the latter half of the 1980's, BJS, with the Committee on Law and Justice of the American Statistical Association, sought to improve the NCVS components to enhance the measurement of crimes including rape, sexual assault, and intimate and family violence. The new questions and revised procedures were phased in from January 1992 through June 1993 in half the sampled households. Since July 1993 the redesigned methods have been used for the entire national sample.



One of the important contributions of the NCVS is that it permits multiple years of responses to the same questions to be analyzed, facilitating research on small subgroups of the population. For this study 5 years of NCVS data (1992-96) were combined, resulting in more than 1.1 million interviews, just over 7,000 of which were conducted among American Indians. This represents the largest national sample of American Indians assembled for purposes of better understanding the incidence and effects of criminal victimization. In addition, changes are being introduced to the NCVS which will permit future disaggregation of those incidents occurring on tribal lands from those occurring elsewhere.

Uniform Crime Reporting Program

The UCR program of the FBI provides another opportunity to examine the issue of crime and violence among American Indians through the incident-based Supplementary Homicide Report program and the summary-based arrest component of the UCR provides data by race of arrestees for both Part I and the less serious Part II crimes.

In 1996 detailed data by race and offense were available for about 3 out of 4 arrests nationwide (about 11.1 million of the estimated 15.2 million arrests that year). American Indians are estimated to account for just under 1% of those arrested for Part I violent crimes and a slightly higher percentage of those arrested for Part I property crimes. Part II arrest offenses show that American Indians comprise larger percentages of those arrested for DUI, vagrancy, liquor law violations, and public drunkenness.

Specific UCR coverage of those arrests by tribal or BIA law enforcement agencies is not known, and the extent to which they are included in the national estimates of arrests is not systematically described. In addition, the 1996 UCR does indicate reduced reporting of arrests by race and that a number of jurisdictions (Kentucky, Illinois, the District of Columbia, Florida, Vermont, Kansas, and Montana) supplied either limited or no arrest data. Some of these incomplete or missing States, notably Montana, may affect the national estimates for American Indians.

National Incident-Based Reporting System

The National Incident-Based Reporting System (NIBRS) represents the next generation of crime data from law enforcement agencies. Rather than being restricted to a group of 8 Index crimes that the summary-based program uses, NIBRS obtains information on 57 types of crimes. The information collected on each violent crime incident includes victim-offender demographics, victim-offender relationship, time and place of occurrence, weapon use, and victim injuries. An important contribution of NIBRS is that investigating officers are asked to record information on the race of victims and offenders in the incident.



As of the end of 1997, jurisdictions certified by the FBI as capable of reporting incident-based data in the required format accounted for just over 7% of the U.S. population (about 19 million Americans) and just over 6% of all Index crimes (murders, rapes, robberies, aggravated assaults, burglaries, larcenies, and motor vehicle thefts). In those states with certified NIBRS systems, about 50% of the population is now covered by NIBRS reporting to the FBI.

BJS is currently funding preliminary studies of NIBRS data on two Indian reservations and their utility for improving our knowledge of crime with special regard for such concerns as intimate violence, family violence, and domestic violence and the role alcohol may play in these kinds of police-reported incidents. The Mille Lacs (Minnesota) and Lummi (Washington) tribal law enforcement agencies will use NIBRS data as a part of a case-tracking system to follow the subsequent processing of criminal incidents brought to the attention of the police.

Surveys of Probationers and Jail and Prison Inmates

BJS also conducts national surveys of persons under probation supervision and those confined in local jails and State and Federal prisons. These nationally representative surveys are the principal source of information on those serving time following a conviction: their backgrounds, their prior criminal histories, and the circumstances surrounding the offense for which they had been incarcerated. Both jail and prison surveys obtain from violent offenders details about the offender's relationship to the victim and how the crime was carried out. All surveys ask respondents to identify their race and ethnicity.

Law Enforcement Management and Administrative Statistics

BJS maintains the Law Enforcement Management and Administrative Statistics (LEMAS) series as the principle national source of data on the operations of police and sheriff's departments nationwide. LEMAS compiles information every 3 to 4 years from all large law enforcement agencies (at least 100 sworn personnel) and a sample of all other departments. To create the sample BJS also sponsors the Census of State and Local Law Enforcement Agencies, collecting basic information about the functions and number of personnel of all agencies in the U.S.

LEMAS data are obtained on the organization and administration of law enforcement agencies, agency responsibilities, operating expenditures, job functions, weapons policies, and demographic characteristics of sworn personnel. BJS obtains similar information from campus law enforcement agencies and Federal law enforcement agencies.

LEMAS data are available on the race and ethnicity of law enforcement personnel since 1987.



National Judicial Reporting Program

The National Judicial Reporting program (NJRP) is a biennial sample survey of court records on convicted felons nationwide. Using a nationally representative sample of counties, NJRP compiles information on the sentences that felons receive in State courts and on the characteristics of convicted felons. The NJRP first reported felony sentencing data for 1986 and has provided national estimates at 2-year intervals since that time.

In addition to the convicted felon's race and ethnicity, NJRP obtains individual-level data on the conviction offense, sentences received, case-processing, methods of conviction, and a wide variety of other defendant characteristics.

Federal Justice Statistics Program

The Federal Justice Statistics Program (FJSP) provides annual data on workload, activities, and case outcomes in the Federal criminal justice system. Information is reported on all aspects of case processing in the Federal justice system including the number of persons investigated, prosecuted, convicted, incarcerated, sentenced to probation, released prior to trial, handled by magistrates, sentencing outcomes, and time served. Data for this series are obtained from the Executive Office for U.S. Attorneys, the Administrative Office of the U.S. Courts, the U.S. Sentencing Commission, and the Federal Bureau of Prisons.

Data are available by defendant race and ethnicity at each processing stage of the Federal criminal justice system. The FJSP was initiated in 1980.

Persons Responsible for Report

Lawrence Greenfeld and Steven Smith wrote the report. Devon Adams and Todd Minton provided the statistical review. Maureen Henneberg, John Scalia, Jodi Brown, and Tracy Snell provided analytic assistance and comment. Norena Henry commented on drafts of the report. Melvinda Pete and Tom Hester produced the report. Marilyn Marbrook, assisted by Yvonne Boston, prepared the report for final publication.



Discussion Questions for Justice in Indian Country

FEDERAL VICTIM/WITNESS COORDINATORS:

- Please discuss when and how federal Victim/Witness Coordinators became involved in providing services to victims of crime in Indian Country. Include a discussion of how your office has become involved in providing such services and what types of jurisdictional issues arise in providing services for American Indian victims of crime.

FBI/LES:

One of the most difficult situations to address involves determining jurisdiction and law enforcement response in so called "checkerboard" areas: areas where tribal and non-tribal lands are interspersed. Attempts to cross-deputize local non-Indian law enforcement (such as Sheriff's Deputies or local police) and tribal and/or BIA officers has often been difficult.

- Please discuss the issues involved in cross-deputization for law enforcement.
- Discuss situations in which determination of jurisdiction has been particularly difficult and how your agency deals with such difficulties.
- Do federal law enforcement officers ever have jurisdiction in PL-280 states?

U.S. ATTORNEY'S OFFICE (PROSECUTORS):

Jurisdiction is a major consideration for prosecution. In most situations there will be concurrent tribal and federal jurisdiction for prosecution of Indian offenders. Some tribal members may believe that their U.S. Attorney does not zealously prosecute crimes in Indian Country. Other people may think that tribal people should not be punished in the federal system because they receive inordinately long sentences if convicted.

- How do you deal with these two opposing points of view?
- Please discuss how you work with tribal court systems to decide in which jurisdiction(s) a prosecution will take place. Include a discussion of the factors which may influence your office's decision to accept or decline a case, how declinations are communicated to tribal agencies, and the types of communication involved with tribal prosecutors.

IHS:

- Jurisdictional concerns are mostly an issue for the criminal justice system. Why is it important for you to be aware of these jurisdictional issues as a health care provider?
- Please discuss how you work with tribal, state, county, and/or other federal agencies in relation to crime victims.



BIA (SOCIAL SERVICES AND EDUCATION):

The prosecution of child sexual abuse cases is most often the type of case impacted by jurisdictional concerns (e.g., lack of prosecution because jurisdiction cannot be determined). Jurisdictional concerns also take place in Indian Child Welfare cases.

- Please discuss cases you have encountered where jurisdictional considerations hampered an investigation or prosecution of a child abuse case.
- What types of procedures does your agency have in place for dealing with such situations?



Worksheet for Justice in Indian Country

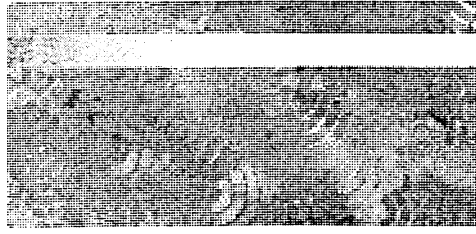
Large group discussion

1. What is the difference between sovereignty and jurisdiction?
2. Discuss how you have dealt with jurisdiction problems in your area. Has it been necessary to cross-deputize, develop written and/or oral agreements, etc? How did this develop and what were some of the barriers?
3. Please discuss how you work with other tribal agencies and systems to decide in which jurisdiction services will be received.
4. Discuss the factors which influence your office's decision to accept or decline a case. How are these declinations communicated to tribal agencies, and victims of crime and their families?
5. Do you sometimes feel that your office could have done more, but just didn't have the resources? What would be the resources you would need?



Master Overheads

Justice in Indian Country





Historical Context of Indian Country Justice

- Tribes have experienced reformist paternalism at the hands of federal and state governments
- U.S. military personnel replaced the authority of traditional law enforcement





Historical Context of Indian Country Justice

- Pre-Columbian
 - tribes established justice systems within parameters of cultural needs and customs
 - law enforcement has a traditional role in most, if not all, tribal cultures
 - the welfare of individuals depended on the welfare of the group





Historical Context of Indian Country Justice

- Assertion of Foreign Sovereignty
 - Catholic church constituted the dominant political and legal institution of Western Europe throughout the Middle Ages and early Renaissance





Historical Context of Indian Country Justice

- U.S. Constitution
 - U.S. Supreme Court alluded to several federal constitutional powers as supporting legislative and executive authority over Indian affairs





Historical Context of Indian Country Justice

- War Department
 - established in 1789 by the first U.S. Congress
 - was assigned responsibility for, in addition to military affairs, such other matters relative to Indian affairs, as assigned by the President





Historical Context of Indian Country Justice

- Department of the Interior (DOI)
 - administrative responsibility was passed from the Department of War





Historical Context of Indian Country Justice

- Code of Federal Regulations Courts - Courts of Indian Offenses
 - In 1870 federal government placed “Indian police” on reservations
 - operated according to DOI regulations
 - no legislation was enacted to define their jurisdiction or to govern their procedures



Historical Context of Indian Country Justice

- Code of Federal Regulations Courts
 - in 1935 DOI issued revised regulations to govern Courts of Indian Offenses and Indian police
 - these courts became known as CFR Courts, a reference to the source of regulations governing them
 - the regulations and Solicitor opinion restricted jurisdiction of CFR Courts





Federal Policies

- **Pre-Constitution Policy (1533-1789)**
 - British and Spanish colonies negotiated treaties with Indian tribes
 - these treaties accorded tribes an equivalent status to that of colonial governments





Federal Policies

- The Formative Years (1789-1871)
 - the new U.S. government assumed the role of the British and Spanish in making treaties with tribes
 - U.S. Supreme Court defined the relationship tribes had with the U.S. and established the doctrine of federal trust responsibility





Federal Policies

- Era of Allotment and Assimilation (1871-1928)
 - U.S. quit making treaties with tribes - they were seen as an impediment to assimilation
 - to encourage assimilation, Congress passed the General Allotment Act (Dawes Act)
 - Indians were given U.S. citizenship in 1924 for the first time



Federal Policies

- Reorganization Era (1928 - 1945)
 - Merriam Report set tone for reform and declared allotment to be complete disaster
 - Indian Reorganization Act of 1934 set up Reservation Business Councils to govern tribes and provided for the adoption of constitutions



Federal Policies

- Termination Era (1945-1961)
 - Legislation passed that called for a reversal of the tribal self-government movement
 - U.S. government terminated more than 50 tribal governments - they were simply no longer recognized as Indian Nations
 - P.L. 280 was passed in 1953 and gave 6 states mandatory and substantial criminal and civil jurisdiction over Indian Country





Federal Policies

- Self-Determination Era (1961-present?)
 - abuses of termination era led to reforms
 - this period characterized by expanded recognition of powers of tribal self government



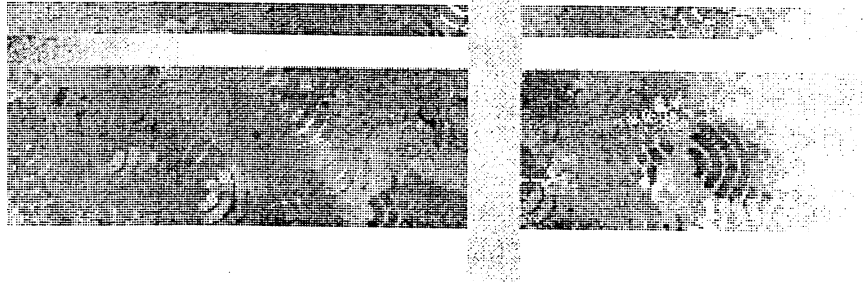



Important Legislation Passed

- Indian Civil Rights Act of 1968
- Indian Self-Determination and Education Assistance Act of 1975
- Indian Child Welfare Act of 1978
- American Indian Religious Freedom Act of 1978
- Native American Graves Protection and Repatriation Act of 1990




Master Handouts






Justice in Indian Country



Historical Context of Indian Country Justice

- Tribes have experienced reformist paternalism at the hands of federal and state governments
- U.S. military personnel replaced the authority of traditional law enforcement

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Historical Context of Indian Country Justice

- Pre-Columbian
 - tribes established justice systems within parameters of cultural needs and customs
 - law enforcement has a traditional role in most, if not all, tribal cultures
 - the welfare of individuals depended on the welfare of the group

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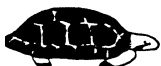


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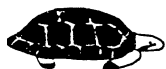


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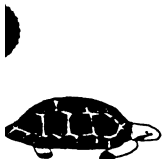


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Films and Videos

The following videos and films are only suggestions for use and are not endorsed by the authors or funding agency.

Ghost Dance by Tim Schwab and Christina Craton; 9 minutes; New Day Films, Hohokus, NJ. The 1890 massacre at Wounded Knee is remembered through poetry, art, and the haunting beauty of the Dakota landscape. Ghost Dance documents a pivotal event in American history and features the work of some of America's finest poets and Lakota artists. Ideal for the study of art, literature, and Native American culture.

Hopi: Songs of the Fourth World (by Pat Ferrero; 58 minutes; New Day Films, Hohokus, NJ) is a compelling study of the Hopi that captures their deep spirituality and reveals their integration of art and daily life. Amidst the beautiful images of Hopi land and life, a variety of Hopi--a farmer, religious elder,



grandmother, painter, potter and weaver--speak about the preservation of the Hopi way.

In Whose Honor? by Jay Rosenstein; 46 minutes; New Day Films, Hohokus, NJ. The long-running practice of using American Indian mascots and nicknames in sports is critically examined in this award-winning film. **In Whose Honor?** looks at the issues of racism, stereotypes, minority representation, and the powerful effects of mass-media imagery. We meet Native American mother Charlene Teters and follow her transformation into the leader some are calling the "Rosa Parks of American Indians" as she struggles to protect her cultural symbols and identity.

A Matter of Respect (Ellen Frankenstein and Sharon Gmelch; 30 minutes; New Day Films, Hohokus, NJ) is a stereotype-breaking documentary about the meaning of tradition and change. From a young drummer and dancer guiding tourists through a museum, to a silver carving radio D.J., to a Tlingit elder teaching at a summer fish camp, this engaging video portrays modern Alaska Natives expressing and passing on their culture and identity.

Spirit of the Dawn (Heidi Schmidt; 29 minutes; New Day Films, Hohokus, NJ) explores the dramatic changes in Indian education from the boarding schools of the past, where children were beaten for speaking their language in school, to the more culturally sensitive classrooms of today. On the Crow Reservation in southeastern Montana, we meet two sixth graders, Bruce Big Hail and Heywood Big Day III, as they participate in an innovative poetry class that encourages them to create beautiful poems celebrating Crow culture and history. Through the children, their parents and their teachers we see the strength and resiliency of a community fighting the constraints of the past to secure a future for its children.

Dakota Encounters (Tim Schwab and Christina Craton; 13 minutes; New Day Films, Hohokus, NJ) creates a moving portrait of the land and people of the Great Plains in the last days before widespread European settlement. When French mapmaker Joseph Nicollet traveled to the American prairie in 1836 to create an accurate map of the region, he fell in love with the landscape and the culture of the native Dakota people.

Grandfather Sky - This contemporary drama tells the story of Charlie Lone Wolf, a troubled urban Navajo/ Lakota youth whose journey from Denver to the home of his sheepherder uncle on the Navajo reservation launches him on a voyage of discovery. Scenes of present-day Navajo life are woven together with traditional ceremonies and stories to create a compelling portrait of the Navajo Way and of one young man's search for his own identity. Leader's Guide. Chariot Productions/ KAET-TV. 50 min.



The Eagle and The Raven: Purification by Banishment

The criminal justice system has become a subject of controversy in the United States. This critically-acclaimed program raises thought-provoking issues. It documents the true story of two Tlingit teenagers who were convicted of robbery in Washington State in 1993. After spending a year in county jail, the boys were brought home to Alaska to stand trial before their tribal court. In an unprecedented ruling that became the center of an international news story, the young men were ordered to atone for their crime by spending 12-18 months exiled on separate isolated islands, a sentence based on Tlingit tradition. But this punishment was curtailed by the U.S. court, which returned them to a state prison. Heaven Fire Productions.

Navajo Code Talkers - This program tells the interesting story of how the Navajo language became a "secret weapon" in outwitting the enemy during World War II. When the Japanese repeatedly succeeded in breaking the codes used for communication between the American forces in the South Pacific, a small group of Native American Marines took on the task of transmitting messages in Navajo. And that "code" was never broken. 27 min.

American Indian Sweat Lodge Ceremony - Shows the entire ceremony. A little hut of the woods used as a sauna/steam bath. Also shows the sacred pipe ceremony. 1987, 90 minutes, Artistic Video, Sound Beach, NY.

Celebration - (Chris Spotted Eagle) filmed at the Honor the Earth Powwow held annually and depicts the strengths of Native American life. **Pipe is the Alter** - spiritual leader Amos Owen, a Sioux Indian living on the Prairie Island Reservation near Red Wing, Minnesota shares his daily prayer ritual using the ceremonial pipe. 26 minutes; Intermedia Arts, Minneapolis, MN.

A Cree Healer - Consists of interviews with the healer and shows segments where he prepares for the sweatlodge ceremony. The interview concerns the issues and controversies encountered by this Native healer in openly discussing the subject. 22 minutes, Edmondton, Ontario, Canada.

Crow/Shoshone Sundance... A Traditional Ceremony - Documents the traditional Crow lifeways and philosophies through authentic and legendary Crow/Shoshone Sundance Ceremony. 56 minutes, University of Minnesota, Minneapolis, MN.

Dancing in Moccasins: Keeping Native American Traditions Alive -

Examines the needs and problems of today's Native Americans, both those who live on the reservation and those who have chosen the mainstream. The conclusions focuses on celebration and survival as reflected in the continuing tradition of the Pow-wow. 49 minutes, Princeton, NJ.



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Federal Indian Law - (Joel Freedman and Joan Kaehl) Traces the development of federal Indian law through treaties, statutes, and court decisions. By using real life examples it illustrates the impact that federal Indian law can have on tribal economics and community lifestyles and how law can be made to work for your tribe. Narrated by Kirke Kickingbird, founder of the Institute for the Development of Indian Law. 19 minutes, Vienna, VA.

Fulfilling the Vision "Oyate Iglukinini" - Examines the struggle of the Sioux generation that came of age in the 70s and 80s to redefine the nation's identity. Addresses contemporary socioeconomic issues, spirituality and traditional wisdom. Depicts Lakota spirituality as expressed in the Vision Quest and Sundance. 30 minutes, Phoenix, AZ.

Full Circle - (Maria Gargiulo and John de Graaf) Documentary which relates the success story of Native American tribes of Washington state by depicting the diverse lives of tribal elders, business leaders, traditional artists, environmental activists, salmon fisherman, and innovative teachers. 50 minutes, Berkley, CA.

Giveaway at Ring Thunder - (Jan Wahl and Christine Lesiak) Documents a giveaway held during the annual Ring Thunder Pow-wow on the Rosebud Sioux Reservation. The Menard family is celebrating the giving of Indian names to three children. Opens with archival photographs of Lakota Sioux life and a reflection on traditional customs in earlier times. 15 minutes, Lincoln, NE.

Honorable Nations - (Chana Gazlit and David Steward) For 99 years the residents of Slamanca, a town in upstate New York, rented the land beneath their homes from the Seneca Nation for \$1 a year under the terms of a lease agreement imposed by Congress. This documentary charts the conflicts that arose when the lease's impending expiration pitted the town's citizenry against the Seneca Nation. 54 minutes, University of MN, Minneapolis, MN.

How the West Was Won... And Honor Lost - A re-enactment, using photographs, painting and newspaper accounts, telling the story of the white man's treatment of American Indians in the westward push for land. Broken treaties, railroad building, decimation of the buffalo, and the massacre at Wounded Knee. 25 minutes, University Park, PA.

In the White Man's Image - Covers the policies, methods, and tragic long-term consequences of attempts to "civilize" native Americans in the 1870s. 60 minutes, University of MN, Minneapolis, MN.

Institute for the Development of Indian Law - A series of five seven minute films providing a review of vital areas of federal Indian law and their effect on tribal government. They include: A Question of Indian Sovereignty, Indian Treaties, Indians and the U.S. Government, Indian Jurisdiction, and the Federal-



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Indian Trust Relationship. Institute for the Development of Indian Law, Vienna, VA.

Last Stand at Little Bighorn - N. Scott Momaday, narrator. Re-examines the Battle of the Little Bighorn from both the white and Native American perspective. 54 minutes, Native American Public Broadcasting Co., Lincoln, NE

Legacy - directed by Chief Roy Crazy Horse and Jeff Baker. Examines the perpetuation of the romantic myths surrounding Christopher Columbus' "Discovery of the New World" in 1492. 22 minutes, Cinema Guild, New York, NY.

The Legend of the Buffalo Clan - A lesson for teaching traditions, proper behavior, cultural history, and spiritual beliefs. The Buffalo Chief does an authentic healing ceremony, reviving a child. 29 minutes, Phoenix Films, St. Louis, MO.

The Primal Mind - Alvin Perlmutter and Jamake Highwater. Explores the basic differences between Native American and Western cultures; examines two cultures' contrasting views of nature, time, space, art, archaeology, dance and language. 58 minutes, Pennsylvania State University, University Park, PA.

Taking Tradition to Tomorrow - N. Scott Momaday, PhD, narrator. A video presentation and study guide, featuring significant cultural and scientific contributions that American Indians have made to society. 30 minutes, American Indian Science and Engineering Society, Boulder, CO.

Through This Darkest Night - Susan Malins, Daniel Salazar, Vivian Locust and Richard Peters. Presents Indian people's experiences during the early reservation period, including some drawn from period accounts. Three speakers: a man speaks of the upheaval experienced when the buffalo were finally gone; a woman describes how she used her strength and traditional skills to ensure that her family would survive; and a third speaker tells of being sent to a boarding school and the isolation and humiliation of that experience. 12 minutes, United Nations Plaza, New York, NY.

The Trail of Tears - Traces westward expansion and the damage created to Indian culture. 13 minutes, Films for the Humanities, Princeton, NJ.

The Trial of Standing Bear - Tells the story of one man's struggle of self-determination in the 1879 court case "Standing Bear vs. Crook." The dramatic portrayal of the courageous Ponca Chief Standing Bear explores the personal side of the story as the Poncas were forced from their home on the Niobrara River (now Northern Nebraska) to inhospitable Territory that is now modern-day Oklahoma. 120 minutes, Great Plains National, Lincoln, NE.



Understanding American Indian Religious Freedom Act - A summary of the 1993 Congressional Amendment to the American Indian Religious Freedom Act which concerns protection of the use of sacred sites, eagle feathers and peyote, and guarantees prisoner's rights. Features testimony by Indian law professor Vine Deloria, Native American rights attorney Walter EchoHawk and Senator Daniel Inouye, Chair of the Senate Select Committee on Indian Affairs. 15 minutes, Honor, Milwaukee, WI.

Periodicals

American Indian Law Review

University of Oklahoma Law Center

This semiannual journal documents and analyzes legal, cultural, and historical issues of interest to Native American communities. Includes articles by legal professionals and scholars, notes written by students and recent developments in the federal courts on American Indian issues.

Indian Country Today

Rapid City, SD

A weekly newspaper serving 21 Indian reservations in North and South Dakota, Nebraska and Montana. With the addition in 1991 of a Washington, DC bureau, the Lakota Times also covers the U.S. Capitol from an Indian perspective.

Indian Courts

National American Indian Court Judges Association
Quarterly newsletter.

Indian Law Support Center Reporter

Native American Rights Fund

Monthly newsletter providing local legal services attorneys with information on developments in the area of Indian law. Includes summaries of recent court decisions in Indian Country, Federal Register highlights, and new publications and materials.

Native Peoples Magazine

Phoenix, AZ

A full-color, quarterly magazine portraying the arts and lifeways of Native peoples of the Americas. Includes book and audio/video reviews, Native American foods, collectors corner, guest essays, and in the news section on Native America role models. Affiliated with ten organizations including the national Museum of the American Indian/Smithsonian Institution.



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The Sentinel

National Congress of American Indians, Washington, DC.

Focuses on national issues affecting Native American. Examines federal legislation and governmental policy developments that affect Indians. Book reviews. Monthly.



Suggested Readings

A Short History of Indian Law Enforcement

Preface

Whether it be achieving the peaceful arrest of Geronimo and his heavily armed followers in the 1870's, stopping the liquor traffic in the Indian Territory just after the turn of the century, or maintaining the peace in the emotionally charged atmosphere of the Dakotas in the 1970's, the work of Indian police has always been challenging. The Indian police carry with them a long and distinguished tradition that provides the inspiration to meet the challenges they face. It extends not merely to the creation of the reservation system, but back into the unrecorded histories of the Native American societies before the white men came.

Many of the men who answered the call to service in the 1870's were already veterans in police work with the police societies of the Plains tribes or the office of High Sheriff of the tribes of the Indian Territory.

Likewise, the first judges selected were often men with distinguished records as leaders of their people. Some, like Quanah and Gall, had been leaders in the fierce Indian resistance to white encroachment. When they saw conditions had changed, they chose again to lead their people and help make the best of the new world.

This short history of the Indian Criminal Justice system is dedicated to the men and women whose goal it is to carry on this heritage as they work each day to bring the peace, justice and safety so important to the continued development of the communities we serve.

You may notice this document only covers our history up to 1975, and many dramatic changes have occurred since then. When time and resources permit we fully intend to update this section.

Theodore R. Quasula
Director, Office of Law Enforcement Services



A Short History of Indian Law Enforcement

"I have appointed a police, whose duty it is to report to me if they know of anything that is wrong."¹ With those words Thomas Lightfoot, United States Indian Agent to the Iowa and the Sac and Fox tribes in Nebraska, became the first agent to report the establishment of a Federally-sponsored Indian police in 1869.

Agent Lightfoot's action was his response to a major shift in United States policy toward the Indians. Europeans from the time of their first arrival, had dealt with Indian tribes as sovereign nations. When the Europeans wanted more land, they forced tribes to sign treaties agreeing to move out of the way. When there was no place else to go, the tribes were forced to agree to reserve only a small part of their lands for their own use.

As the white population in Indian country grew, many people began to believe the Government should deal with Indians as individuals rather than as sovereign tribes. Commissioner of Indian Affairs Ely S. Parker expressed this view in 1869 when he urged an end to treaty-making:

"...because treaties have been made with them, generally for the extinguishment of their supposed absolute title to land inhabited by them or over which they roam, they have been falsely impressed with the notion of national independence. It is time that this idea should be dispelled and the government cease the cruel farce of thus dealing with its helpless and ignorant wards."²

Four years later, Commissioner Francis A. Walker recommended a new policy to replace the treaty approach:

"The reservation system affords the place for thus dealing with tribes and bands, without the access of influences inimical to peace and virtue. It is only necessary that Federal laws, judiciously framed to meet all the facts of the case, and enacted in season, before the Indians begin to scatter, shall place all the members of this race under a strict reformatory control by the agents of the Government."³

To implement this policy, Commissioner Walker urged the continued use of the military:

"Such a use of the military constitutes no abandonment of the peace policy and involved no disparagement of it. It was not to be expected--it was not in the nature of things--that the entire body of wild Indians should submit to be restrained from their Ishmaelish proclivities without a struggle on the part of the more audacious to maintain their traditional freedom."⁴

There were many persons concerned with Indian Affairs who agreed with Commissioner Walker that Indians should be "reformed" but did not believe the Army should be used to do it. Walker's successor, Edward P. Smith, also urged the use of the military against the Sioux in his first annual report in 1873.⁵ The



following year, however, he recommended that deputy U.S. Marshals be used to enforce law among the Indians.⁶

In the meantime, Agent Lightfoot and others improvised their own solutions to the problem. In 1872, Special Indian Commissioner for the Navajos, General Howard, organized a cavalry of 130 Navajos to guard reservation boundaries, arrest thieves and recover stolen stock.⁷ The force was successful in recovering 60 head of stock in three months and continued in existence despite orders from Washington that it be disbanded.⁸

In 1874, the San Carlos Reservation Agent, John Clum, wanted to control both the Apaches and the U.S. Cavalry. Clum's predecessors had complained that the reservation was under military control. Agent Clum was determined to change that. He knew he could not assert his independence from the military while depending on it to keep the peace. His answer was to hire four apaches at \$15 a month as police. Two months later he asked the military to leave. The military did not oblige, but Agent Clum did manage to function without military assistance.⁹ The police force grew to 25 including Clay Beauford, a Virginian he hires as police chief.

The police were establishing themselves in the Plains at the same time. The satisfactory operation of forces among the Winnebagos, and the Santee and Red Cloud Sioux led Commissioner Edward P. Smith to begin encouraging agents to establish Indian police forces. Thirty-nine out of 62 agents favored immediate establishment of forces on their reservation.¹⁰

There were no funds expressly appropriated by Congress for law enforcement. In 1876, Commissioner John Q. Smith argued for congressional action in his annual report:

"Civilization even among white men could not long exist without the guarantees which law alone affords; yet our Indians are remitted by a great civilized government to the control, if control it can be called, of the rude regulations of petty, ignorant tribes."¹¹

By 1877, the level rhetoric had escalated when Commissioner Ezra A. Hayt quoted Episcopal Bishop William Hobart Hare in his report:

"Civilization has loosened, in some places broken, the bonds which regulate and hold together Indian society in its wild state and has failed to give people law and officers of justice in their place. This evil continues unabated. Women are beaten and outraged; men are murdered in cold blood; the Indians who are friendly to schools and churches are intimidated and preyed upon by the evil disposed; children are molested on their way to school and schools are dispersed by bands of vagabonds; but there is no redress. The accursed condition of things is an outrage upon the One Lawgiver. It is a disgrace to our land. It should make every man who sits in the national halls of legislation blush. And wish well to the Indians as we may and do for them what we will, the effect of civil agents, teachers and missionaries are like the struggle of drowning men weighted with lead, as long as by the absence of law Indian society is left without a base."¹²



The Commissioner asked Congress for funds to pay the police saying:

"I would recommend that the force be composed of Indians, properly officered by white men, and where capable Indians can be found that they be promoted to command, as reward for faithful service..."

He noted that such a police force was already working well in Canada and stated:

"I am thoroughly satisfied that the saving in life and property by the employment of such a force would be very large and that it would materially aid in placing the entire Indian population of the country on the road of civilization."¹³

Indian agents did not wait for congressional action. The agent for the Chippewas got the tribe to elect policemen who brought offenders before a tribal court of three chiefs. The agent for the Blackfeet was a former city marshal who persuaded the tribe to draft an entire code of laws and create a court to enforce it. At the Spotted Tail Agency in Nebraska, Sioux recruited into the army were available as a police force.¹⁴

In 1877, the actions of the San Carlos Apache police bolstered the arguments for the Indian police when they peacefully arrested Geronimo and his followers, who were accused of raiding several Arizona settlements. Agent Clum organized a special force of 103 Apaches to make the arrest. Only Clum and 22 policemen went to Warm Springs Agency where Geronimo was. The remainder of the force stayed a few miles out with orders to come in after nightfall. When the reserves slipped in, they were hidden in a commissary warehouse. Geronimo and the 50 men with him believed they had the agent's forces badly outnumbered. But as Clum prepared to make demands, the doors of the warehouse were flung open, and with rifles at the ready, the reserves took control.¹⁵

Congress appropriated funds for the first time for Indian police for Fiscal Year 1879. The act specified that the \$30,000 appropriation was to pay not more than 430 privates at no more than \$5 a month and 50 officers at \$8 a month. While the available of funds stimulated the rapid growth of the Indian police, the salary limitations provoked cries of anguish from agents throughout the country.¹⁶ Agent Clum had been paying \$15 a month for five years.¹⁷ The Indians themselves were well aware that scouts in the Army also received \$15 a month.¹⁸ Many agents said they could not recruit a police force at \$5 a month.¹⁹ Nevertheless, the Commissioner reported that 30 agency police forces were in existence by the end of 1878 and a code of police rules had been promulgated. He did protest, however, that the salary was adequate only at those reservations where rations were provided.²⁰

Duties of the Indian police included arresting and turning back intruders, removing squatters' stakes, driving out cattle, horse or timber thieves, escorting survey parties, serving as guards at ration and annuity distributions, protecting agency buildings and other property, returning truants to school, stopping bootleggers, making arrests for disorderly conduct, drunkenness, wife-beating and theft, serving as couriers, keeping agents informed of births and deaths and



notifying agents of any strangers. "Vigilant and observant by nature and familiar with every footpath on the reservation."

The Commissioner wrote of the Indian police, "No arrivals or departures or clandestine councils can escape their notice, and with a well-disciplined police force, an agent can keep himself informed as to every noteworthy occurrence taking place within the entire limits of his jurisdiction."²¹

The Commissioner also mentioned another aspect of the police system that endeared it to the agents, but provoked violent opposition from many traditional Indian leaders: "The curtailment of prerogatives formerly claimed by tribal chiefs." The Commissioner wrote, "It brings into an agency a new element - a party which "the idea of the supremacy of law and which by precept and example inculcates that idea in the minds of others of the tribe."²²

While many traditional Indian communities maintained order without assigning law enforcement responsibilities to specific individuals or groups, many other tribes did have institutions roughly analogous to a police force.

The Chippewa, Creek, and Menominee had rather amorphous police organizations composed of all warriors who had attained a certain minimum distinction in battle.

Among the Osage, the two joint civil head chiefs of the tribe appointed one man from each of the ten clans of the tribe to serve as police in the great bison hunt. The college of seven head civil chiefs of the Omaha appointed a leader of the hunt from one clan and then appointed police to serve under him. The Iowa had permanent police composed of two bodyguards chosen by each of seven civil chiefs. The Pawnee maintained one police force for the village and another for the hunt. Any of seven societies of the Oglala might be called on for police-duty. The Blackfeet assigned police duties to a particular society only when a special function or occasion made it necessary. Two societies of the Wind River Shoshone held the police function, one of them apparently being superior to the other. Among the Mandan, Arikara policing appeared to be the exclusive prerogative of the Black Mouth society, but among the Crow, nine different societies took turns as police.²³ The Cherokees, because of their long contact with the English, had a police force, called the Lighthorse, which was quite similar to a United States police agency. They also had a court system.

As Agent McGillycuddy of Pine Ridge wrote the Commissioner, traditional leaders understood well the threat that a police force controlled by an agent posed to their authority:

"The Indians generally recognize the police authority.... From time immemorial there have existed among the Sioux and other tribes, native soldier organizations systematically governed by laws and regulations. Some of the opposition encountered in endeavoring to organize the police force in the spring of 1879 was from these native soldier organizations, for they at once recognized something in it strongly antagonistic to their ancient customs, namely a force at the command of the white man opposed to their own."²⁴

Opposition to the establishment of police took several forms. At Colorado River, the agent reported, "The employment of a police has been impracticable, it



being unheard of to find a Mohave to denounce another. "²⁵ At Lower Brule in 1879, a party of about 150 young men under the leadership of one of the chiefs attacked the house and property of the police force, broke the doors and windows and shot their dogs, chickens and hogs. They then forced the police at gunpoint to renounce their promises to serve.²⁶

The chief at Rosebud at first opposed the creation of an Indian police, but relented after a visit from the Secretary of the Interior.²⁷ The police, however, remained loyal to Chief Spotted Tail. During a dispute with agency traders, Spotted Tail ordered the police to keep Indian customers from entering the stores. The police obeyed, much to the consternation of Agent Cook. There was a confrontation between Cook and Spotted Tail during which Cook threatened to organize another police force. After consultations with other Indian leaders, Spotted Tail backed down saying that he had been the agent for his people for so long that he had forgotten his Great Father had sent him one.²⁸

A few weeks later, in keeping with his new policy, Spotted Tail reported a horse raid into Nebraska. Captain Crow Dog, accompanied by one white man and eighteen Indian police took the raiders into custody and delivered them to Fort Randall 135 miles away.²⁹

Alliances shifted quickly among the Sioux and their agents. Agent McGillycuddy reported, "Enlisted in the police are White Bird and Little Big Man, the latter being a Northern Indian, and having taken a prominent part with Sitting Bull in the Big Horn Campaign of 1878, afterwards surrendering at the Agency with Crazy Horse."³⁰

Congress doubled the appropriation and authorized the employment of 800 privates and 100 officers in Fiscal Year 1880, but keep the same pay limits despite the protests of the agents. The following year, the appropriation was raised again to \$70,000. By 1881, 49 of the 68 agencies had police.³¹ Agent McGillycuddy noted in his 1881 report that the police had maintained quiet among the Oglala for three years. He said the Indian had chosen the Indian police as a lesser evil than the military.³²

The following year the agent at Lower Brule reported that the Indians now demanded a police force only three years after their attack on the police.³³ The Pima-Maricopa police, however, suffered a severe setback that same year. The Agent allowed the police to leave the reservation to protect some white settlers. The interpreter got drunk and revealed that there were doubts whether funds would be forthcoming to pay the police. The rest of the police then got drunk too and the agent had to reorganize a police force from scratch.³⁴

The problems of law enforcement in Oklahoma and the Indian Territory were different from those of the Upper Plains. While the police in the Dakotas were attempting to alter certain aspects of traditional Indian culture, many Indians in the Indian Territory had already adopted many European customs. Police at the Union Agency, serving the Five Civilized Tribes, had to deal with some of the more famous Western outlaw gangs, such as, the Daltons, the Starrs, and the Cooks.

Bob Dalton had once served as Chief of the Osage police until he was fired upon the discovery that he and his brother were bootleggers. They and



other members of their family then formed the Dalton Gang and specialized in bank and train robberies until their deaths two years later in Coffeyville.³⁵

At times, the gangs threatened to take over entire communities. In 1895, the standing orders of the 40 Union Agency Indian policy read as follows:

"Arrest all outlaws, thieves, and murderers in your section, and if they resist you will shoot them on the spot. And you will aid and assist all deputy United States Marshals in the enforcement of the law, and make yourself a terror to evil doers."³⁶

The Cherokees brought with them from Georgia a complete criminal justice system. Just as agents in the Dakotas recruited members of the tribal police societies to serve on the agency police force, so the Union Agent recruited a former High Sheriff of the Cherokee Nation to be captain of the Agency police in 1880. During his six years in that position, Captain Sam Sixkiller engaged in many gun battles and survived all of those in which he was armed. He was not armed, however, on Christmas Eve, 1886 when he walked out of a drugstore in Muskogee. Two men stepped out of the darkness armed with a shotgun and .45 pistol. Sixkiller managed to deflect the shotgun blast, but the other man fired four slugs into him. Both killers were captured, but through a combination of escapes and complicated extradition proceedings between the Creek and Cherokee Nations, neither was ever convicted.

The murder caused Congress to pass a law making it a Federal offense to kill an Indian police officer. That law is still in effect and codified as post of 18 U.S.C. 1114.³⁷

The most famous shootout involving Indian police occurred three years later when Agent James McLaughlin ordered the Indian police to arrest Sitting Bull in December of 1890. At dawn on December 15, 1890, 39 police officers and four volunteer surrounded Sitting Bull's quarters. The police were inside the cabin before he awakened. he was placed under arrest, but by the time the party was ready to leave, over 100 of Sitting Bull's supporters were gathered outside. Shooting broke out in which Sitting Bull, eight of his supporters and eight Indian police were mortally wounded.³⁸

Congress raised the appropriation for Indian police to \$82,000 for Fiscal Year 1883 and authorized the employment of 1,000 privates and 100 officers. The following year both funds and employment ceiling were returned to the F.Y. 1882 level. Never again did Congress authorize the employment of as many police as it did in 1883.

Congress, for the first time, allowed a higher police salary in F.Y. 1885 when it authorized the employment of ten Navajo police at \$15 a month. The following year it raised the maximum for other police to \$8 a month for privates and \$10 for officers, but also reduced the employment ceiling by 50 privates and 25 officers. In 1887, the authorized force was again cut by 50 privates and five officers and the special provision for the Navajos was omitted.

On December 2, 1882, Secretary of the Interior Teller sent a memorandum to Commissioner Hiram Price asking him to formulate rules to suppress certain practices that were considered a hindrance to the civilization of the Indians. It was in response to this memorandum that on April 10, 1883, the



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Commissioner promulgated rules for Courts of Indian Offenses. Agents were instructed to appoint leading tribesmen as judges to act against such practices as sun dancing, medicine-making, polygamy and the sale of wives.³⁹ Before that time, the agents served as judges. They alone tried and sentenced all Indians arrested by the police.

Commissioner Price requested \$50,000 from Congress to pay the judges, but was refused.⁴⁰ Faced with the task of implementing the Commissioner's instructions without funds, agents developed two solutions: Some agents appointed members of the police force to be judges since police were already being paid.⁴¹ Other allowed judges to collect their salaries from the fines they levied. The Commissioner scaled down his funding request to \$5,000 for 1886, but Congress still refused to appropriate money to pay judges.⁴²

Although some agents were very happy to extricate themselves from the unpopular work of ordering punishment for individual Indians, many others were reluctant to initiate the court system. The agent at Rosebud noted, "From the Indian standpoint the offenses set forth and for which punishment is provided are not offenses at all."⁴³

The job of policeman involved numerous tasks that were sure to make enemies. They were expected to set an example by wearing white man's attire, cutting their hair, practicing monogamy and taking an allotment. Their duties included determining whether a fellow tribesman was working enough to merit his sugar, coffee, and tobacco rations. As one agent put it. "The police are looked upon as the common foe, and the multitude are bitterly opposed to them."⁴⁴ Many agents considered it unfair to ask them without additional pay to take on the even more unpopular job of sentencing their fellow tribesmen.

Although Federally sponsored police and courts were steadily taking over responsibility for internal law enforcement on the reservations, existing statutes and treaties seemed to regard jurisdiction over crimes exclusively involving Indians on Indian land as belonging to the tribe. It was Crow Dog, formerly captain of the police at Rosebud, whose actions brought the attention of the Supreme Court to this issue.

Crow Dog had left the police force and became associated with a faction opposing Spotted Tail. After a tribal council meeting in 1881, Crow Dog suddenly leveled a rifle at Spotted Tail and shot him at point-blank range. Crow Dog was arrested and taken into Deadwood, South Dakota, for trial in Federal Court. He was found guilty and sentenced to death, but was released when the Supreme Court in ex parte Crow Dog, 109 U.S. 556 (1883) held that United States courts had no jurisdiction. The case attracted nationwide attention and pressure for Congressional action. Some Congressmen pushed for extending all Federal law to cover Indians, but others argued that such a move was too drastic. The result was the Major Crimes Act of 1885, now codified as 18 U.S.C. 1153, which gave Federal Court jurisdiction over acts of murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny.⁴⁵

The Major Crimes Act was silent on the lesser crimes that were usually brought to the Courts of Indian Offenses. An incident in Oregon brought a measure of Federal judicial sanction to the Indian Courts. The Indian police at



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Umatillar had arrested a woman for immoral behavior, but she was rescued from the agency jail by friends, who became defendants in the case of U.S. v. Clapox, 35 Federal 575 (1888). When the Federal District Court in Oregon decided the case, it held that Courts of Indian Offenses were "educational and disciplinary instrumentalities, which the United States in its role as virtual guardian of the Indians had the power to create."⁴⁶

Also in 1888, the Courts of Indian Offenses received explicit Congressional sanction when \$5,000 was appropriated to pay the judges. That year the judges were paid from \$3 to \$8 a month, but for seven months only. The next year funding continued at the same level, but in July, 1890, Congress doubled the appropriation. This was done over the objections of Senator Francis M. Cockrell of Missouri, who wanted to hold the line at \$75,00. He feared high salaries "...will degenerate into compensation alone, detached from any honor or any respect, simply for the compensation."⁴⁷ The Commissioner argued, "The importance, dignity and in many cases unpopularity of the position of Indian judges is such that it should command a salary of at least \$10 a month." After the Congressional action, the top monthly salary was raised to \$10, but as late as 1925, the standard monthly salary was only \$7.

In 1890, the Commissioner wrote, "Without money, legislative authority or precedent these courts have been established and maintained for eight years, and in spite of their crudities, anomalies and disadvantages have achieved a degree of dignity, influence, and usefulness which could hardly have been expected."⁴⁸

Separate funding brought new status to the Indian Courts. In 1890, two former lieutenants of Sitting Bull were on the bench at Standing Rock. One was Gall, a leader at the Battle of the Little Big Horn. The Court meted out sentences from 10 to 90 days at hard labor in the agency guardhouse. That year the Court tried 90 cases, imposed \$87 in fines and required 11 offenders to forfeit their weapons.⁴⁹

The Chief Judge at the Kiowa Agency was also a former military leader. Son of a Comanche Chief and a white captive, Quanah Parker was leader of several hundred Plains warriors who launched a dawn attack against the buffalo hunters at Adobe Wells in Texas, the last great battle of the Comanches. When the Court of Indian Offenses was first established in 1886, Quanah was named as one of the judges. Two years later he was Chief Judge.⁵⁰

The Kiowa Court file records show several decisions that indicate the Court respected Kiowa and Comanche concepts of justice. There was a manslaughter case involving a person who aimed what he thought was an unloaded gun at a friend when it went off. He received a 10-day jail sentence. A drunk accused of assault received a 4-day sentence. Guilty verdicts in theft cases resulted in one 10-day sentence and two \$10 fines. An Indian found guilty of bigamy was ordered to pay the first wife a sum of \$10 and to present her with a well-broken pony. In another marital dispute, an Indian accused of seducing a wife was found guilty but not fined or sentenced. The woman involved was ordered to return to her husband and remain with him until his other wife, her sister, had recovered from her current illness.⁵¹



Quanah Parker's own marital status caused him many problems with Indian Service officials. When he took his seventh wife in 1894, the Commissioner wrote him that he would have to either give her up or lose his judgeship. Quanah signed a pledge saying he would return the seventh wife to her family. But later, after a trip to Washington, Quanah informed the agent that the Commissioner had agreed to let him keep his wife and she subsequently bore him five children. He continued on the bench until 1897 when a new Commissioner heard about his wives and ordered his removal over the vehement protests of the Indian agent.⁵²

In 1892, the regulations for the courts were modified so that individual judges were assigned to districts. The court en banc was to be convened only for criminal appeals and civil cases. Judges were authorized to perform marriages.⁵³ Funding for F.Y. 1892 was raised to \$12,540, the highest level it was to reach until F.Y. 1928.

The decision in U.S. v. Clapox left many jurisdictional questions unanswered. The authority of the courts to handle cases involving allottees, whites, mixed-bloods or off-reservation arrests was challenged. The standard Indian Service response was not to press the issue in order to avoid an unfavorable decision.⁵⁴

Some agents allowed judges to be chosen by popular election. Divided into three voting districts in 1892, the Fort Peck Agency was the scene of "electioneering, log-rolling, wire-pulling, and all the etcetera of an election in civilized life," according to the agent. Elections were also held at the Siletz and Crow Creek Reservations.⁵⁵

Fines and hard labor were the most common sentences. In the absence of a jail for the Paiutes in 1888, prisoners were chained to a tree. The usual solution was to convert an extra room at agency headquarters into a cell or to use the guardhouse of an Army post.⁵⁶

The courts made a substantial labor force available to the agents. At the Tulalip Agency in the State of Washington, prisoners were assigned to 600 days of roadwork in 1902. The following year, the figure was 815 days and 1,366 days the year after that. the prisoner was assigned a particular task and it was up to him to get it done before the next session of court. A supervisor would inspect it when the prisoner indicated it was ready.⁵⁷

Funding for the police during this period continued to rise. In 1890, the pay for privates was raised to \$10 a month and that for officers to \$12 a month. The next year, officer's pay was raised to \$15 a month. In 1892, Congress appropriated \$156,000. The amount was reduced by \$25,400 the next year and stayed below the 1892 level until 1907, when the appropriation was raised to \$200,000 and salaries were raised to \$20 for privates and \$25 for officers.

Despite the increasing funding there were many complaints about the outmoded equipment available to the police. In 1883, the agent at Fort Peck complained that the police were given old Remington revolvers whose cylinders did not revolve. In this report to the Commissioner, he wrote:

"The idea of ordering a man so armed to arrest a mad Indian who wants to die, but wants to kill as many people as he can before going, and armed



with a Winchester rifle. I don't much believe that white soldiers would obey such an order. They should be given the armament, pistol and carbine of the cavalry soldier (caliber .45); and now that this arm is changed by the troops for a more modern weapon a few of these arms in the hands of the Indian police would do as much good for the public in maintaining order as lying piled up in arsenals waiting for a prospective was which may never be realized."⁵⁸

In 1909, Congress added assault with deadly weapon to the list of crimes over which Federal Courts had jurisdiction.

Shortly after the turn of the century, the first Indian policewoman, Julia Wades in the Water, was hired at the Blackfeet Agency in Montana, where she served 25 years. Her assignments included housekeeping and cooking at the jail and handling the women prisoners.⁵⁹

The first general prohibition against liquor in Indian country was passed by Congress in 1832. The liquor laws appear now in much amended form in 18 U.S.C. 1152, 1156, and 1161. For the most part, the Indian police were no match for bootleggers. Most bootleggers were non-Indians. Neither their Indian customers nor their white neighbors willingly gave testimony against them. Deputy U.S. Marshals were assigned to enforcing the liquor laws, but Indian Agents complained that they concentrated on arresting the Indian customers rather than the bootleggers. Many deputies were paid on a fee basis determined by the number of arrests. It was much easier to arrest the customers.⁶⁰ Convicting bootleggers was as hard as arresting them. They frequently had good attorneys - as the string of court decisions favorable to the accused attests. Many of the amendments to the liquor law were enacted to plug loopholes discovered by the bootleggers' lawyers. The Justice Department occasionally assigned a special agent to Indian country to stop the more flagrant violations, but the laws continued to be generally ignored. Even the special agent asked that some Indian detectives be hired.⁶¹

Commissioner William A. Jones first began to ask Congress for funds to gather evidence for prosecuting bootleggers in 1901.⁶² His initial request for \$10,000 was refused. The request was renewed each year thereafter until Congress relented and appropriated \$25,000 for liquor suppression in Fiscal Year 1907. Of that amount, \$15,000 was for the Indian Territory.⁶³ Shortly after the funds were appropriated, Commissioner Francis E. Leupp reported that he had appointed two Special Officers and would appoint others later. They were called Special officers because they were specialized in enforcement of the liquor laws. "It is hoped by this means," he wrote, "to diminish greatly the sale of intoxicating liquors to Indians."⁶⁴ The task would be a formidable one--trying to enforce a very unpopular law in a part of the country not then noted for great respect for laws in general.

The Commissioner assigned William Eugene Johnson to Oklahoma and the Indian Territory. Johnson was a 44-year-old newspaperman. He had gone to college in Nebraska and begun his journalism career there. Later, he became a freelance writer and then an associate editor first of the New York Voice and then the New Voice in Chicago. He was also a strong advocate of prohibition.⁶⁵



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Commissioner Leupp wrote, "He was selected for appointment because he had already proved not only his capacity for the sort of work to be demanded of him, but his absolute contempt for danger in the performance of a difficult task." The Commissioner's evaluation was apparently based on Johnson's reputation for plain speaking among people who tended to become violent when they read uncomplimentary stories about themselves. Johnson spent much of his journalism career in courtrooms defending himself against libel suits. According to one report, there were several dents on his bald head that had been made by the gun butts of the plaintiff during a libel trial in Texas.⁶⁶

The first year was a bloody one. Two of Johnson's deputies and ten suspected bootleggers were reported killed.⁶⁷ Although nearly every train into the territory carried whiskey, the express companies generally denied law officers permission to search the cars for evidence. Johnson told the railroad agents that he was willing to take out a search warrant, but if they insisted on it and he subsequently found liquor on their trains, he would arrest them instead of just seizing the contraband. The Commissioner reported, "By degrees, the objections were withdrawn and thus his right to search was recognized..."⁶⁸

Many breweries sold beer with low alcoholic content within the state. Once a market developed, they would increase the percentage of alcohol and boost their sales. Johnson had chemists analyze beer, and they found its alcohol content almost the same as regular beer. He took the reports to four U.S. Attorneys who gave him a written opinion holding the beer to be illegal. He then met with the railroads and persuaded them to issue orders to their agents to refuse shipments from the offending breweries.⁶⁹ His agility in dealing with bootleggers won him the sobriquet Pussyfoot, which remained with him the rest of this life.

In 1923, the Native American quoted the following account from the San Bernadino Sun purporting to explain how Johnson became known as Pussyfoot:

"... he earned the enemy of a dispenser of firewater who swore to kill Johnson on sight. Johnson learned that the dealer did not have an accurate description of him and concluded to face it out. So he went to the joint and called for a drink. The individual behind the improvised bar served him something soft, and Johnson promptly bawled him out, and called for a real drink. Willing to be accommodating, the barkeeper turned to get the ingredients whereupon Johnson reached over and lifted the dealer's two guns out of the holsters and as the amazed individual wheeled about he was looking into the muzzles of his own weapons and very properly and promptly put up his hands, only to be informed this was the Johnson he had sworn to kill. He protested Johnson had pussyfooted, which pleased the Indians and other border characters to the extent that from that day to this, it was 'Pussyfoot'..."⁷⁰

The Commissioner was lavish in his praise of Pussyfoot Johnson:

"I know of no more efficient officer in the Indian Service; and indeed may safely give him the credit for turning what used to be rather dreary farce into an actual accomplishment in the enforcement of the acts of Congress



forbidding the liquor traffic in the Indian territory."⁷¹

Another Special Officer, John W. Green, formerly an officer in the Philippine Constabulary, was assigned to the States of Washington and Idaho. Unlike the Indian Territory where it was illegal to import liquor, only sale to Indians was banned in the Northwest. Green visited the bars and secured agreements from them not to sell to Indians. An observer in North Yakima reported that an Indian could scarcely buy a glass of lemonade there after Green came to visit.⁷²

The chaotic legal situation resulting from Oklahoma's admission as a State of the Union gave hope to the liquor sellers. During the Months of August, September, and October 1907, the brewers made a concerted effort to overwhelm Pussyfoot with litigation by shipping liquor in from every direction at once and openly operating bars. They had retained more than 20 of the foremost lawyers in the territory to conduct their campaign for them. Frequently, when Pussyfoot or his deputies seized and destroyed malt and fermented beverages, the lawyers for the breweries sued for damages and injunctions. Pussyfoot was arrested four times for "malicious destruction of personal property" to wit, low grade beer. He was once arrested for larceny in seizing and destroying a large amount of whiskey and bar paraphernalia. The malicious destruction cases were dismissed on preliminary examination. In the larceny case, not only was Pussyfoot discharged, but the complainants were bound over to the grand jury. One was later killed in a fight with a deputy. Another was sentenced to the penitentiary for life for killing a man who gave information against him.

The Commissioner reported, "The lively and aggressive contests attending the closing days of the Federal jurisdiction in Oklahoma and the Indian Territory made necessary expenditure of larger sums of money than the regular appropriation would allow and the Congress met the need by making an additional appropriation of \$3,500 to complete the year's work."⁷³

The appropriation was increased to \$40,000 and the liquor suppression office was reorganized on July 1, 1908. Pussyfoot Johnson was named Chief Special Officer with his office in Salt Lake City, Utah, from which he supervised the work of the special officers in the field. "His capacity for such an undertaking long ago passed the experimental stage," the Commissioner wrote.⁷⁴

Pussyfoot did not stay behind his desk. The 1909 Commissioner's Report stated, "In May, Chief Special Officer Johnson visited Laredo, Texas, the source of peyote, bought up the entire supply in the market, destroyed it, and obtained from the wholesale dealers agreements that they would no longer continue in the traffic."⁷⁵

In August 1910, the Superintendent of the White Earth Reservation in Minnesota served formal notice on all saloon keepers in the villages on the Reservation to close their places within 30 days. After the expiration of the 30 days, Pussyfoot and his deputies including his son, Clarence, closed the saloons and destroyed some 1,300 gallons of whiskey. They were later released on a writ of habeas corpus by the United States Federal Court.⁷⁶



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At one saloon, a village marshal appeared as he and his deputies were just getting started. Harper's Weekly quoted the following account from the Minneapolis Sunday Tribune:

"Before the village marshal knew what was happening he was looking into the muzzle of a long, wicked looking revolver which Johnson had suddenly drawn on him. 'I represent the Department of Indian Affairs,' he said quietly, 'I represent the United States Government, and you men had better get out of here until we finish our work.' The men demurred and the village marshal became insistent. Suddenly smiling Johnson became transformed. 'Get out of here', he thundered, advancing a step in the direction of the frightened marshal and his posse, and they accepted the spirit of the invitation."

After he completed his work, Johnson with his gun holstered now, went up to the marshal and asked him if he wanted to arrest them. The marshal said he did and Johnson and his deputies went off quietly to jail.⁷⁷

The 1855 Treaty by which the Chippewas ceded much of Minnesota to the United States contained a provision that liquor would not be sold in the ceded territory. The Special Officers attempted to enforce the Treaty. That action provoked a strong reaction since two-thirds of Minnesota and the City of Minneapolis are within the ceded area. A brewery in Bemidji obtained an injunction against enforcement of the Treaty claiming the treaty provision had been repealed by the Minnesota Enabling Act, which permitted Minnesota to enter the Union on "an equal footing" with other States.⁷⁸

Pussyfoot resigned on September 30, 1911, after securing more than 4,000 liquor law convictions. He quickly became a leader in the world-wide prohibition movement. He circled the globe three times and made over 4,000 speeches supporting prohibition. Although he came through his battles as Special Officer unscathed, he was not so fortunate when he took his campaign to London. A group of medical students mobbed him during an anti-alcohol speech in Essex Hall in 1919 and stones were thrown at him. One stone struck him in one eye and ultimately blinded him in that eye. The students carried him through the streets of London on a stretcher chanting, "We've got Pussyfoot now, send him back to America." Interviewed later in his hospital bed, Pussyfoot said that aside from the injury to his eye he thoroughly enjoyed the experience.⁷⁹

Pussyfoot was succeeded by Harold F. Coggeshall, who stayed only a few months before being named Superintendent of the Santa Fe Indian School. Reverend C.C. Brannon was Acting Chief Special Officer for a few months before Henry Larsen was appointed. In 1910, the headquarters had been moved to Denver. Larsen asked his officers to enforce Minnesota state law against selling liquor to Indians while the Chippewa Treaty was tied up in litigation. This was not very successful since Minnesota law forbade the use of undercover agents. Back in Washington, D.C., the commissioner reported that one conviction for selling liquor to an Indian was secured in the Nation's Capitol.⁸⁰

Commissioner Robert G. Valetine himself ran afoul of the liquor law when he was accused of taking a bottle of liquor with him to the Osage Reservation in



Oklahoma. The incident provided one of the many charges raised against the Commissioner by a Congressional investigating committee.⁸¹

The new Commissioner, Cato Sells, issued an order to all employees not to use liquor on the reservation--even for medicinal purposes. The following year he attended the second annual conference of Special Officers in Denver.⁸²

Some favorable court decision enabled Special Officers to step up their activities in Oklahoma in 1913. The work was still very dangerous. Officer P.L. Bowman was killed by a shotgun blast from a speeding car at the Kansas border while he was destroying a wagon load of liquor.⁸³

When the Special Officer force was first created in Fiscal Year 1906, the officers had been given the powers of Indian agents, including the authority to seize and destroy contraband. The 1913 Appropriation Act conferred upon Special Officers the powers of U.S. Marshals. The Marshals had the same powers as the sheriff of the jurisdiction in which they were working.

During 1913, the courts held that the making of tiswin, a local Arizona Indian alcoholic beverage, violated the liquor laws. The Special Officers, however, were not very effective in suppressing tiswin because it did not have to be imported. The liquor law was amended to allow wine to be brought into Indian country for sacramental purposes. The same year the Indian Services announced a policy of prosecuting peyote traffickers.⁸⁴

In 1914, the appropriation for liquor suppression was increased by \$25,000 permitting a raise in pay for the Special Officers. Activities increased in New Mexico with a court decision declaring that Pueblos were Indians.⁸⁵

It was 1915 before the Bemidji (Minnesota) brewery case, Johnson v. Gerald, 234 U.S. 422 (1914), was decided by the Supreme Court in the Government's favor. As soon as the injunction was lifted, the Special Officers destroyed 745 barrels of beer at the Bemidji Brewery Company.⁸⁶

In 1912, the Indian judges appeared to lose favor with Congress. The judicial appropriation was cut by \$2,000 for F.Y. 1913 and reduced another \$4,000 in F.Y. 1914 to \$8,000. Bureau officials continued to characterize the courts as schools for teaching Indians right from wrong. The courts were also justified on the grounds that having Indians judging Indians removed the possibilities that racial prejudice would become involved in judicial decisions.⁸⁷ The total number of judges dropped from 126 in 1912 to 85 in 1919. The reduction was accomplished by reducing most of the three-judge panels to one judge.⁸⁸

In F.Y. 1917, the liquor suppression budget was increased by \$50,000 because recent court decisions had given the Bureau more responsibility in Oklahoma.⁸⁹

The increase brought the total Bureau of Indian Affairs law enforcement budget to a record \$358,000. The appropriation stayed at this level for three years when the advent of National Prohibition led to a steady decline in the liquor suppression budget. Bureau of Indian Affairs law enforcement funding did not again equal the 1917 level until 1955.

The trend was also downward in the number of Indian police. In 1912, there were 660 police officers.⁹⁰ By 1920, there were 548 even though the



appropriation remained at \$200,000.⁹¹ Then an economy drive hit the police. The F.Y. 1922 budget was cut to \$150,000 and the police force was reduced to 361 officers. The Bureau reported that the police were allowed to farm so they could survive on the meager salary.⁹² Another \$1,000 was cut from the judicial appropriation in F.Y. 1921. The cuts continued through F.Y. 1925 when the police appropriation was \$125,000 and only \$6,500 were provided for judges. The police force dropped to 271 officers. Only 70 judges remained by 1926.⁹³

Because of National Prohibition the liquor suppression office suffered more drastic cuts. In 1918, there had been in addition to the chief special officer, one assistant chief special officer, 17 special officers and 95 deputies.⁹⁴

By 1921, there remained only the chief special officer, four regular special officers and an unspecified number of deputies paid at the rate of \$4 a day.⁹⁵ The appropriation bottomed out in 1926 at \$22,000. In the leaner years, the fines paid by people arrested by liquor suppression personnel were more than the appropriation.⁹⁶

The position of the Courts of Indian Offenses was strengthened somewhat by the passage of the Snyder Act (25 U.S.C. 13) in 1921. Prior to that year, Congress had appropriated funds for the activities of the Bureau of Indian Affairs without giving the Bureau explicit and permanent authority to spend it. The Snyder Act gave the Bureau of Indian Affairs that authority. The Act specifically stated that funds could be spent for the employment of Indian judges. Although the Act did not spell out the jurisdiction of these judges, it did give a clear indication that Congress meant for Courts of Indian Offenses to exist.

Three years later, however, Congress passes a law making all Indians American citizens. Although the old U.S. v. Clapox decision had upheld the validity of the courts, the Bureau had always avoided litigation involving Indians who had become citizens, now it would be difficult to avoid such a test without giving up the courts entirely.

In the Spring of 1926, hearings were held on H.R. 7826, an administration-backed Bill to spell out the jurisdiction of the Courts of Indian Offenses. The Bill would have applied all Federal law to Indians on reservations. Courts of Indian Offenses would have been granted jurisdiction to punish acts not punished by Federal law. The sentencing power of the Indian Courts would be limited to six months and a \$100 fine. The Act would also abolish custom marriages and divorces.⁹⁷

Much of the hearing was a debate over the past performance and usefulness of the Indian Courts. The tribes were divided on the issues. The Pueblos and some California tribes were opposed, but many of the tribes in the Northern Plains supported the Courts.⁹⁸ John Collier, later to become Commissioner under President Franklin Roosevelt, was a champion of those opposed to the legislation. He argued that the judges were puppets of the superintendents and that administrative officials should not have so much power. He said the Courts provide no due process and no appeal. He argued they represent a government of men not of laws.⁹⁹

Jennings C. Wise, a Washington lawyer for many Indian groups, argued the Bill was unconstitutional because it would provide courts that would send



people to jail for violating mere regulations. He believed that adjudication by an executive agent could not be considered due process. He noted that the legislation provided for no grand or petit jury contrary to Constitutional requirements. Since the proposed legislation was largely designed to authorize the existing practice, Wise was by implication arguing that the existing Courts were unconstitutional.¹⁰⁰

Proponents argued the Courts were needed since only eight crimes were covered by the Major Crimes Act and tried in Federal court. They felt State and Federal Courts tended to be too far from the reservation to handle the bulk of lesser criminal offenses. The Bureau noted that there was a provision for appeal of a court's decision first to the Superintendent and then to the Commissioner of Indian Affairs. Proponents also pointed to the fact that cases could be tried in the native language of the accused in Indian Courts.¹⁰¹

Collier proposed alternatives which were embodied in H.R. 9315 sponsored by a Wisconsin Congressman. That Bill would provide for Commissioner nominated by the tribe and appointed by the Federal Courts. Appeals could be taken from decisions by the Commissioners directly to the Federal District Court.¹⁰²

There was also a lively debate on the matter of abolishing custom marriages and divorces. Father Ketcham, of the Board of Indian Commissioners, supported abolition because he said younger Indians who were otherwise assimilated used the institution of custom marriages and divorces to avoid punishment for promiscuity.¹⁰³ Collier argued that abolition would just make criminals out of many Indians.¹⁰⁴

Neither Bill passed Congress although some of the concerns expressed during the hearing were later addressed by the Indian Reorganization Act, amendments to the Major Crimes Act, the Indian Civil Rights Act and a 1956 Eighth Circuit Court decision.

The Bureau asked for major increases for both police and judges for F.Y. 1926. Congress had recently passed a salary reclassification act and the Bureau believed both the police and the judges should be included. The judicial request was \$20,000 -- more than triple the existing appropriation -- to enable judges to be paid \$20 a month. Instead, Congress raised the amount to \$8,400 so judges could be paid \$10 a month. The Bureau of Indian Affairs request of \$190,000 for police was reduced to \$177,760 -- still an increase of more than \$50,000 over the F.Y. 1925 amount.

Some Congressmen wondered whether the police budget might not be reduced if the practices of using police for carrying messages, serving as janitors and performing other non-enforcement duties were ended. A Bureau of Indian Affairs spokesman replied, "If it were not for the services rendered by these police, it would be necessary for us to employ white people to render the service at much higher compensation."¹⁰⁵ The pay differential was apparent even within the Bureau of Indian Affairs law enforcement field. In 1932, for example, the top pay for an Indian chief of police was \$840 a year compared to the salary for a Bureau of Indian Affairs deputy special officer of \$1,800.¹⁰⁶



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Members of the appropriation committee asked the Bureau of Indian Affairs to tell them which judges had the heaviest workloads so a pay scale could be established. The Bureau named 32 courts -- mostly in the Dakotas and Arizona -- where the workloads justified higher salaries.¹⁰⁷ For F.Y. 1928, Congress raised the appropriation committee's recommendation for judges from \$8,400 to \$15,000. The increase went to those 32 courts to raise the salaries to \$25 a month. Two years later, Congress added another \$3,000 to give all judges a \$5 a month raise.

In 1929, the Bureau was able to convince Congress that the Federal agents assigned to enforce National Prohibition were not adequate to enforce the Indian liquor laws. The Bureau pointed out that the many special laws and treaties were involved on Indian reservations. In general, it was found that it was easier to get a conviction under the Indian liquor laws and treaty provision than under the Volstead Act.¹⁰⁸ \$100,000 was appropriated for F.Y. 1930 and the force increased from six to 18 officers including Chief Special Officer N.J. Folsom whose headquarter's was Sioux Falls, South Dakota. Prior to his promotion, he had been working as Special Officer, primarily at Turtle Mountain. The most serious liquor laws problems were on the Menominee and Navajo Reservations and in Montana. Many Indians who were unable to get regular alcoholic beverages had begun to use canned heat.¹⁰⁹

Two more offenses were added to the Major Crimes Act of 1932. The Bureau asked that the crimes of incest, robbery, carnal knowledge, attempted rape and assault with intent to do great bodily harm be added to the list of offenses tried in Federal Court, but Congress added only incest and robbery. the Fiscal Year 1933 budget was the first to reflect depression belt tightening. The \$3,000 increase the judiciary received in 1930 was taken back and the police budget was cut by \$13,000. The top judicial salary was cut to \$25 a month. The F.Y. 1935 budget contained more drastic reductions. While the judges sustained only a 10 percent reduction, the police lost \$44,000. Eighty police position were abolished and the pay of those remaining was cut by 15 percent. The liquor suppression budget was cut in half leaving only six special officers and four deputies.¹¹⁰ Although the budget began to grow again in F.Y. 1936, it did not return to the F.Y. 1932 level until F.Y. 1951. Federally funded law enforcement staffing did not reach the F.Y. 1932 level again until F.Y. 1959.

One of the many changes proposed by Commissioner John Collier in 1934 was a plan for a national Indian judicial system. Title IV of the Indian Reorganization Bill would have created a Court of Indian Affairs with a chief justice and six associate justices. The criminal jurisdiction would include all violations of Federal law in Indian country regardless of whether or not the accused was Indian. The proposal was strongly criticized from many quarters and was dropped from the bill.¹¹¹

Portions of the Indian Reorganization Act did become law, the Constitutions were adopted by the tribes and tribal governments were organized. Many of the new organizations included tribal courts. Some even established a tribal police department. Tribes were also able to enact their own penal code with the approval of the Secretary of the Interior. The tribal code, once adopted and



approved, replaced the Bureau of Indian Affairs issued regulations governing Indian offenses as the law for the tribe adopting the new code. Fines levied in the tribal courts were used to pay incidental expenses incurred by the court. After the death of the Chief Special Officer N.J. Folsom in 1932, Louis C. Mueller was named to the post. For a few months in the Winter of 1933, the headquarter was in Carson City, Nevada, but was then moved to Denver, Colorado. Mr. Mueller had previously served as Special Officer at Klamath Falls, Oregon. Tribal funds had paid his salary there. He had been responsible not just for liquor suppression but for all law enforcement there.¹¹² As the appropriation began to rise again, Mr. Mueller assigned some Special Officers to reservations to serve as Chiefs of Police. Commissioner Collier told Congress this move helped to develop more efficient police departments, better trained in the law of arrest and general criminal investigation. Some Indian police were promoted to better-paying Agency Special Officer positions. By the end of Collier's term as Commissioner, about half of the Special Officers were Indians.¹¹³

A strong defender of freedom of worship for the Native American Church, Collier asks Congress to drop peyote from the liquor suppression appropriation. He stated that peyote is no more dangerous than the sacramental wine permitted under the liquor laws. Congress agreed to delete mention of peyote from the F.Y. 1930 appropriation. He asked that the separate appropriations for police, judges and liquor suppression be consolidated, but Congress did not accede to this request until F.Y. 1938.¹¹⁴

Roosevelt's economic recovery programs created some additional law enforcement problems by bringing additional income into the reservations, which increased liquor consumption and alcohol-related crime. At the same time, however, the Indian Emergency Conservation Work program included 20 positions for policemen.¹¹⁵ This program continued until after the start of the Second World War.

The repeal of National Prohibition made judges more willing to convict violators of Indian liquor laws. The conviction rate was about 88 percent. Although the narcotics situation seemed to be improving in Nevada, it was getting worse in Oklahoma.¹¹⁶

In 1937, approximately \$50,000 was still used for liquor suppression officers who worked throughout the nation.¹¹⁷

Many characteristics of the Indian criminal justice system remained as they were at the turn of the century. Jails were still so inadequate that judges rarely committed anyone to them except to sleep off a drunk. The usual sentence was a few days of labor.¹¹⁸ The pay continued at a very low level. "We would have to pay a much larger salary for white police," one BIA official told an appropriation subcommittee in 1939.¹¹⁹

The Second World War saw a continued slow decline in law enforcement staffing. From 1940 to 1946, the number of Bureau of Indian Affairs funded judges dropped from 67 to 58. The number of police dropped from 171 to 146 during the same period.¹²⁰



These reductions prompted a few tribes to continue their courts by paying their own judges. The availability of well-paying jobs in defense plants made it more difficult to keep law enforcement personnel.¹²¹

In 1942, the remainder of the Special Officer force was assigned to the reservations, but many still concentrated their efforts on liquor law violations.¹²² The policy was established of trying Indians accused of liquor law violations in tribal courts unless the amount of liquor involved indicated commercialism or unless the accused had a long record of previous liquor law violations. There also developed a tendency for the United States Attorneys to refer minor larceny cases to the Indian Courts. On many reservations, however, only the crimes mentioned in the Major Crimes Act were prosecuted because the Indian Courts no longer existed.¹²³

By 1947, there were 31 Special Officers paid with Federal funds. Tribes paid the salaries of another nine Special Officers. That same year the 58 Indian judges were given a big raise. The highest paid judges received a \$120 a year increase to bring them to \$900 a year. The lowest paid judges received a \$300 increase bringing their yearly salary to \$480.¹²⁴

The next year, however, only 13 of those judges were still on the payroll. Termination fever came early to Bureau of Indian Affairs law enforcement. The F.Y. 1948 budget was slashed to \$12,940--less than half of the appropriation for the previous year. Forty-five police--less than a third of the force the year before--remained on the Federal payroll.

Tribal governments, while complaining bitterly about the cuts, moved to take up some of the slack. In 1948, tribal funds paid for seven Special Officers, two Deputy Special Officers, 15 policemen and three judges.¹²⁵

The Bureau asked Congress to restore the budget to the F.Y. 1947 level, but instead the House recommended that law enforcement be eliminated from the budget entirely in F.Y. 1949 leaving the job to the states. The Senate, while expressing sympathy with the idea, concluded the appropriation had better be continued until legislation was passed giving jurisdiction to the states.¹²⁶ After Senate action, the appropriation contained a slight increase over the F.Y. 1948 level. The next year the appropriation was increased another \$50,000--still well below the F.Y. 1947 amount.

By 1950, the effect of the drastic cuts were clear. Senator Gurney spoke of one reservation community in his South Dakota district.

"They cannot have a dance at night because there is so much disorder. There is nobody to control the peace of that community and there is so much disorder they just do not have any community gatherings at night. It is impossible and I wrote Commissioner John R. Nichols a letter and told him about the need for law and order in the Rosebud and Pine Ridge Reservations. I have not had an answer. I am expecting him to tell us what we need out there. It is terrible. There are four or five murderers that have not been apprehended."

Commissioner John R. Nichols told the Senator that the situation in his state existed throughout Indian country. "This is the lowest point in the history of law and order." Nichols said, "We haven't even a person in the Washington office



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who devotes full time to law and order. We haven't got a single Special Officer in the Washington office whom we can send to investigate a crime, bootlegging, murder or anything else."

The Bureau of Indian Affairs had asked for 20 new positions and \$86,065 in additional funds for F.Y. 1951. Senator Gurney asked if that was all the Bureau needed.

The Commissioner returned with a request five times the size of the existing appropriation. A major portion of the request was to fund programs currently supported by the tribes. By this time tribes were spending \$300,000 a year on law enforcement. The request asked for a total of 48 Special Officers -- eight in Area Offices and 40 assigned to reservations. At that time only the Billings, Phoenix, Portland and Minneapolis Areas had Special Officers assigned to them. Another five Special Officers would work in Navajo border towns. There would be 45 more Indian judges in addition to the existing 12. The requests would provide for 123 more police, 53 court clerks, 34 jailers and 37 other jail personnel such as, janitors and cooks. Congress granted an 80 percent increase over the previous year's amount.¹²⁷

With the partial restoration of the funding, Mr. William Benge, a reservation Superintendent in New York, was named Chief Special Officer with Washington, D.C. as his headquarters. A few months later he was named Chief of the Branch of Law and Order with responsibility for all aspects of the BIA's criminal justice activities. Previously, matters concerning the Indian police and the judges were handled by other branches. The Branch of Education had the assignment in the early part of the century, the responsibility was later moved to the Branch of Welfare.

In 1953, the Indian termination drive manifested itself in substantive legislation. Public law 83-277 limited the Indian liquor laws to Indian country. Before, it had been illegal to sell liquor to Indians anywhere in the United States. Within the reservations, local options were made available where state laws would permit.

During the period 1953-1970, a large number of Indian tribes and similar groups, through Congressional enactments, had their Federal trust relationships terminated. These actions subjected such tribal members and their reservations to State criminal and civil jurisdiction, if by some other Congressional enactment, they had not been previously made subject to such jurisdiction. The following Indian tribes or similar groups terminated are as follows:

Name	Authorizing Statute	Effective Date
Alabama and Coushatta Tribes of Texas	68 Stat. 768	7-1-1955
Catawba Indians of South Carolina	73 Stat. 592	7-1-1962
Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians (Oregon)	67 Stat. 718	8-13-1961



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Mixed-blood Ute Indians of the Uintah and Ouray Reservation (Utah)	68 Stat. 724	8-27- 1961
Ottawa Tribe of Oklahoma	70 Stat. 963	8-3- 1959
Peoria Tribe of Oklahoma	70 Stat. 936	8-3- 1959
Paiute Indians of Utah (Indian Peaks Band, Kanosh Band, Koosharem Band and the Shivwitz Band of Paiute Indians)	68 Stat. 1099	3-1- 1957
Ponca Indian Tribe of Nebraska	76 Stat. 429	10- 27- 1966
Tribes and Bands of Oregon including the following tribes, bands, groups or communities of Indians: Confederated Tribes of the Grande Ronde Community, Confederated Tribes of Siletz Indians, Alsea, Applegate Creek, Calapooya, Chaftan, Chempho, Chetco, Chetlessington, Chinook, Ckackamas, Clatskanie, Clatsop, Clowwewalla, Coos, Cow Creek, Eucheas, Galic Creek, Grave, Joshua, Karok, Kathlamet, Kusotony, Kwatami or Sixes, Lakmiut, Long Tom Creek, Lower Coquille, Lower Umpqua, Maddy, Mackanotin, Mary's River, Multnomah, Munsel Cree, Naltunnetunne, Nehalem, Nestucca, Northern Mollalla, Port Oxford, Pudding River, Santiam, Scoton, Shasta, Shasta Costa, Siletz, Siuslaw, Skiloot, Southern Molalla, Takelma, Tillamook Tolowa, Tualatin, Tututui, Upper Coquille, Upper Umpqua, Willametta Tumwater, Yambill, Yaquina and Yoncalla	68 Stat. 724	8-13- 1953

California Individual Rancheria Acts:

Name	Authorizing Statute	Effective Date
Coyote Valley	71 Stat. 283	1957
Laguna	61 Stat. 731	1958
Lower Lake	70 Stat. 58	1956

California Rancheria Act as Amended via 72 Stat. 691 & 76 Stat. 390

Name	Effective Date
Alexander Valley (Wappo)	8-1-1961
Auburn	12-30-1965
Big Valley (Pinoleville)	11-11-1965
Blue Lake	9-22-1966
Buena Vista	4-11-1961
Cache Creek	4-11-1961
Chicken Ranch (Jamestown)	8-1-1961
Chico (Meechupta)	6-2-1967
Cloverdale	12-30-1965



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Crescent City (Elk Valley)	07-16-1966
Graton (Sebastopol)	02-18-1966
Greenville	12-08-1966
Guidiville	09-03-1965
Indian Ranch	09-22-1964
Lytton	08-01-1961
Mark West	04-11-1961
Mooretown	08-01-1961
Nevada City	09-22-1964
North Fork	02-18-1966
Paskenta	04-11-1961
Picayune	02-18-1966
Pinoleville	02-18-1966
Potter Valley	08-01-1961
Quartz Valley	01-20-1967
Redding (Clear Lake)	06-20-1962
Redwood Valley	08-01-1961
Robinson (East Lake)	09-03-1965
Rohnerville (Bear River)	07-16-1966
Ruffeys (Ruffeys Valley - Etna Band)	04-11-1961
Scotta Valley (Sugar Bowl)	09-03-1965
Smith River	07-19-1967
Strawberry Valley	04-11-1961
Table Bluff	04-11-1961
Wilton	09-22-1964
Shingle Springs (Verona tract)	07-16-1966
Mission Creek	07-14-1970
Strathmore	08-16-1967

Public Law 83-280 conferred criminal and civil jurisdiction over Indian country to the States of California, Minnesota, Nebraska, Oregon and Wisconsin with the exceptions of the Red Lake Reservation in Minnesota, the Warm Springs Reservation in Oregon and the Menominee Reservation in Wisconsin. The same act also gave consent to other states to assume jurisdiction over Indian country by State Constitutional amendment or legislative action. Jurisdiction was conferred on Alaska when it became a State. An exception was made later for Metlakatla when legislation was passed in 1970 giving the Indian community concurrent jurisdiction over minor offenses. Florida assumed complete jurisdiction under the Statute.

The Menominees of Wisconsin were brought under the act in 1954. In 1944, Nevada enacted law which assumed civil and criminal jurisdiction by the State over all Indian country within the State. However, it provided that within 90



days after July 1, 1955, the county commissioners of any county could petition the Governor to exclude the Indian country in that county from the operation of the act. Eight of the sixteen counties involved chose to continue Federal jurisdiction.

Montana enacted legislation for the Flathead Reservation conferring felonies and providing concurrent jurisdiction for misdemeanor offenses and certain civil matters.

Washington enacted legislation first in 1957 so that tribes could go under State jurisdiction voluntarily and in 1963 assumed partial jurisdiction over all reservations in the State.

In 1963, the State of Idaho extended partial jurisdiction, on a concurrent basis, to Indian country in the State and made provisions so a tribe could come under full jurisdiction of the State.

Prior to enactment of Public Law 83-280 in 1953, Congress had, through legislation, granted jurisdiction, under certain conditions, to the States of Kansas (18 U.S.C. 3243), and North Dakota (60 Stat. 229). However, the statute relating to jurisdiction of North Dakota was found to be unconstitutional by the State Supreme Court and was never implemented.

Hearings by the Senate Judiciary Committee on juvenile delinquency problems in North Dakota produced a recommendation in 1955 that the Bureau of Indian Affairs criminal justice budget for the State be increased from \$15,000 a year to \$276,000. The same year the BIA estimated \$1,465,000 would be needed to do a totally adequate job.

For F.Y. 1956, the Bureau of Indian Affairs had asked the House of Representatives for the same amount as the year before. Buoyed by the findings of the judiciary committee, however, the Bureau asked the Senate for \$800,000 - more than double the existing funds.¹²⁸ Congress appropriated \$400,000 which was still a substantial increase over the F.Y. 1955 amount.

The Bureau returned the following year and asked both Houses to double the appropriation. Bureau of Indian Affairs officials pointed out that the ratio of police to residents on Indian reservations was two per 5,000 population compared to a rate of ten per 5,000 in the country as a whole.

They said the various efforts by the Congress to reduce the jurisdiction and; therefore, the workload of the Indian police, had not had the desired effect. The relaxation of the liquor laws brought more drinking and more alcohol-related crimes. Already 28 tribes had voted to legalize alcoholic beverages under the new local option provisions. Few additional stated were assuming jurisdiction under Public Law 83-280. State authorities were reluctant to assume jurisdiction without Indian consent and few tribes would give their consents. Many tribes considered the maintenance of tribal and Federal jurisdiction essential to their treaty rights.

The police force, now with 65 officers, still had not recovered by 1956 from the drastic cut in F.Y. 1948. A Bureau of Indian Affairs official said, "In recognition of our inability for lack of funds to fulfill law and order needs, every effort has been made to encourage those tribes with financial resources to assume



increased responsibility for these activities on the reservation."¹²⁹ Congress granted the full request.

In 1956, the Eighth Circuit Court of Appeals resolved the question of whether a United States citizen could be subject to an Indian court. In Iron Crow v. Oglala Sioux Tribe, 231 F. 2d 89 (8th Cir. 1956), the Court spoke directly to the issue:

"...It would seem clear that the Constitution, as construed by the Supreme Court, acknowledges the paramount authority of the United States with regard to Indian tribes but recognizes the existence of Indian tribes as quasi sovereign entities possessing all the inherent rights of sovereignty excepting where restrictions have been placed thereon by the United States itself.

The Court went on to say:

"That Congress did not intend by the granting of citizenship to all Indians born in the United States to terminate the Indian Tribal Court system is patent from the fact that at the same session of Congress and at sessions continuously subsequent thereto funds have been appropriated for the maintenance of the Indian Tribal Courts. We hold that the granting of citizenship in itself did not destroy tribal existence or the existence or jurisdiction of the Indian Tribal Courts and that there was no intention on the part of the Congress so to do."

By finding that the authority of Indian Courts derives from Indian sovereignty rather than the power of the United States, the court succeeded in putting the courts on a much firmer base. The old Clapox decision had upheld the courts only as "educational and disciplinary instrumentalities."

For F.Y. 1958, an increase of \$63,000 was obtained to improve prison facilities. The University of South Dakota law school began a training program for Indian judges.

The budget passed the million dollar mark for F.Y. 1960 when another \$300,000 was added to hire 23 more employees in the Aberdeen and Phoenix Areas.¹³⁰

Some tribes began to feel the strain of funding their own law enforcement programs. By 1961, the Bureau of Indian Affairs was paying for 45 special officers, 61 police, 17 judges and 20 other employees working in the jails and courts. Tribes, on the other hand, were paying for 331 police, 30 jail attendants, 74 judges and ten other judicial employees. Tribes at all but four reservations paid at least part of the law enforcement costs.¹³¹

With the F.Y. 1963 budget proposal, the Bureau began a series of requests for funds to take over programs operated by the tribes. Over the next three years more than a million dollars was added to the law enforcement appropriation and more than 100 additional law enforcement employees were added to the BIA payroll. Much of these new funds went to relieve tribes of law enforcement funding responsibilities.



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A substantial portion was also used to mount a rehabilitation effort. Probation and juvenile officers were employed on the reservations. At the height of the program in F.Y. 1964, there were 50 probation and juvenile officers employed.

The probation officers worked under the supervision of the Agency Special Officer. Most special officers chose to hire additional enforcement and jail personnel whenever a probation officer resigned. Since then, the number of probation and juvenile officers has declined to less than ten.

By the mid-1960's, more emphasis was being placed on training. Adult Vocational Training funds were used to train the Indian police. Special Officers attended summer training courses at law schools.¹³²

The Bureau continued during this period to obtain funding increases to permit assumption of the financial burden of law enforcement that tribes had been carrying. One major exception; however, was the Navajo Tribe. By 1966, the tribe's own law enforcement budget had grown to \$2,000,000. The Navajo judiciary has undergone an extensive training program recommended to them by the Honorable Warren E. Burger, Chief Justice of the United States Supreme Court.¹³³

After Mr. Benge's retirement in 1969, Eugene F. Suarez, Sr., Special Officer at the Salt River Reservation in Arizona, was named Chief of the Branch of Law and Order.

The law enforcement justification for F.Y. 1969 was an unprecedented 22-pages long. Statistics of crime in the United States as a whole were compared with the reservation crime rates. Data were presented on repeated offenders and jail facilities. Of the \$2,100,000 increase requested, Congress granted one million dollars. Some of the funds were used to start three new programs: (1) The Indian Police Academy; (2) The Indian Offender Rehabilitation Program; and (3) Reservation Rehabilitation Centers.

In 1969, the Police Academy was established in Roswell, New Mexico, and operated under contract by the Thiokol Company. The Academy offered basic police training courses for BIA and tribal police. By 1971, additional training courses were added for juvenile officers and criminal-investigators. In 1973, the Indian Police Academy was relocated to Brigham City, Utah and assigned as a Unit of the newly established U.S. Indian Police Training and Research Center. Under the Indian Offender Rehabilitation Program, counsellors visited Federal and State prisons to help Indian prisoners make the best use of the available educational and rehabilitation programs within the institution and to help them plan for their release. The counsellors arranged employment and education for prisoners who were about to complete their terms or be paroled. In some locations, Bureau of Indian Affairs personnel were the counsellors. At other locations, the Bureau contracted the Indian organizations to conduct the program.

The Rehabilitation Centers were multipurpose institutions designed to help both juvenile and adults who require detention. The Centers were in minimum security settings.



In 1966, the Major Crimes Act was amended to include carnal knowledge and assault with intent to commit rape. Both had been proposed in 1932 but rejected at that time. The addition of carnal knowledge was in response to a 1960 court decision holding that the term rape as used in the Major Crimes Act required a lack of consent and could not include statutory rape. In 1968, the law was again amended to include assault resulting in serious bodily harm. This amendment was passed as part of the Indian Civil Rights Act, which limited the sentencing power of tribal court to six months and a \$500 fine. The Bureau believed that the punishment for an assault in which someone is seriously injured should be greater than six months in jail.

Another portion of the Indian Civil Rights Act provided for states that had assumed jurisdiction under Public Law 83-280 to return jurisdiction to the tribe and Federal Government with the mutual consent of all three parties. In 1971, the Omaha tribe in Nebraska was the first to secure the return of jurisdiction under this provision.

While individual Indians have long had the same rights in relation to State and Federal Governments as other citizens, several court decisions held that the restrictions found in the Bill of Rights and the Fourteenth Amendment did not apply to tribal governments. In 1968, Congress passed the Indian Civil Rights Act restricting tribal governments in most of the same ways Federal and State Governments are restricted by the Constitution. Federal Courts now review the actions of tribal police and courts when suit is brought alleging that rights protected by the 1968 law have been violated.

The law has put substantial pressure on the Indian Courts to improve their procedures to meet Constitutional standards. The year after the law was passed the National American Indian Court Judges Association was founded. The Association has sponsored three years of training programs for Indian judges using funds provided by the Law Enforcement Assistance Administration. The Association has also undertaken research into problems facing the Indian courts. In mid-February, 1972, Raymond Yellow Thunder, an Oglala Sioux, was found dead in a truck several miles from the Pine Ridge Reservation. Fearing that the white youths who had killed him would go unpunished, about 1,000 Sioux lead by members of the American Indian Movement marched on the small off-reservation town where the perpetrators lived. A successful prosecution was forthcoming and an era of mass protests in Indian country began.

A year later came the two-month-long occupation of Wounded Knee that attracted world-wide attention. Before that event, there were a number of other mass protests. In order to cope with the higher potential for violence that necessarily accompanies mass protests, the Bureau organized the Special Operations Services Group (S.O.S.). The Unit is comprised of BIA officers who have been specially equipped and trained to deal with civil disturbances. By 1974, the Bureau of Indian Affairs budget was \$8,300,000. There were 342 BIA employees working in law enforcement. Tribes were employing 708 persons in the criminal justice system at a cost of approximately \$5,000,000.



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- ⁸ Com. Rep., 1873, p. 273 and Com. Rep., 1874, p. 307.
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- ³⁷ Ibid., p. 59-68.
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- ³⁹ Com. Rep., 1888, pp. XXIX-XXX.
- ⁴⁰ Com. Rep., 1883, p. XV.
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Conducting Investigations in Indian Communities

Art Martinez, PhD

It is important to look at issues of cultural reference and cultural difference in the care of Native communities and their likely interaction with federal criminal justice personnel. Many times there are issues of historical reference which European or the dominant society based individuals might not be specifically aware of. Nor might they be appreciated through the eyes of an interviewer. It is important to understand that there are specific and diverse cultural differences and values that will impact how most Native people will interact with criminal interviewers and federal jurisdictions. These issues of difference typically reach points of friction in four important areas:

1. Historically abusive relationships by federal agencies
2. Differing values and context
3. Traditional teachings/cultural reference
4. Language

It is important to note that these four areas of difference and potential friction are important areas to be considered. Conversely, these issues are also indications of the strength of Native people. Therefore a strength can be engaged in order to help the community seek culturally based protective boundaries. It is also important to understand that such areas of friction, conflict, and difference will exist in very diverse ways, at greater or less levels, in many communities. This may be relatively non-existent in some communities. It is as important to look at the facts of such investigation. The interviewee must be enlisted to assist in the investigation for the good of the community or the tribe. Within that context, any competent service provider will first join the community with the intent to convey the importance of the investigation, and the possible protective ramifications. These will be discussed further within the context of this document.

As has been stated, viewing the historical context and possibly the recent historical context within which the Native community being served with federal agencies is important. This is important in as much as that the agent or officer involved in any investigation symbolically represents, not only that agency, but all law enforcement agencies and possibly other federal agencies. Therefore, the possible conflicts and problems which may have existed with one federal agency will certainly (in the experience of the community and the tribe) flow over and significantly effect the relations in an investigative procedure. Importantly these issues can be addressed by putting the investigation within a historical context. Therein the community could be enlisted to cooperate with the investigation in an effort to serve toward the good of the community. While this is not always possible, certainly community organizations and community policing are more important considerations within Native American communities than with non-Native communities. This is due to the fact that in many non-Native communities



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(particularly urban communities), the individuals of the communities exist in a relatively isolated and individualized existence. Therefore, these individuals do not feel specifically bound to one another through relation, community or tribe. In a tribal setting this is certainly not the case.

In a tribal community setting, Native people see ourselves as connected to one another first through family, then through community and then through tribe. This will lessen the consideration of the individual or self. This is an important consideration due to the fact that Native communities can be powerful forces in their own self protection. If the investigation is a part of that self protective history, then certainly the Native community will be responsive to that investigation. If that investigation takes on an atmosphere of attack toward the Native community, then it is likely the investigation will not reach fruition and will likely falter.

Our second consideration in this challenge is cultural differences, value and diversity. This can be sometimes over simplified yet it is a valuable consideration of content more important than externalized and standing procedures. It is important for an interviewer, to join the community in seeing the need and the utility of the investigation. This is arguably the most critical point in an investigation and it bears restatement. The investigation must have utility within the eyes of the community. Therefore, it must have value in serving the community needs for self protection and safety as well as protection from criminal acts.

Given that assumption, there come the challenges of meeting barriers of value which exist. These issues of value can be termed as world view. Typically this world view follows a generalized theme of differences. As we can see, an interviewer can run the risk of over simplifying cultural differences of value. If one were to look at externalized behaviors and processes this error could easily be made. Importantly, the risk exists of viewing these values as issues of the interviewee rather than the interviewer. Native people may be more skilled in bi-cultural skills than the interviewer themselves, since Native people for hundreds of years have met the challenge of bi-cultural existence. Therefore, it would be important for all interactions between an interviewer and community participants to join in a process in an investigation. The community as an important and a valuable process critically views the importance and meaningful outcome of each investigation.

Given this foundation, it is important to look at the traditional and culturally specific processes of the community. These factors must be depicted through the most culturally specific terms or through a melding of traditional and modern practices. This would be important, given the fact that it allows the interviewer to approach the investigation in an atmosphere of respect and honor, by honoring those involved.

In Native communities it could be said that what is honored, symbolically, has extreme importance. Given that fact, it is important to join in understanding the traditional teachings and values of the community. It is important to show



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interest with each interviewee by allowing the people to tell about themselves, about their family, and about their place within the community. Further, it would be important for any investigator to become knowledgeable of the basic spiritual and cultural practices which exist. Thus, rather than following a scripted interview process, it might serve more useful to converse with community participants in an investigation. A discussion of their role in the community, their role culturally, their cultural views, and why this investigation is important to the community, may be an important preamble to any debriefing.

There are important issues of reserve, respect and honor in every involvement from any non-Native agency with tribal communities. In looking at that interaction, it is important to consider:

1. What is the impact of this investigation on the community?
2. How would people in this community have dealt with these issues traditionally? What would have been the old way of dealing with such a crime or an alleged crime?
3. What cultural practices currently exist or serve to strengthen the community culturally and traditionally?
4. How could the investigation serve to join and reinforce the cultural strengths of the local community?

It is important to view issues of tradition and how they impact the local community. This allows any interviewer the latitude of not only educating themselves about the incident and the facts of the incident but to further understand the context within which the alleged incident may have existed.

Of critical importance (in the entire process) are the simple yet powerful concepts which underlie all Native community interactions and should serve as a foundation to any investigation. These are the concepts of honor and respect. In respecting the local Native culture, an interviewer shows his or her abilities to appreciate the health of the community; the ability of participants within the community to be of value. This is important not only in the investigative process but in the general healing of the community and individuals involved in the incident. Of equal importance is that any interviewer involved should attach respectfully to the community, important elders and healthy community natural helpers. This can be done through meeting with families and communities to enlist participants in the process of community healing. Certainly tribal agencies that are involved with community health and wellness can serve a function in this process. Further, tribal law enforcement is an indispensable means of allowing the interviewer to show respect for the community by involving and respecting tribal law enforcement's guidance and liaison within the community. If for some reason, tribal law enforcement does not particularly operate in as respectful a manner, a perplexing situation exists. In that situation, expressions and guidance by the interviewer to tribal law enforcement showing a way to more respectfully approach an issue are suggested. This would serve to assist tribal law enforcement (in their development) and further, serve to earn respect for the



investigation. This respect of the community and to the participants in the investigation may not have been demonstrable otherwise.

Of additional importance are issues of language. Issues of language are critical in the appropriate interpretation and gathering of evidence. This can be demonstrated by understanding two important concepts. One would be the concept of aboriginal language. This would include issues of English as a second language, Native speakers of their language, and how to interpret that language. The second would be issues of Native expression of Native languages using English. This is important due to the fact that in many communities, Native people may not all be speakers of their own language yet may be very fluent in the English language. The structure and content of the language will vary based upon a pivotal foundation of Native language. In essence Native people many times still speak Native languages but use English words. This concept is important in understanding the context and nature of the information gathered. These interview factors include common ways of referencing common definitions, and issues of syntax in the world view which over-shadow or enlighten any investigative consultation. It is important for any interviewer involved to process with local tribal cohorts how to clearly understand the traumatic and post traumatic issues which impact victim responses and social dynamics in Indian country.

It is important to first realize the historical context within which Native people live, survive and recover. In that historical context, it is clear that there are multi-generational issues of post traumatic stress which impact Native communities. It is important in all facets of intervention with Native American communities to not further compound the victimization or to practice blaming the victims. It is more useful or poignant to focus as an interviewer or case manager on joining with a larger community of tribal systems which are committed to promoting the recovery and being a part of the solution. In this respect remember that within the context of the Native community, it is important to be a part of the solution as opposed to part of the problem. While this is easily said this demands a great deal of community acceptance and becoming part of an internal process of community which may not be evident at first. It is critical to first look at the historical context within which an interviewer might become involved.

Historical Context:

In understanding the historical context within which one becomes involved with Native communities, it is important to understand that there are various layers of post traumatic issues or cultural impact issues. These are over laden within the Native community in its legal and governmental interactions. These considerations are listed briefly as:

- cultural shock,
- survival from warfare and extermination,
- the systematic exploitation of people and resources,



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- the boarding school era,
- impacts of social and biological diseases (infectious diseases, alcoholism, and drug abuse)
- child removal, and
- religious freedom issues.

When we look at these issues of cross-cultural impact it is important to have an understanding of these many layered operational issues of cross-cultural impact. Later will be discussed issues of linguistic differences and differences of cultural and world view. Critically, it is important to understand the first layer of trauma caused upon the relatively homeostatic, ecologically balanced way in which Native people lived within nature and amongst one another. This cultural predisposition was one that sought grace, beauty, and cultural resiliency as practiced in every facet of life. In that respect, culture is probably not an appropriate word for viewing how Native people exist or lived traditionally but moreover 'way of life' may be a better fit. This is important given the fact that culture may not be a binding enough word to encompass all those things which the Native tribal way of life may have encompassed. Issues that are in the modern day society thought of as culture, religion, daily practice of life, ways of communicating, ways of referencing one's self in the world, and ways of practicing one's relationship with the creator, as well as social disciplines for interacting with one another are all encompassed within the Native way of life. It is important to understand that there are approximately 350 culturally distinct indigenous tribes within the United States. Each of these cultures are distinct and culturally specific in their own way of life and way of relating to the world.

The following is a depiction in movement of great power amongst Native people toward tradition, toward rebirth as a people, and redefinition of ourselves based on our survival, our strength of culture, our strength of prayer, and teachings of elders. In this renewal, Native people throughout the country from various different tribes have lived strong in their heart to carry out the traditions of their people. We as Native people see a responsibility for providing services within our own community to lift ourselves up from the victimization and tyranny from which we have been subjected. As one can tell, this presents great responsibility which is placed upon the shoulders of service providers in three areas:

1. Professional competence and security in their professional skills.
2. Leadership in developing community movements toward wellness and well being.
3. Role model of health for their community within reason and within reasonable strengths.

In many ways the last point is most important. More significant than therapeutic interventions or prevention strategies is the need for role models and mentors within the community to lead through examples of how we might survive



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as a people. This will lead our people through walking our talk to the strength of that which we desire to achieve for our future. Non-Indian providers within the community often experience limitations on what is and what is not culturally accessible. All providers, Indian or non-Indian must join with the community in a healthy way. This is engagement in a way that models and reinforces the traditional health of the community and the traditional wellness of the people. This is to say that within every community there is a core group of traditional people, natural helpers, elders, and young people whom strive to lead their community into health and well being. In that regard, there is a great depth, tradition and well being within our communities. By joining, reinforcing and developing that community of health, we serve to foster strength as a people using our traditional ways. In essence, we can join with a previously existing community of health. One that is many times disparaged, victimized within their own community, and ostracized within the larger non-Native community. By recognizing and aligning with this community, the providers of service become a part of a therapeutic team which is indigenous to the community. This as opposed to an outside force which presents a cultural and political threat.

Historically, this is important since Native people have suffered from such cultural and political threats to survival since the arrival of the first settlers. Interestingly, early settlers and early Congress recognized that Native people had land rights and saw the United States as co-existing with Native nations, as allies or co-existing sovereign nations. While this assertion is still made by Native nations today, the federal government has construed the Supreme Court definition of Native nations as domestic dependent nations. This expounded that Native people have rights only as assigned to them by the federal government. This was no more evident than in the passage of the Native American Religious Freedom Act within the past decade. With the passage of that Act, Native people were formally given the right to practice their religion for the first time in American History. This act sought to end an approximately 400 year tradition of attempts by the now dominant society to subjugate and rule every portion of Native life. This tradition is certainly not dead or abandoned. Today, this legacy is more likely enforced through service programs in more covert ways. These covert ways have, for the most part, been the use of white middle class logic or cultural colonialism to subjugate Native people. It should be clarified that this issue is still alive and within the hearts of many Native people today. This is signified by the fact that it is still the official policy of the United States government to terminate, in their own words, many tribes within the United States. Tribes seeking to combat these efforts have been rebuffed in many areas such as California. There sit stacks of signed but unratified treaties which, by their lack of ratification, deny Native people the rights to co-exist as a nation. Native people within these areas have never forfeited that right [in fact have negotiated these treaties in good faith].

The United States government continues to uphold a policy consistent with the termination act of the 1950's which sought to relinquish the rights of tribes to



exist as a sovereign nation thereby assimilating or ending by redefinition the rights of Native people within those areas. Predominant in this legacy was California. For many years the United States Government sought to eliminate the California Indian problem by eliminating California Indians. This was enforced through efforts to exterminate California Indians through disease, poisoning, massacre, bounty and starvation. As Native people of California survived, treaties were negotiated in approximately 1840, which led to the 18 California treaties establishing Native lands and reservations within various areas of California. With the discovery of gold in approximately 1849, the treaties were abruptly tabled, never to be heard before the Congress again. This in as much as there was a fear that, within California, there may be Native areas that were designated through treaty that might have rich gold reserves or other reserves not yet discovered.

The following excerpts will give a dateline which describes some Indian experiences in U.S. history through legislation and policy:

Historical Perspective

Although the Native Americans inhabited American land before the first settlers arrived, they were among the last to receive full citizenship rights. In the early years, settlers and congress recognized the land rights of the American Indian and attempted to co-exist with Indian Nations. By the early 1800's, as the pressure to open the West for settlers intensified, the U.S. government began to restrict the Native Nations to specific lands and opened the remaining lands to the white settlement. More than with any other group, U.S. government wanted Native Americans to assimilate into the mainstream. Laws were passed mandating that Indian reservation lifestyles conform to that of the encroaching "civilization." Missionaries built churches on reservations to save souls and the federal government removed children to be educated in boarding schools. The Native people continued to resist acculturation.

Today the American Indians are one of the smallest ethnic groups. Although much of the cultural heritage is still lived, many Indians live in urban areas, occupy professional white collar jobs and have intermarried with other Indian groups and with people outside the Indian culture.

The dateline presented below briefly describes the Indian experience in U.S. history through legislation, U.S. policies, and historical dates.

- Nearly 1/3 of the early treaties were for peace. Later, in the far west many treaties were not ratified by Congress.
- Treaties were not regarded merely as agreements but as contracts enforceable by U.S. law.
- In early treaties, the U.S. never gave Indians land; rather, Indians gave U.S. lands in consideration for having Indian title to remaining land. This was to



respect and confirm U.S. pledge to guarantee tribes the peaceful enjoyment of their lands.

- Delaware Treaty of September 17, 1778 - Earliest treaty to introduce concept of dependency; treaty gave U.S. provisions to supply Delaware Nation with clothing, utensils and "implements of war." Treated Indian group as sovereign nation as opposed to the later attitude of "wards."
- In 1800's, treaties began to reserve Indians to certain lands.
- April 16, 1800 - Joint Resolution passed by Congress authorized the President to determine whether Indian title to copper lands adjacent to Lake Superior were valid.
- Act of March 3, 1819 - An Act making provision for the civilization of Indian tribes adjoining frontier settlements.
- Indian Trade and Intercourse Act, June 30, 1834 - Outlined trade aspects of Indian affairs; a Companion Act established the Bureau of Indian Affairs.
- 1840's -Trail of Tears - President Jackson ordered the army to escort, on foot, five Indian Nations (Cherokee, Chickasaw, Choctaw, Creeks and Seminoles) from their lands in the southeastern part of the U.S. to lands west of the Mississippi River. Many died during the exposure and other hardships.
- 1849 - Dept. of Interior was organized; Bureau of Indian Affairs was transferred to that Agency.
- Missionary activities began to flourish. Churches could receive title to lots of Indian lands by promising to contract certain operations such as schools, hospitals, and churches. Consequently many applied for and received lands.
- 1870 - 1830 - Indian religious congregations were established in nearly every reservation west of the Mississippi. Indians basically followed the way of the white man because it was the path of least resistance.
- General Allotment Act (Dawes Act) 1887, amended 1891, 1906 and 1910 until it included nearly every tribe. This Act required that tribes conform to social and economic structure of rural America by giving up rights to their private property. Indians lost more lands than at any other time through the sale of lands to the government, private organizations, and individuals. The church supported the Dawes Act as the best means of Christianizing Indians.
- 1900's - Responsibility for educating and socializing Indians was gradually removed from missions to federal government. Children were removed from



reservations to federal boarding schools away from the reservations.

- January 5, 1903 Lone Wolf (Kiowa Leader) vs. Secretary of Labor - Supreme Court ruled in favor of allotting lands to members of tribes. This action opened the remainder of reservation lands to white settlement. Also established the principle that Indians had no title rights to land.
- 1924 - U.S. granted citizenship to Native American peoples.
- 1930 - Federal government began to encourage the enrollment of Indian children in public schools.
- 1934 - Johnson O'Malley Act provided federal funds to offset costs of providing education in public schools for Indian children.
- 1934 - Indian Reorganization Act empowered reservation people to govern themselves and provide services to their own community.
- 1930's -1950's - Tribes were encouraged to relocate from reservations to urban centers. Relocation centers were established in major cities.
- 1950's -1960's - Tribes spent most of their time fighting for land, mineral and water rights, and defending treaties.
- 1972 - Indian Education Act recognized the right of Indian people to educate children about their own culture. It was instrumental in creating innovative educational programs.
- 1973 - Indian Self-determination and Education Assistance Act strengthened the ability of Indian governments to provide adequate social services to their people.
- 1978 - Indian Child Welfare act gave Indian tribes jurisdiction over Indian child custody procedures and authority to provide services which address the needs of Indian children. The Secretary of the Interior was authorized to make grants to Indian tribes and organizations in order that they might establish and operate child and family service programs to implement the Act.
- 1992 - The Native American Religious Freedom Act made all ceremonial and traditional uses of sacred items, places, and practices legal for the first time officially through an act of congress.

Family Structure

Since each Indian tribe represents its own unique social system, it is



inappropriate to discuss Indian family practices in general terms. Further, the Indian family in most societies does not exist as a self-contained entity, but within the context of the tribal community and clan (unless the family unit lives outside the reservation).

The structure of Indian society is based on its origin, and the origin of tribal society is based on a philosophy of interdependence(1). This requires the development of well-defined kinship patterns. Regardless of the descendent patterns of the society (some are matriarchal, patriarchal), most have developed complex ideologies of relationships within the tribe and between its members and nature.

Because of the community aspect of Indian lifestyles, the extended family concept is very applicable to the Indian family. The kinship network is seen most effectively at work in the child rearing practices of most groups. Parents, especially new parents, are not expected to assume complete responsibility for raising their children. All adult members of the family and community serve in parental roles - elders as educators, cousins and friends as child care givers. Although in many Native American cultures it is the females' responsibility to raise children, male members of the family become actively involved in the rearing of male children early on. Thus, it is not unusual or considered abandonment for a child to be left in the care of grandparents or other relatives for an extended period of time.

Strengths of the Native American Family

Extended Family Network/Interdependence. Encourage children to be left in the care of a relative or friend when the parent must leave the home. The social worker should interact with other members of the family, as well as with parents, who are actively involved in the child's welfare. For Native Americans living in urban areas, the social worker should identify Indian related services in the community whenever possible.

Strong Tribal and Communal Affiliation. This concept is especially important for urban Indians who are more removed from the extended family network that exists on the reservation. For families that don't have relatives who live near them, assist them in establishing contact with Indian groups or families of their tribe that may live in the community (e.g., Indian Centers and Societies).

Cultural Respect. Social worker should respect cultural practices that are observed in homes of families they visit, even though they may not understand the practice or it is counter to what is practiced in their own home (i.e., an elderly Indian may offer the best chair in the home to a guest even if it's the only chair). This goes a long way in developing a strong relationship with the client.

(1) Eddie F. Brown, D.S.W. and Timothy Shaughnessy, Ph.D., **Education for Social Work Practice with American Indian Families.** Arizona State University (undated), p.72



REVIEW OF THE LITERATURE

It is important to review the psychological research pertaining to the area of traditional health. This is done in order to lay a partial foundation in research from which innovative reactivation of traditional health may be seeded. It is also important to limit such a discussion through the sifting out of those bodies of literary works which do not allow for American Indian ethnocentric world view. Through an understanding of traditional health practices, service providers will learn the ways of respect and honor which permeate local custom and social norm.

Shortcomings of Previous Anthropological Works

In this review of the literature it should first be established that much of the works of medical anthropology, cultural anthropology, and sociological medicine will not be referenced. The basis of omission of many antidotal and field researches conducted in field researches is sample. Much of the anthropology and other researches done in this field of traditional healing have been performed from a predominantly western, non-Indian, world view. Such works, absent of an Indian world view or culturally self-defined legitimacy, are of value in this review only for the purpose of refuting such works. This refutation might be best defined as follows:

The anthropological task of discovering and describing foreign systems of classification and theory is one whose logical and even psychiatric complexities are seldom recognized, or confronted. The translation of even single utterances or words entails numerous assumptions on the part of the translator as well as involving his knowledge of the social context of utterance. The complex sources of knowledge of foreign beliefs involved in assumptions and observed evidence are seldom kept track of, as indeed such recording would make field research virtually impossible (Hahn, 1978; Devereux, 1967). Determinant in this suspension of such field and antidotal works is that Native people have a right to a definition of health and healing from within their own world view and cultural reality. "This form should not suggest a lack of integrity of individual psychiatric systems in their context" (Hahn, 1978).

There is a lack of prior or past work to provide a reliable basis from within the Native world view and traditional values. While there is extensive literature on aboriginal American medicine and some information on psychiatric belief and practice, the general state of our knowledge in this field is poor. More methodical and systematic studies have only rarely and recently appeared, and all reports must be skeptically reevaluated (Hahn, 1978).

Shortcomings of Previous Health Interventions with Native People

These same issues of psychological context become more accentuated with a review of health interventions with Native Americans. As has been



summarized previously in the works, the United States, through the Indian Health Service (IHS) and the Bureau of Indian Affairs (BIA), has perpetrated genocidal acts toward American Indians. Thus the behavior of governmental agencies toward American Indians blatantly attacked the personal integrity of Indian people. Even more overt in such behavior was the governmental predecessor to the BIA and IHS, the U.S. Department of War.

An Indian defined and administered implementation of health was practically not allowed nor reinforced by the U.S. government until the late 1960's and early 1970's with the inception of tribally operated Indian health projects, Native American Self-Determination Legislation (PL. 95-638), and Native American Religious Freedom Legislation (PL. 95-341). Yet the true potential of those public laws and Indian rights to self determination of health have not truly been realized due to the imposition of the non-Indian definition of health. This dichotomy in definition of health is well documented in recent literature:

"While western medicine and psychiatry emphasize the pathological and variety of pathological states, seldom focusing on "health science" or "mental hygiene" or on the nature and states of well-being, this is not necessarily characteristic of non-western psychiatric theories" (Hahn, 1978).

Ernie Benedict (1977) of the Mohawk tribe, goes further and states:

"Doctor's medicines tend to vary mechanically. The person is repaired, but he is not better than he was before. It is possible, (a) modern provider who does not recognize Native American traditional or cultural practices; (b) the frustrated liberal who is afraid to intrude on the traditions and culture, thus rendering the provider with little to offer, and (c) providers who do not know how to achieve rapport."

Jilek (1978) concludes that there is a "relative inadequacy of western medicine and health care systems in comparison with indigenous healing." He further states:

"This inadequacy of western medicine can be defined as, (a) a lack of holistic concepts and practice; (b) overvalued focus on biochemical aspects, paired with neglect of psycho-social and cultural aspects of ill health and treatment, and (c) superiority of indigenous therapies in utilization of dissassociative mechanisms and effecting positive personality changes."

Spero Manson, of the Oregon Health Sciences University describes these views of healing as 'totally different.' "One analyzes, the other synthesizes. Often the attributions of cause and metaphors associated with them are so unrelated - a narrow physical explanation versus attribution to supernatural sanctions, for example - that even sincere attempts to the community may be



thwarted" (Cordes, 1985).

Need for an Indian Reality in Health Delivery

Jilek (1974) depicted the disparity of conventional psychological practice and Native American client population in the following way, "When I started to treat Indian patients, I soon became painfully aware that my therapeutic armament of western psychiatry was insufficient equipment to meet the needs of the Indian clientele."

The resistance of Indian people to exclusively non-Indian treatment of illness and definitions of health was revealed in a recent study. In this work, Michael Fuchs and Rashid Bashshur found that about 28 percent of Indian families surveyed reported using some form of Indian medicine during the five year period preceding the interview. The study was done of a representative sample of 5,000 Indians living in the San Francisco Bay Area. In reference to the specifics of this study, it was found that use of traditional medicine was reported regardless of tribal affiliation; was maintained in addition to Anglo medicine, do not vary with socioeconomic factors, and that the lack of Indian medicines in an urban area was perceived as a major reason for the Indian family's return to the reservation (Fuchs & Rashshur, 1980).

Camazini (1980) discusses the need for health practices to be supportive rather than antagonistic of traditional cultures and beliefs. "The better informed the health care providers, the better they can provide acceptable medical care" (p. 79).

In his work of 1970, Torrey emphasizes the shortcomings of modern mental health services:

To date, mental health services for Indians and Eskimos have been slowly drifting along in the wake of American middle-class psychiatry.

Simultaneously, it has become clearer that American middle-class psychiatry is both more culture bound and more class bound than previously realized. Mental health services are needed, approaches utilizing both innovation and Imagination (p.456).

In short, some works by clearly insightful authors have demonstrated the resounding benefit of culturally based interventions in health care and mental health interventions. It would be beneficial to examine the legitimacy of traditional healing practices, as well as the right of Indian people to those culturally, and spiritually based health interventions.

The Legitimacy of Traditional Health Practices

In referring to the legitimacy of traditional health practices, it should first be stated that Indian people do not need external confirmation in this legitimacy of traditional health; however, modern psychologists, policy makers, anthropologists, and medical providers are slowly enacting such confirmation. An awaited cooperation of traditional health and modern technological medicine is imminent.



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The American Psychological Association (APA) in a recent article appearing in APA Monitor states, "Although the ideal of western mental health professionals cooperating with traditional healers is not new, it is seldom realized (Cordes, 1985)." The article's author, Colleen Cordes, goes on to state that, "There are problems with each (western medicine and traditional healers) accepting the legitimacy of the other's system. This has been a particular hurdle for healers who have tried to work within hospital or clinic settings. Western health care providers often accept the traditional healer's presence only reluctantly. The healer is treated like a placebo; something to make a client feel more comfortable so the real western therapy can begin (1985)."

Therein lies the condescending posture of western medicine toward traditional Indian health. Yet, becoming persistent in the recent turning point of modern scientific thought is the legitimacy of the holistic, traditional, and spiritual health practices (Capra, 1982; 1978). In an article "A School for Medicine Men," Robert Bergman, M.D. (1973), urges the acknowledgment and support of Native traditional medicine practices. Bergman, Chief of Mental Health Programs for the Indian Health Service, delineates the legitimate psychiatric and psycho-medical approaches of Navajo traditional practitioners. He establishes the basis for this as follows:

The psychiatric literature is less extensive. It includes the early article of Pfister.... The Leightons in 1941 described Navajo ceremonials beautifully and explained many of their beneficial elements. Sander reported his work with Navajo medicine men to the APA three years ago. Almost everyone agrees that the ceremonies work (Bergman, 1973).

In 1968, Bergman states, "Medicine men are professionals. What they have that paraprofessionals lack is status and intellectual discipline... Medicine men are in real touch with the life of their community; they are also its intellectual leaders (1968, p. 137)."

The World Health Organization (WHO) estimates that three-quarters of the world's population "are emotionally and culturally tied to indigenous systems of health care," and urges governments to support the training of new generations of traditional healers (Cordes, 1985). Interestingly enough, the United States Congress seems to concur with this thesis as reflected in the passing of the Indian Health Care Improvement Act Reauthorization Bill (H.R. 1974).

The State of California through its Department of Health, Indian Health Branch, also seems to concur with this promotion of traditional health in this policy of 1976 (Indian Health Branch, Sect. 1507). In his criticism of the World Health Organization's policy in promotion of traditional health practices, Phillip Singer (1977) of Oakland University, brings forth a cryptic warning. In his work, 'Traditional Health, New Science or New Colonialism,' Professor Singer alleges that the traditional health movement may be perverted by the ruling class powers



to deny the benefits of modern medicine to suffering traditional peoples. This assertion points to extreme need for the collateral promotion of modern and traditional health services. Strategies are necessary which strengthen both health interventions for the synergistic and delivery of health care services to American Indians.

Toward a Cooperative Health Approach, By and For Indian People

As the preaching issues infer, there are an abundance of recent works which call for a cooperation of approaches and strategies which serve to respectfully implement traditional health practices as a part of a permeating appropriate health care. The World Health Organization suggests this synthesis would offer "the best of modern with the best of traditional medicine (Cordes, 1985)."

This edition of the APA Monitor suggests: The real question is how to coordinate the efforts of traditional and western systems for the good of the client. Medical anthropologist Spero Manson, who has scrutinized case studies of such efforts for eight years, admits that there are "clearly more failures than successes...." Manson recommends that western clinicians rely initially upon a third party intermediary to avoid problems caused when the uninformed try to link up directly with traditional healers (Cordes, 1985).

Jilek (1978) eloquently summarizes the need for this cooperative effort in the following way: Surely the renaissance of Native therapeutic self-help should present an intellectual challenge to western medicine and psychiatry. Perhaps we can venture a summarizing statement on this issue, the persistence and revival of indigenous American Indian healing is due, not to the lack of modern treatment services, but to a need for culture congenial and holistic therapeutic approaches, such as those conceptualized by transcultural psychiatry and psychosomatic medicine but still rarely applied in practice. In his 1974 writing, Jilek asserts that, "A comprehensive mental health program for American's first citizens should, therefore, strive to combine modern western with American Indian approaches (p.21)."

The conclusion to be drawn is that many Indian patients are likely to benefit more from involvement in Native therapeutic activities than from exclusive contact with western resources. The persistence or revival of indigenous healing should be looked on as assets in total health care for the Native population.... This aims at combining western treatment with indigenous procedures in close cooperation with Native therapists (p. 355)."

E. Fuller Torrey, in his work of 1970, emphasizes relevant issues supporting this position, "American Indians and Eskimos are two of several minority groups in the United States who have little to say about medical services...and must be content with the offerings of medical establishment whose class and culture are usually different from their own. This is certainly true of psychiatric services (p.455)." He goes further and addresses needs and goals by stating, "The outcome would be a system of mental health services



specifically adapted to the culture, realistically commensurate with available manpower, and compatible with dignity for the group (Torrey ,1970)."

The preceding review of rare and recent literature shall serve as a partial foundation upon which the body of this work shall rest. The remaining philosophical foundation will be set in the section entitled "The Return of a Red Wind."

THE RETURN OF A RED WIND

The following section entitled The Return of a Red Wind is a narrative written by the author of this dissertation. Being a Chumash Indian, the author has written this section in the first person in order to depict the culturally specific philosophy from which the entire document is effected. This section is intended to lay a philosophical foundation for the entire document.

The Return of a Red Wind

In initiating a process for implementing strategies of traditional Indian health, it is important we establish a tone or philosophical setting for such a process. This initial section of this document will attempt to depict this philosophical setting. The philosophical setting of which we speak is one which must exist in the heart of those planning, structuring, and implementing any traditional Indian health activities. It is herein extremely critical and only sensible that any implementers of traditional health activities be traditionally sensitive Indian people. Let us attempt to set a state for working in a non-linear, traditional, Indian health framework of heart, mind, and spirit. The following narrative depicts such a framework.

In our Indian way, we walk various roads of life. The road we walk governs the way that we relate to our world, which says something about the spiritual life that we lead. For us as Indian people, to be healthy (truly healthy) the spiritual world around us must live again. Therefore, as Indian people, we must develop our spiritual ways to live again. It is through those spiritual ways that we will have the communication which we enjoyed with the natural world around us. For some Indian people this has never been lost, but for many people living in the city and having confusion in their hearts, his spiritual loss has occurred. In order for us to find true health and wholeness in our lives, we must regain the red road or our Indian ways.

At one time the world that we are a part of was covered with a red wind, the red wind of our Indian traditions. Those traditions were our ways of health and wholeness that were handed down to us by our elders. Our creator, through visions, dreams, messages and language through which the creator talks to his people, gave our traditions to our ancestors. Very recently that red wind died down and was almost gone. The red wind of goodness and traditions of how we conduct ourselves slowly diminished as the white people came over our land. In order for us to be truly healthy and whole as a people, this red wind must live



within us again.

In the way that medical people (modern medicine) talk about preventative health services, they talk about preventing sickness by enabling people to live a healthy and whole life. They talk about this as meaning physical, nutritional, and mental wholeness.

This physical wholeness they see as being a need to maintain physical strength and physical exercise using the body in the strenuous way that it was meant to be used. This is certainly true, and Indian people have known this all along whereas modern medicine has just discovered or rediscovered this. Modern medicine also says that you have to watch what you put into your system (your body), and they refer to this as nutrition. They say you must watch out that you do not poison yourself, and that you must have a healthy and full variety of nutrients in your body. This too, Indian people knew since we refer to our food as medicine. We try to use this food medicine with moderation, for the creator put it here so that the people might live. Nutrition for Indian people is in our Indian foods and our Indian way of preparing foods for a healthy life.

These modern medical people also talk of mental health. This can only be interpreted in our Indian way as feeling toward one another, and the hearty medicine of a joke (or a laugh) which Indian people all know and are aware of. They talk of the need for maintaining mental health by talking to doctors and minimizing stress so that life doesn't defeat you. Modern nutritional and mental health, says you can be healthy not only in your mind but in your body. In our Indian ways these things are well known since the beginning. Modern medicine misses the most critical or the most important of all these preventative ways. For us as Indian people it is only obvious, but the modern medical world does not yet understand the importance of spiritual health.

Spiritual health is the way of which we speak. Spiritual health includes our relationship with the world around us and the other spirits around us. Spiritual health includes the way in which we conduct ourselves, and the spiritual way of being healthy which leads us to a healthy life. When something happens to disrupt our spiritual health our body gets sick. Our mind gets sick. This is when we need to visit our Indian healers or Indian medicine people so they might straighten us out and point us back to that red road again. They will take from us whatever it is that might be making us sick in our spirit. This will help us to become well in our body once again. So it is spiritual health which the non-Indian people seem to be running away from in these modern days. Taking that spiritual health away from their life has made them very confused. We, too, as Indian people must watch out that we do not become confused.

One of the ways which we learn to be healthy is through the way that we relate to the world around us. For some of us they call this our tradition. It truly is our tradition since it was passed down from our elders and their elders before them. But these traditions are not old things for an old and dead world. They are things for today and the way that we are linked to the world; the way in which this island is linked to us, the way we relate to that creator. So we find that our



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traditional ways are instructions on how to relate to one another, to the medicines around us, and to the plants around us, and we find how to relate to all the four legged animals around us (our brothers and sisters), and how to relate to the winged people (our other brothers and sisters) throughout our traditional ways, we find outlined for us a relationship to the world around us, and a relationship to everything which is close to us. Sometimes we have special relationships. Special relationships are with certain animals or certain spiritual guides which the Creator helps us find the avenue to health and well-being. When we work with one another, we show how well adjusted we are in our spiritual link. In our Indian ways, we have outlined for us not only our ways that relate to earth and the world around us, but also the ways which we relate to one another. This is particularly important in our relationships with our extended family, the members of our community, and our tribe. Our families are the people around us that were given to us, brought to us by the Creator to make us healthy, and to make us watch out for one another, they help us in that way. The Creator gave us the blessing of our extended families.

These are our sisters, aunts, uncles, our grandfather, and grandmother - each of which we have a very special relationship. Each plays a very important part in helping us become the human being. Our grandmothers teach us how to have kindness in our hearts, give us advice on life, and tell us stories of all the things around us. Our grandfathers tell us their stories in life, and lessons they have learned. Our uncles teach us how to grow up to be an Indian man, how to hunt, how to conduct ourselves, how to be a warrior, and how to relate to the world. Our aunts teach the girls how to be women, how to take care of themselves, how to take on medicines of the family, and how a woman conducts herself. So our extended families are very important. Without them we will have a hard time finding ourselves and knowing how to act in an Indian way. Then, it is not impossible. Many of us have had a harder time than others and have not been around our family all the time. This is a much greater test than most. Nevertheless, it's a test we must go through.

When those less fortunate than ourselves are without family, we must take them in. We must take them in to our homes and into our family. They might be lost, not knowing where their family is, or they might live far from their family. Therefore, we must help them and bring them into the safe protection of our families. We must help them learn as Indian people. In our family way, they will develop and find wholeness in us and in our future.

Some people might say why not take in the new ways? To that we must always answer that we have a way which was given to us. We have a way that is strong and healthy. We must maintain those ways for those not yet born. When we come together as people, we must always keep the unborn in mind. We must truly come together as a people, to put our minds together, and see what kind of life we might make for those not yet born. These are the reasons that we must always keep the spiritual instructions that we were given by the Creator a long time ago. We must always remember the children, those that are



coming up and those that are not yet born. When we do traditional things we must also remember our ancestors. Maybe by being aware of these things we will be motivated to walk that red road, for there is a return of a red wind.

In regaining our traditional ways we must always be aware that this has been prophesied. There is a slowly returning red wind. That red wind is coming back around. Our responsibility is this process. In our responsibility we must bring our minds and hearts together. We must commit ourselves before the Creator to carry on our traditional ways for those who have not yet been born. For the return of this red wind is always the return of strength and well-being of our people. It is in this way that we talk of traditional Indian health.

When we say traditional Indian health we are using technical terms which do not always run smoothly, the traditional Indian health and well-being. This is not a way which was prescribed by some doctor, or some dentist, but a way that was prescribed by the Creator a long, long time ago.

Nevertheless, these ways are beginning to live again. We must always remember that traditional health means bringing our spiritual life in order before the Creator. We bring our spiritual life together before the Creator for those who have not yet been born, and those who we can help come up. This great undertaking that we bring our hearts together to make one heart. In that light we bring our spiritual strength together to stand as one. So, too, we must bring this health to our system of providing health care. There is nothing wrong with white man's physical health, but to find true health, we know as Indian people that we must also find spiritual health.

The modern Indian health projects must not discourage our Indian health and Indian ways, but must, in fact encourage our Indian health and Indian ways. If they do not, they are providing a disservice to the Indian people. In bringing these things together, we find that this is not an impossible task, but only a small part of the ever- growing return of a red wind.

In the easier dealt with issues of community politics, it is best to say that community and tribal politics have no place in the arena of traditional health promotion. Community and tribal politics can, at times, develop deep-seated ill will and anger within its own community of participants. Traditional people are rarely a part of that community. Many Indian healers relay that it is from those politics that many interpersonal illnesses are born. We should not mistakenly confuse these

tribal and community politics with the role of political warriors. Political warriors, such as those involved in American Indian Movement and other warrior societies, fight political survival battles of our spiritual leaders.

As one might guess, there are many problems (programmatic and financial in nature) which are created by a haphazard approach to traditional Indian health. It is important that painstaking care, personal commitment, and common sense prevail. Specifically the issue of paying for medicine people to provide healing services, and the transportation of people in need of traditional health services to a medicine person or ceremonial, should be addressed. A



recent center in north central Washington found a way to pay traditional medicine people for providing healing services by purchasing woolen goods with the third party payment, and giving the woolens to its American Indian client, who presented them to the therapist. In this way the client - healer bond survived (Cordes, 1985). In no other situation is it more important that the commitment and experiences of the internal Indian staff of the agency to guide the organization. The following are some suggested policies and procedures.

1. Medicine people are not typically paid directly for healing services. Although some medicine people may need monetary aid in providing healing services, it is important that the agency realize that these needs are brought forth only by the medicine persons' need to travel over very extensive areas, and to lodge and feed themselves and their party, in their commitment to healing. Therefore, although it is usually improper to pay a medicine person for "services rendered" it is certainly not improper, and is in fact respectful, to pay for the medicine persons' expenses. In using local medicine people, it is important that one approach these people not in a way that would imply "How much can we pay you to do this?" But in a respectful manner of saying, "How might we help you in being able to continue to help the people?" Any offering of a gift of thanks for healing (monetary or otherwise) to the medicine person should come directly from the patient or their family.

Conclusion

In conclusion it can be said that there are many ramifications to any investigator's or service providers function in engaging Native communities. This effect must be moderated by an examination of the context of services. That examination must consider the following contextual factors:

1. Historically abusive relationships by federal agencies
2. Differing values and cultural content
3. Traditional teachings / cultural reference
4. Language

In considering this foundation of the work to be done, we must then take a critical look at the professional training which is best suited to the task at hand. With the collaboration of local exerts and the participation of culturally astute colleagues, a competent provider will critically examine a service plan. Upon establishing a careful plan of action, astute providers will allow these collaterals to carefully examine the following critical questions:

- What will the effects of this intervention have on the community?
- How were these critical issues dealt with traditionally, or prior to the provision of these services?
- How can we join with the functional traditional and natural caregivers of the community in order to build on a foundation of the existing traditional services?



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- What will the impact of these services be on the community and culture?
- Do these impacts on the community serve toward the long-term benefit of the culture and community?

In implementing these service planning mechanisms, we are driven by two goals. The first is to not replicate the culturally abhorred and brutal infliction of services offered in the past, in the name of services. The second, yet of equal importance, is to develop strategies which will join and strengthen the indigenous culture in its survival and empowerment.

Simply put, we offer our skills and resources to the community in order and to the great power of resilience which is there. We further look to empower the community in it's own self care.



Cultural Sensitivity for Non-Indian Service Providers Working with Native American Victims of Crime

Eidell Wasserman, PhD

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 predominantly 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



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conflicts can lead to the total breakdown 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 achievement.

Indian programs face the challenge of 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 Services 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 those in need. Traditional healers are available on a 24 hour basis.



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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 year. 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 that 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 that 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 victim's 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 issues 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 relationship with the federal government. The historical underpinnings to this issue are beyond the scope of this monograph. Both historical 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 problem of 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 that 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 area 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



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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 every situation. It is important to consider a person's experience 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 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 reservations.

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 entitles "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 training.

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



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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 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 with a half hour drive from the meeting location. Such a meeting take 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, these employees cannot attend the on-reservation training 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 languages led to children unable to speak their language. Participation in traditional religious ceremonies requires an ability to speak one's language.



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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 that 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 issues and therefore they ignore this dimension.

Integration of traditional 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 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.



Investigating Child Sexual Abuse in the American Indian Community

John R. Schafer
Blaine D. McIlwaine

Child sexual abuse investigations are difficult at best, but the problems are compounded when the crime occurs on an Indian reservation. Indians living on reservations are often geographically isolated. In addition to physical separation from the American mainstream, Indian tribes are culturally distinct. The judicial system on Indian reservations is more complicated because multiple federal and tribal law enforcement agencies often have concurrent jurisdiction. The cumulative effect is that Indian reservations can provide safe havens for child molesters, both Indian and non-Indian, who often remain active for many years without detection.

A significant problem that many investigators face is that the victim belongs to one cultural group while the investigator belongs to another. The possibility exists that investigators may make inappropriate decisions due to unfamiliarity with tribal culture and traditions. The authors are Special Agents for the Federal Bureau of Investigation (FBI) assigned to the Flagstaff, Arizona, Resident Agency and have over twenty years of combined experience investigating violent crimes on the Hopi and Navajo reservations.

This study offers a survey of the problems normally associated with investigating child sexual abuse in Indian communities. Material for this study was gathered over a three-year period from 1986-1989. Many of the cases cited here are still in adjudication, which precludes the use of the defendant's name. The list of problems is not exhaustive, but should serve to alert the investigator to some of the difficulties that may be encountered.

Many Indian people believe that humans must act in harmony with nature to achieve a spiritual understanding of life. This philosophy is seen in the everyday behavior of the traditional and, to some extent, the less traditional Indian communities. Harmony between man and nature can be achieved through a variety of religious and traditional ceremonies usually performed by a medicine man. However, each Indian tribe has its own unique customs and cultures. Socially correct behavior in one tribal setting may not be acceptable behavior in a different tribal setting. Nonetheless, American Indian cultures, with few exceptions, have strong sanctions against incest and child sexual abuse (Gail, 1987). In spite of the strong sanctions against the sexual abuse of children, sex is not openly discussed in the school or the family setting.

The traditional tribal punishment for the crime of incest is banishment of the offender. A tribal medicine man is then summoned to perform a purification ceremony to bring the victim back into harmony with nature. According to some Indian mythology, the incest offender will suffer certain psychological and physical maladies that will eventually drive the offender to suicide. In the Navajo Indian culture, it is not uncommon for the offender's family to compensate the



victim's family by giving them sheep, cattle, turquoise jewelry, rugs, or other items of value instead of reporting the incident to police.

The investigator should become familiar with specific tribal customs before conducting in-depth interviews with Native American sexual abuse victims. The following is an example of an investigator who, due to inexperience, assumed that all Indian tribes had similar cultures.

In 1987, an investigation on the Navajo Indian reservation focused on a non-Indian teacher employed at a Bureau of Indian Affairs (BIA) school who was suspected of being a pedophile. It was anticipated that many Navajo Indian children would have to be interviewed. Before conducting the interviews, the investigator consulted an expert who investigated child molestation cases on the Seminole Indian reservation in southern Florida. The expert advised the investigator to tell the Navajo victims that the tribal elders had been notified of the molestation allegations and urged the victims to cooperate fully with the investigators. This technique proved successful with Seminole molestation victims. However, the same approach angered the Navajo victims. The typical response of the Navajo victims was disbelief that the investigator would talk to the tribal elders. The Navajo victims did not cooperate because they knew that any information, true or false, spread quickly on the Navajo reservation. The victims were also keenly aware that information, especially of this nature, could scar their reputations for life. The investigative technique succeeded on the Seminole reservation because the Seminole tribal elders performed a leadership role different from that of the Navajo tribal elders. After receiving several negative responses from victims, a Navajo social worker was consulted and provided the investigator with some basic facts regarding Navajo culture and beliefs. The investigator incorporated the advice of the social worker into subsequent interviews, and the victims responded favorably.

If the above-mentioned case had focused on only one victim, it could not have been prosecuted without the victim's testimony. However, the teacher involved had molested several students, thus allowing the investigator, by the use of the trial and error method, time to develop culturally specific interviewing skills.

The authors have identified the following interviewing techniques which were successful during interviews with Navajo and Hopi victims.

When interviewing Indian children, a confrontational posture should be avoided. Avoiding eye contact and a heightened sense of personal space are normal reactions in the Navajo and Hopi cultures. An inexperienced investigator might interpret these behavioral patterns as an indication the child is not being truthful.

Exact dates and times are often essential to successfully prosecute an offender. The investigator may encounter some difficulty accomplishing this task because time in Indian culture is often expressed as day or night, by seasons or by ceremonial or religious events. Knowledge of special tribal ceremonies or religious events is a useful method to narrow the time frame within which the crime occurred or better understanding the mind set of the victim.



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In one case, a Hopi male in his teens refused to be interviewed by investigators. A week later a second attempt to interview him proved successful. Investigators later discovered the victim was reluctant to cooperate because he thought the content of the interview would become public, thus prohibiting his participation, for the first time, in an important tribal ceremony that was to be held the next day. Prior knowledge regarding specific tribal customs can usually be learned in a short period of time and can save the investigator hours of unnecessary work and frustration.

The extended family plays an important role in Indian society. Grandparents have customarily assumed the responsibility of teaching their grandchildren the oral traditions of the tribe as well as crafts such as woodcarving, beadwork, weaving, and pottery making. A child often has numerous aunts, uncles and cousins who provide support and guidance for the child during the growing years. It is not out of the ordinary for a child to be shuttled back and forth between relatives who serve as substitute parents (Fischler, 1985). Older siblings, sometimes very young themselves, are often given the responsibility of caring for younger brothers and sisters for long periods of time without adult supervision. This is believed to prepare the children for their future roles as parents, as well as providing an immediate child care function (Korbin, 1980).

The advantage of a community where almost everyone is related to or knows everyone else is that there are few secrets and, with persistence, the truth will become known. The disadvantage is that information regarding the investigation, or other information of any consequence, is effectively disseminated throughout the community via what is commonly referred to as the "moccasin telegraph." The investigator must assume that from the onset of the investigation nothing will remain confidential. In addition, the overwhelming experience of the authors has been that in a closed community environment the abused child may be pressured by parents or relatives to deny or change any incriminating facts in an effort to protect a relative or the reputation of the family or clan. The members of the victim's extended family can either enhance or impede an investigation. The investigator's attitude plays an important role in gaining support of family members.

Research has found that sexually abused victims are more likely to come from poor and single parent families (Fischler, 1985; Gail, 1987). The research, however, does not take into account the fact that members of the extended family often substitute for absent or working parents. In general, Indian communities are perceived to have a different standard of living than non-Indian communities. Many Native Americans exist and thrive under conditions that would be judged substandard by the surrounding majority culture. Many traditional Navajo families still live in small, one-room homes with no electricity or running water, or other modern conveniences. Navajo families living under these conditions may not see themselves as poor based on tribal traditions. Nonetheless, the unemployment rate, depending on the location of the Indian community, can be as high as 70% (Fischler, 1985). High unemployment can significantly impact the family's ability to meet the financial requirements of



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everyday life and subject family members to added pressures. The investigator should note that, due to the financial condition of the victim or the victim's family, transportation to and from the courthouse might be problematic. In addition, the jury's impression of the victim or witnesses may need to be considered if the victim does not have, or cannot afford, clothing suitable for a courtroom setting.

A Navajo child abuse study found that 50% of abuse and 50% to 80% of neglect cases were alcohol related, as compared to a 17% rate of occurrence in non-Indian communities (White, 1977). The study did not indicate how many of the case studies were sexually related, but the results do indicate that alcohol is a significant contributing factor in all forms of child abuse. In some families, alcoholism has become a way of life. Alcohol dependence may also afflict many members of the extended family. Alcoholism severely disrupts the ability of the parents and members of the extended family to provide the child with traditional values, proper guidance, and support.

Tribal governments may not have adequate resources to provide qualified psychologists and social workers. Those who are available have heavy caseloads and may not be able to offer the victim meaningful long-term therapy. More often than not, the investigator must take responsibility to notify off-reservation social service agencies to obtain necessary assistance for the victims. This type of assistance is often available through victim/witness assistance programs on both the state and federal levels. In one instance, a federal victim/witness coordinator granted a unique request. A family adhering to Navajo traditional customs sent their son, a victim of sexual abuse, to a medicine man in order to have a purification ceremony performed. The family paid for the services of the medicine man with sheep. The coordinator recognized that these actions were in accordance with traditional Navajo customs and reimbursed the family for the sheep. The reimbursement may seem unusual in the context of Anglo-American society, but the gesture was well received in the Indian community. It is essential that the victim and the victim's family be referred to professional counselors for long-term treatment of the problem. With proper psychological help, the victims will be less likely to abuse children when they become adults.

Cross-cultural studies suggest that child abuse in a variety of cultures increased or became evident for the first time as the culture took steps toward acculturation (Korbin, 1980). Over the past century, American Indian communities have experienced erosion of traditional values and lifestyles. Many Indian children are being raised in institutional settings. The Bureau of Indian Affairs (BIA) operates numerous boarding schools for Indian children. Children living in these institutional settings are isolated from the traditional family setting and may not have the proper parent modeling. Limited research suggests that boys living in institutional settings are at an increased risk of becoming victims of sexual abuse (Rimsza, 1987). However, the study did not include girls living in institutional settings, and the available data are insufficient to accurately identify any high risk supporters.

Over the past few years, it has become evident that the younger generations are rejecting, in increasing numbers, the traditional ways of their



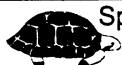
parents and grandparents. These rejections result in the loss of historical identity and a breakdown of the support systems provided by the extended family. As a result, parents left without effective family supports and coping mechanisms are prone to abuse their children (Gail, 1987). In turn, a child who was abused during his childhood is more likely to abuse children as an adult (Gail, 1987). Based on these findings, child sexual abuse in the Indian community may reach epidemic proportions in a few generations if the proper preventive steps are not taken in the near future.

The authors have identified second-generation victims on the Navajo Indian Reservation. In one instance, a father, himself molested by his non-Indian elementary school teacher, now has two sons who were molested by the same teacher a decade later. In the same vein, a thirty-two year old male Indian maintenance worker employed at a BIA boarding school was arrested for molesting five male students in their early teens. Less than two years later, one of the victims was discovered sexually molesting a younger male student in a BIA dormitory. The older student was placed into a counseling program, but due to insufficient funding and a heavy caseload; the social worker was not able to adequately address the needs of the older student. The older student eventually became despondent, attempted suicide and was subsequently transferred to a larger city to receive extensive treatment at an in-patient facility.

One phenomenon that has been observed is that many Indian pedophiles were molested as children by non-Indian school teachers. The authors have also observed the arrest of a female child molester. The woman was a twenty-six year old non-Indian employee at a BIA boarding school located on the Navajo reservation. The woman was arrested, convicted, and sentenced to thirty months in a federal prison for sexually molesting a female student who lived in the BIA dormitory. The investigation revealed that several other female students living in the same dormitory were also targeted by the female offender; each victim was at a different stage in the seduction process. These observations have not been followed up by any scientific studies to determine if any general implications exist.

Over a three year period, investigations on the Navajo and Hopi Indian reservations have resulted in the arrest of five teachers for child molestation or related offenses. Of the five teachers arrested, two were non-Indian teachers teaching at BIA schools, two were non-Indian teachers teaching at state-operated schools on the reservation, and one was an Indian teacher teaching at a BIA school. The five teachers lived within a fifty mile radius and had little if any contact with one another. The teachers were able to avoid detection for long periods of time, in one instance for eighteen years. The method of victimization used by each teacher is typified by the following case.

In 1979, a thirty-four year old, non-Indian male was employed by the BIA as an elementary school teacher on the Hopi reservation. The teacher established a nationally acclaimed reading program that enabled the students to increase their reading scores dramatically. The teacher's acceptance into the Indian community was signified by his participation in a religious "hair washing" ceremony. The school administration, students, and community at large felt the



teacher made outstanding contributions to the educational system on the reservation. After eight years of dedicated service, the teacher was arrested for child molestation. During that period of time, the teacher kept an accurate record of his sexual activities with 142 male students. This case is considered one of the most widespread instances of child molestation in U.S. history.

Approximately one out of every twenty school aged Hopi Indian males were molested by this teacher. The last student named on the list, the most recent victim, was in the second grade, and the first name on the list, the oldest victim, is now in his early twenties. A majority of the students on the list came from poor, dysfunctional families. The teacher singled out these students and provided them with food, a place to stay, and, most importantly, affection. The students had their choice of dozens of video movies to see and games to play. The teacher took selected students to larger cities off the reservation and bought them clothes, shoes, and other items that the students' families could not afford to purchase. Gradually, over a period of two years, the teacher seduced the students by first touching them in seemingly innocent ways. The teacher progressed to touching their genitals and eventually to anal intercourse. During the course of the investigation, it was revealed that two police reports had been filed previously and several complaints were directed to the principle's office alleging that the teacher was molesting students. The teacher was so well thought of that in each instance the teacher was exonerated of any wrongdoing. In February 1987, the teacher was arrested by the FBI and is currently serving a life sentence in a North Carolina federal prison. Pursuant to an interview and correspondence between the teacher and the authors, the teacher readily admitted to sexually molesting the students but indicated his belief that the good he did for the Hopi community far outweighed his transgressions.

Shortly after the teacher's conviction, fifty-eight of the teacher's victims filed a lawsuit alleging that the BIA failed to prevent the teacher's misconduct. As part of the out of court settlement, fifty seven victims ranging in age from nine to twenty one and the mother of one victim who ultimately took his own life as a result of being molested will share a \$46.5 million award. The settlement also established counseling and education funds to ensure long term assistance for the victims and their families.

In each case, the five teachers masked their pedophile activities so cleverly and developed such a good rapport with community members that the community was shocked and felt betrayed by the teachers. After the initial shock, most communities joined forces and supported the investigation and subsequent efforts to provide counseling for the victims and their families; however, this is not always the case. The investigator must be acutely aware of the community's perception of the suspected pedophile and the investigation itself. The following case is an example of how a community's negative reaction took the investigators by surprise.

A fifty year old, non-Indian male was employed as a middle school teacher on the Navajo Indian Reservation. The teacher appeared to be very religious, with an excellent teaching record and a reputation beyond reproach. The teacher taught at the same school for eighteen years. During that time, the



teacher molested a large number of male students. The only known record of the teacher's victims were names and dates written on a closet door next to a height chart. The growth of scores of students could be traced by hatchmarks etched progressively higher on the door. The teacher targeted students who came from poor, dysfunctional families, and often sought parent's written permission to allow their sons to live at the teacher's residence on a permanent basis. In several instances, the teacher was granted legal guardianship of the students. Most of the victims lived with the teacher from the time they were five or six years old. The investigators approached school administrators regarding the suspected teacher's pedophile activities. In less than an hour's time, the "moccasin telegraph" carried the news throughout the school and the community. The school administration and teachers, predominantly non-Indian, rallied behind the suspected teacher and, in light of the previous well-publicized investigations, accused the investigator of being on a "witch hunt." The investigation was frequently hindered by the teacher's supporters. Opposition to the investigation was subtle at first, but soon escalated to actions that bordered on obstruction of justice. One supporting teacher went so far as to file a false criminal complaint against one investigator. In addition, the investigators were allowed only restricted access to students during school hours, causing the investigators to travel long distances in an attempt to locate and interview victims at home. Many victims could not be found easily because it is not uncommon for a child to reside with different members of the extended family who live great distances from each other. In addition, houses on the Navajo reservation frequently do not have telephones or addresses and can only be found using landmarks for directions. Eventually, a majority of the members of the Indian community pressured the school administration to cooperate with the investigation in order to resolve the crisis. Notwithstanding, the school administrators continued to support the suspected teacher, which resulted in a division in the community generally along racial lines. At one point during the investigation, several Navajos who supported the accused teacher employed a medicine man to perform a ceremony that would protect the teacher and place a hex on the investigators to prevent them from continuing the investigation. When members of the Indian community who supported the investigation heard about this action, they, in turn, retained a more powerful medicine man to perform a ceremony to counteract the hex. The investigation was long and frustrating but resulted in the arrest and conviction of the teacher. The teacher is now serving a thirty year sentence in a federal prison.

The reaction of the community is an integral part of the investigation. The investigator may have to take time to educate school administrators and members of the community regarding the problem of child molestation. If a child sexual abuse awareness program is not in place at the school, the investigator should encourage the school administration to establish one.

As a direct result of the arrests of the five school teachers, the Navajo and Hopi tribal governments in conjunction with other federal agencies established child sexual abuse awareness programs for school aged children. Shortly after the awareness programs began, there was a noticeable increase in complaints of



incest by students. Although these single-victim familial cases do not have the same political impact as a teacher molesting his students, the results are just as devastating. The extent of the incest problem on the Navajo and Hopi reservations is now becoming evident, and new resources must be allocated to address this problem.

Interviewing a victim of child sexual abuse can be difficult in most Indian communities. The investigator must first obtain cultural information not readily accessible to outsiders before an effective interview can be conducted. Local tribal law enforcement agencies or social workers will usually provide the necessary guidance to conduct a culturally correct interview. Background information regarding the victim, offender, and the crime is as important as the interview itself because it provides a framework for the interview and allows the interviewer to become more comfortable with new ideas and perspectives.

Either a male or female can conduct effective interviews if the interviewer can demonstrate a sensitive and caring attitude toward the victim. In the case of an Indian victim, thought should be given to whether an Indian investigator should accompany a non-Indian investigator to interviews. In some cases, the presence of an Indian investigator will provide the victim with support and allow him or her to be more relaxed during the crisis period. However, in other instances, the presence of an Indian investigator may cause the victim to be more inhibited. Since there are few secrets on a reservation, the victim may feel that details of the crime will not remain confidential. The victim's sense of guilt, embarrassment, or shame may be heightened when the facts of the case are discussed in front of another tribal member. Conversely, the non-Indian investigator may elicit similar negative emotions from the victim. The interviewers must be perceptive to the ongoing dynamics of the interview and be prepared to make changes if necessary.

The best place to interview a victim is in a neutral setting. As a general rule, the interview should not be conducted in the same place where the crime occurred. The interview should also be conducted in privacy; however, in Indian communities this may not always be possible. The victim's residence may be small, with many other relatives living in the home. Wherever the interview takes place, the setting should be comfortable for the victim as well as the interviewer.

A researcher studied the reactions of sexually abused victims and observed that victims may react in one of two ways when interviewed (Rimsza, 1987). With the first reaction, the victim may become very emotional, cry, express feelings of betrayal, or become outwardly embarrassed. The second reaction is a more controlled one. The victim is calm, cool, and will relate details of the assault in a seemingly emotionless manner. Seventy nine percent of the male victims in the study displayed a controlled reaction, while female victims were divided equally among the controlled and the emotional reactions.

The interviewer should also be aware that a victim may develop a strong emotional bond with the offender and vehemently deny having been sexually abused in an attempt to protect the offender. In many cases, presenting the victim with some type of tangible exhibit will loosen the bonds between the victim



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and the offender. The exhibit does not have to be of evidentiary value but sufficient to lend credibility to the investigator's presentation of the facts.

Investigators accustomed to using video cameras, pressure-activated microphones, two-way mirrors, and other aids may be disappointed, because few, if any, of these aids are available on most reservations due to the lack of funds to purchase this equipment. The investigator should bring along anatomically correct dolls, phenotypically Indian or non-Indian. Anatomically correct dolls can be useful during interviews, especially when the victims are young. However, investigators need not feel obligated to use the dolls, but should use them only when the victim cannot without difficulty verbalize the facts of the case. Permitting the victim to draw a picture and later discuss the picture is another nonverbal technique to facilitate communication.

Once the initial flurry of activity surrounding the investigation and subsequent judicial proceedings is over, the victims are left with the formidable task of reintegrating into the community. This process can be made easier, providing the community supports the victim. The authors conducted informal post investigation interviews with victims and teachers to assess the reintegration process. The teachers indicated that many of the victims suffered from a variety of psychological trauma, including irritability, learning disorders, low self-esteem, and, in extreme cases, suicide attempts. One teacher observed that the victims were often labeled as such and forced to form their own social subgroups. Several of the students who were interviewed felt they had been ostracized and were somehow different because they had been victims of sexual molestation. One male student in his mid teens wanted to begin dating, but was experiencing anxiety regarding his sexual identity. The problems cited are only a few of the myriad of challenges the victims must learn to overcome. The investigator's responsibility ends with the prosecution of the offender, but the victim's pain continues long after the offender's prison sentence has been completed.

The successful investigator must first understand local customs and traditions and then determine if a specific behavioral pattern is appropriate within that particular cultural context. Judgements should not be based on a single action but rather on a cluster of the offender's or victim's behavior patterns. Most importantly, flexibility and common sense should be used when interviewing a victim of sexual abuse. What makes sense to the investigator may not always make sense to a victim with a different cultural background.

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Lessons From the Third Sovereign : Indian Tribal Courts

by
Honorable Sandra Day O'Connor

Today in the United States, we have three types of sovereign entities - the Federal government, the States, and the Indian tribes. Each of the three sovereigns has its own judicial system, and each plays an important role in the administration of justice in this country. The part played by the tribal courts is expanding. As of 1992, there were about 170 tribal courts, with jurisdiction encompassing a total of perhaps one million Americans.

Most of the tribal courts that exist today date from the Indian Reorganization Act of 1934. Before the Act, tribal judicial systems were based around the Courts of Indian Offenses, which were set up in the 1880's by the federal Office of Indian Affairs. Passage of the Indian Reorganization Act allowed the tribes to organize their governments, by drafting their own constitutions, adopting their own laws through tribal councils, and setting up their own court systems. By that time, however, enormous disruptions in customary Native American life had been wrought by factors such as forced migration, settlement on the reservation, the allotment system, and the imposition of unfamiliar Anglo-American institutions. Consequently, in 1934, most tribes had only a dim memory of traditional dispute resolution systems and were not in a position to recreate historical forms of justice. Swift replacement of the current systems by traditional dispute-settling institutions was not possible. Therefore, while a few tribes, such as the New Mexico Pueblos, have "traditional courts" based on Indian custom, most modern reservation judicial systems do not trace their roots to traditional Indian fora for dispute resolution. Rather, because the tribes were familiar with the regulations and procedures of the Bureau of Indian Affairs, that model provided the framework for most of the tribal courts. Nevertheless, many tribes today attempt to incorporate traditional tribal values, symbols, and customs into their courtrooms and decisions. Some tribal courts, in proceedings that otherwise differ little from what would be seen in State or Federal court, have incorporated traditional features of Indian dispute resolution to try to infuse the proceedings with values of consensus and community. For example, the placement of litigants and court personnel in a circle aspires to minimize the appearance of hierarchy and highlight the participation and needs of the entire group in place of any one individual.

The tribal courts, while relatively young, are developing in leaps and bounds. For example, many tribes are working to revise their tribal constitutions and to codify their civil, regulatory, and criminal laws to provide greater guidance and predictability in tribal justice. At the same time, tribes have expanded the use of traditional law. Many tribal codes now combine unique tribal law retribution and on keeping harmonious relations among the members of the community. To further these traditional Native American values, tribal courts may employ inclusive discussion and creative problem-solving. The focus on traditional values in contemporary circumstances has permitted tribal courts to conceive of alternatives to conventional adversarial processes.



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The development of different methods of solving disputes in tribal legal systems provides the tribal courts with a way both to incorporate traditional values and to hold up an example to the nation about the possibilities of alternative dispute resolution. New methods have much to offer to the tribal communities, and much to teach the other court systems operating in the United States. For about the last fifteen years, in recognition of the plain fact that the adversarial process is often not the best means to a fair outcome, both the State and Federal systems have turned with increasing interest to the possibilities offered by mediation, arbitration, and other forms of alternative dispute resolution. In many situations, alternative methods offer a quicker, more personal, and more efficient way of arriving at an answer for the parties' difficulties.

The special strengths of the tribal courts - their proximity to the people served, the closeness of the relations among the parties and the court, their often greater flexibility and informality - give tribal courts special opportunities to develop alternative methods of dispute resolution. Many of the issues which come most frequently to tribal courts lend themselves to alternative methods of resolution. For example, vital issues touching on domestic relations, child custody, probate, tort, and criminal prosecutions, may be solved more satisfactorily using a non-adversarial method. A cooperative process is particularly useful where family issues, particularly related to children, are involved, because the process helps the parties to work together to arrive at a fair and workable solution. An adversarial process, in contrast, may worsen the strains between members of the family, and create new conflicts to fuel the old. Too, family problems lend themselves to methods of resolution shaped by the particular character of individual tribal courts, because family issues - involving child custody, juvenile crimes, marriage, and inheritance - are one where tradition provides a critical guidance for social behavior.

Many tribal courts have already developed methods that meet the needs of their communities and use the underlying traditions and values to the extent possible. A good example is the Navajo Peacemaker Court, which was formed in 1982 by the Judicial Conference of the Navajo Nation to provide a forum for traditional mediation. The Navajo Peacemaker Court is now an active, modern legal institution which incorporates traditional Navajo concepts into a judicial process for dispute resolution. The process is directed by a mediator, who acts to guide and encourage parties to resolve their dispute. The process relies on parties' participation and commitment to reaching a solution, rather than on the imposition of a judgement by an impersonal decision maker. The Navajo Peacemaker Court successfully blends beneficial aspects of both Anglo-American and Indian traditions.

The Northwest Intertribal Court System, a consortium of 15 tribes in the Pacific Northwest, was set up in 1979 to provide court services and personnel to the individual tribal courts of member tribes. Several of the member tribes have supplemented their formal tribal court system with Peacemaker programs that are based on traditional values of consensus and respectful attention to the individuals.



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such control is not conducive to neutral adjudication on the merits and can threaten the integrity of the tribal judiciary. Some tribes, like the Cheyenne River Sioux Tribe in South Dakota, have amended their constitutions to provide for formal separation of powers.

A vital improvement made by tribal judicial systems is the growing number of law-trained, well-prepared people participating in the system, both as lawyers and judges. Many tribal judges have taken steps to craft ethical guidelines and to institute tribal bar requirements for the lawyers who practice before them, and have participated themselves in further training for the task of judging. Both lawyers and judges must be knowledgeable and principled if the tribal judicial systems are to engender confidence in the fairness and integrity of their courts. Whether in tribal court, state court, or federal court, the exercise of a court's jurisdiction is a serious matter, and all persons-Indian and non-Indian who come before a court are entitled to just and reasoned proceedings.

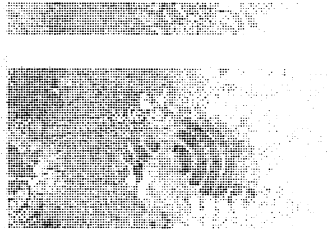
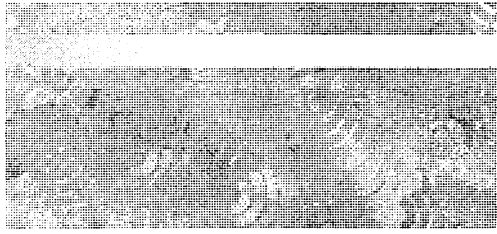
The judicial systems of the three sovereigns - the Indian tribes, the federal government, and the states - have much to teach one another. While each system will develop along different lines, each can take the best from the others. Just as "a single courageous State may, if its citizens choose, serve as a laboratory,"¹ for the development of laws, the experiments and examples provided by the various Indian tribes and their courts may offer models for the entire nation to follow. To give but one example, the Navajo Peacemaker Court has been studied not only by officials within this country, but also from Australia, New Zealand, Canada, and South Africa, for possible use. The Indian tribal courts' development of further methods of dispute resolution will provide a model from which the Federal and State courts can benefit as they seek to encompass alternatives to the Anglo-American adversarial model. And, while tribal courts currently seek to expand the role of traditional law in their judicial systems, they may well choose to incorporate some of the features of the Anglo American system, such as access to an effective appeal and the independence of the judiciary.

The role of tribal courts continues to expand, and these courts have an increasingly important role to play in the administration of the laws of our nation. The three sovereigns can learn from each other, and the strengths and weaknesses of the different systems provide models for courts to consider. Whether tribal court, state court, or federal court, we must all strive to make the dispensation of justice in this country as fair, efficient, and principled as we can.

¹ New State Ice Co. v. Liebmann, 285 U.S. 262 at 311, 76 L. Ed. 747, 52 S. Ct. 371 (1932). (Brandeis, J., dissenting)



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*The following report is from the 101st Congress, 1st Session, Report 101-216.
Final Report and Legislative Recommendations: A Report of the Special Committee on
Investigations of the Select Committee on Indian Affairs, United States Senate. November 20
(legislative day, November 6), 1989.*

Child Sexual Abuse in Federal Indian Schools

While child sexual abuse is a growing menace throughout Indian Country and indeed across the nation, the Bureau of Indian Affairs (BIA) has ignored the problem in its own schools.¹ There has been a complete administrative breakdown in detecting and reporting pedophile teachers and other employees at BIA schools. BIA has allowed pedophiles to continue teaching even after they were reported to BIA school officials. In fact, BIA administrators repeatedly failed to report child sexual abuse allegations to law enforcement authorities and even threatened persons making allegations with slander suits. BIA's negligence led to needless cases of child molestation, yet many of the negligent officials were actually promoted to higher positions.²

Indian children across the country must now bear the burden of BIA's mistakes and suffer the trauma of sexual abuse on reservations where mental health treatment is often unavailable. Lacking access to quality therapy, some former victims of BIA employees have grown up to become child molesters themselves, perpetuating a tragic cycle of abuse.³ The cases of Paul Price, John Boone, Terry Hester and others illustrate the failure of BIA to fulfill one of its most important responsibilities, namely to Indian children.

The Paul Price Case Price at the Camp Lab School

Paul Price obtained a teaching certificate in North Carolina and taught at a number of public schools, including the Campus Laboratory School ("Camp Lab") in western North Carolina. In the spring of 1971, unaccompanied by other adults, Price took six of his Camp Lab seventh grade students, all boys, on a weekend camping trip in the Smoky Mountains.⁴

¹ The Special Committee's examination of child sexual abuse in BIA schools is not intended to de-emphasize the serious problem of physical and sexual abuse of Indian children outside BIA schools.

² William "Pat" Ragsdale, Acting Assistant Secretary for Indian Affairs, Department of the Interior, Testimony, Hearing, Part 3, Feb. 27, 1989 at pp. 259-61, 271; Dr. Arthur Justice, Dean of the School of Education, University of South Carolina at Spartanburg, Testimony, Hearings, Part 2, Feb. 9 1989 at p. 274; Ollie Locust Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 25.

³ Keneitha Haigler Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 9-12; Patricia Trampler Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 7; Elizabeth Shiek, Psychologist, Smoky Mountain Health Clinic, Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 13-14; Roxanne Howard, Juvenile Intake/Court Counselor, Eastern Band of Cherokees, Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 139.

⁴ Paul Price Interview, Butner Federal Correctional Institute, Feb. 13, 1989; Justice at p. 29.



Late Saturday night Price snuck into the tents of several of the boys and sexually abused them. Price even forced one boy to have oral sex with him. When one of the boys who had not been molested that night learned that something strange had happened to his fellow campers, he told his father, Dr. Arthur Justice, the principle of the Camp Lab school.⁵

Shocked by his son's story, Justice confronted Price. At first, Price denied the charges. When Justice, however, threatened to line up the boys who were on the trip and have them tell their stories to his face, Price confessed. Price was fired from Camp Lab and never returned.⁶

Price is Hired at Cherokee

To his chagrin, Justice discovered in August of 1971 that Price had been hired to teach at the BIA elementary school on the Eastern Band of Cherokee Indian Reservation in Cherokee, NC. Although Price listed the Camp Lab school in his employment application to BIA, Bureau officials never contacted Justice or anyone else at the Camp Lab school, and were therefore initially unaware that Price was an admitted child molester.⁷

Justice, undaunted by BIA's apparent lack of concern, was so disturbed that Price had been hired to teach at Cherokee that he sent a strongly worded letter to T.J. DuPree, the BIA principal of the Cherokee Elementary School, disclosing Price's penchant for young boys. Although the BIA did not respond, Justice assumed the matter had been properly dealt with. However, the letter was ignored.⁸

With no fear of his past catching up to him, Price began teaching both third grade children and the children most vulnerable to his unwanted advances - special education students. And no sooner had Price arrived in the classroom than he once again gave in to his "urges" and began molesting young boys.⁹

Price's technique for molesting children was simple, but devious. Price would first target a needy boy who craved attention. These were usually boys who, like himself, had no father or came from a broken home. Price showered these boys with attention, often buying them Cokes, candy bars, and expensive gifts like baseball gloves, bicycles and teddy bears. Getting as close as he could to them, Price coached boys' sports teams, supervised camping trips, ate lunch with his students and even swung with them on his lap in the playground during recess.¹⁰

Price was visibly affectionate and gave "his" boys hugs, kisses and pats on the behind. Price's secret goal, however, was to win the trust of the boys and then seduce them. Once Price had won their trust, he would strike by placing his

⁵ Id. at pp. 29-30.

⁶ Id.

⁷ Id.; Price Interview.

⁸ Justice at p. 30.

⁹ Price Interview.

¹⁰ Id.; Price Testimony, Deposition, Feb. 13, 1989 in Hearings, Part 3, Feb 21, 1989 at pp. 318, 320; Locust at p. 28.



hands on both the inside and outside of the boys' clothing and then begin fondling them.¹¹

While on the Cherokee school grounds, Price tried to restrict his sexual activities to fondling and to avoid detection, he preferred to teach alone. Price instructed the aides assigned to him to sit behind a screen in the corner of his classroom.¹²

Price was bolder outside school grounds. He masturbated while fondling his child victims and frequently engaged in oral sex with them. Price particularly desired boys between the ages of eight and twelve because older boys "talked too much."¹³

Frightened and confused by Price's advances, the young boys were kept silent by threats. Price told more than one boy, "I'll cut off your penis and turn you into a girl if you tell."¹⁴

To intimidate young boys, Price sometimes met with his victim's mother and cultivated her friendship. He thought that no parent who perceived him as a "nice" teacher would believe tales of his perversion.¹⁵

Price began molesting children from the start of his first school year at Cherokee in 1971. Even Price, however, sometimes felt spasms of guilt and stopped his molestation. During these times Price would fight to control his pedophilia, but invariably he would lose control over his urges and once again resume molesting children.¹⁶

Dr. Justice Again Warns BIA Officials

In 1974 Justice taught a course for teachers at the Camp Lab school that was attended by two teachers from the Cherokee school. Shocked to learn from them that Price was still teaching at Cherokee, Justice told the teachers that Price "should never be around children." As a result, Justice met with the Chief of the Cherokee Tribe, John Crowe, and a tribal councilman, Glenn Bradley, to relay Price's prior history at Camp Lab.¹⁷

Deeply disturbed by Justice's story, Chief Crowe and Bradley then met with Robert Evans, the highest BIA official at Cherokee, and told him about the Camp Lab incident. Evans promised Crowe and Bradley that he would take action, and suggested Justice write a letter to BIA setting out the facts. Justice wrote the letter, but again received no response from BIA. Moreover, Price

¹¹ Id.; Locust Interview, Jan. 26, 1989. Typical of Price's seduction ploys was his bicycle contest. Price ostensibly conducted the contest for his students as a motivational tool. However, the real price the winner of the bicycle had to pay was consent to Price's sexual abuse. Locust at p. 28; Shiek Interview, Jan. 26, 1989; Lawrence Hill Interview, Jan. 26, 1989.

¹² Hill Interview.

¹³ Price Deposition at pp. 317-18; Price Interview.

¹⁴ Tramper at p. 7; Tramper Interview, Jan. 27, 1989.

¹⁵ Hill Interview.

¹⁶ Price Deposition at pp. 317. 320; Price Interview.

¹⁷ Brintnall at p. 25; Brintnall Interview, Jan. 26, 1989; Justice at p. 31; Glenn J. Bradley Testimony, Deposition, Feb. 15, 1989 at pp. 6-8.



himself was not questioned by BIA officials concerning the allegations and freely continued teaching at the Cherokee elementary school.¹⁸

But Justice's letter led to bizarre consequences. Shortly after the meeting between Evans and the tribal leaders, the teachers at the Cherokee school were called to a meeting by the school principal, Ray Cleveland. He stated that people were spreading rumors about a teacher, and if they did not stop, they would be sued for slander. Reading from a BIA manual, the school's personnel director then listed the penalties for slander, which included dismissal from employment. Frightened by these thinly veiled threats, the two teachers who had learned about Price decided not to press Justice's account any further.¹⁹

The Allegations Continue

Despite BIA's official myopia, allegations against Price's blatant behavior continued. Throughout the 1970's and early 1980's there were repeated stories that Price was sexually molesting young boys.²⁰

Yet whenever there was a complaint, Price was not forcefully questioned by BIA school officials. Instead, he was asked, "You really didn't do this, did you?" and Price's denials were always accepted. The same principal who refused to act on Justice's letter simply mentioned to Price on one occasion that he should "refrain" from touching children. Several BIA supervisors even offered Price friendly advice like, "Paul, why don't you get married?" in the hopes that the scurrilous allegations would then cease. But no one reported Price to law enforcement authorities or to their BIA supervisors in Washington, DC.²¹

In 1982 a series of anonymous letters alleging that Price was molesting children circulated among the parents of Price's students. Again, no one at BIA investigated these allegations or reported them to federal law enforcement authorities. By failing to consider allegations, BIA permitted Price to escape detection and continue molesting children.²²

In November 1984, Price had become so blatant that he began to massage the crotch of one of his third grade students in the school hallway. When Ollie Locust, a teacher's aide, caught him in the act of molesting the child, Price pretended he was simply praising the boy. Deeply shaken by the incident, Locust immediately told her story to the principal of the school, Mary Widenhouse. Widenhouse told Locust that she had done the right thing by reporting the incident, but that it was now "out of your hands." Widenhouse stated that she would have Price "watched" but also told Locust, "I don't want you to say anything about this. You could be hit with a slander suit if you do."²³

Widenhouse did not report the hallway incident to law enforcement authorities and only indirectly questioned Price. She accepted Price's easy

¹⁸ Justice at p. 31; Bradley Deposition at p. 8; Price Interview.

¹⁹ Brintnall at pp. 25-26; Justice Interview, Feb. 21, 1989; Bonnie Cogdill Interview, Jan. 26, 1989.

²⁰ Brintnall at p. 26, Locust at p. 28.

²¹ Price Deposition at pp. 320-21; Price Interview.

²² Price Deposition at pp. 321-22; Mary Widenhouse Testimony, Deposition, Feb. 7, 1989 at pp. 20-21; Price Interview.

²³ Locust at pp. 23-24; Locust Interview.



denial, as had all of her predecessors. Price continued to teach the student he molested in the hallway. Widenhouse's only other response to Locust's eyewitness report was to have Price "watched" by another teacher and by the assistant principal, Roy Lambert. As could be expected, BIA's half-hearted attempts to "watch" Price failed.²⁴

Price is Finally Caught

Keneitha Haigler's son always enjoyed school. From the time he was three years old he wanted to join his sister on the bus that went to the Cherokee school. Suddenly, in the fall of 1985, the eight-year-old boy who loved school began to fear it. "How many days until Saturday?" he asked his mother. On other days the boy would say, "I'm sick and don't want to go."²⁵

Then the nightmares began. Awakened by her son's cries in the night and his constant pounding on the walls, Haigler felt an intense fear in her son that she could not trace. The boy's violent drawings of fire, death and destruction also were a troubling mystery.²⁶

Late one evening in October 1985, Haigler entered her son's room. The boy was sitting in bed with a blanket over his head. Clearly frightened, he said Price had repeatedly molested him. Price had molested the boy in the classroom, the lunchroom, and even the hallways.²⁷

Her worst fears raised, Haigler questioned the Superintendent of the Cherokee Elementary School, John Wahnee. Haigler was dismayed that Wahnee was not surprised by her allegations. In fact, Wahnee explained that windows were being placed in Price's classroom to "discourage" that type of activity. Wahnee instructed Haigler to write a letter detailing her complaint, after which Price was finally reported to law enforcement officials.²⁸

Price was suspended from teaching a week after the Haigler allegations surfaced and the FBI began an investigation. Ironically, on his last day of school, Price attended a school Halloween party and wore a prison costume with stripes and a serial number.²⁹

While the school was in an uproar over Price's arrest, other accounts of his sexual deviancy came to light. Young boys who before were frightened into silence at last began to tell their stories. The evidence mounted and Price was indicted on 21 counts of taking "indecent liberties" with four minors.³⁰

Publicly, Price continued to insist on his innocence, and the case was scheduled for trial. On the day of trial, Price went into the courthouse restroom and when he came out, he faced a line of young boys who stood ready to accuse him. Standing with the boys was a highway patrolman, the same person who twenty years earlier had been molested by Price. Scared by the prospect of

²⁴ Widenhouse Deposition at p. 19; Roy Lambert Interview, Feb. 15, 1989.

²⁵ Haigler at p. 8; Haigler Interview, Jan. 26, 1989.

²⁶ Haigler at p. 8.

²⁷ Id. at pp. 8-9; Haigler Interview.

²⁸ Haigler at p. 8-9.

²⁹ Id.; Trampler at p. 6.

³⁰ Paul Price, Indictment, filed Jan. 7, 1986, Western District, North Carolina, U.S. District Court.



confronting those he had abused, Price pled guilty to one count of molesting Haigler's son and was sentenced to the maximum term of ten years in prison.³¹

Price, however, insisted that he was innocent even after his guilty plea, telling his friends that he only pled guilty to save the boys from having to testify. Many of the teachers at the school believed his story and the Assistant Principle, Roy Lambert, flatly refused to apologize to one of the victims' parents even after Price was convicted.³²

Price's Confession

In April 1989, Price's steadfast protests of innocence broke down. Price, incarcerated in a maximum security prison, confessed, under oath, to Special Committee investigators that he had molested children all of his life, including at least 2 young boys at the Cherokee Reservation. Price admitted that his repeated pattern of molestation at Cherokee began in 1971 and ended in 1985 and that the BIA school officials knew of the allegations for most of his fourteen year tenure. The fact that they did not pursue them was "a phenomenon that's hard to understand," Price testified. Price candidly acknowledged, "I was waiting for someone to stop me."³³

Inexplicable, no BIA official at the Cherokee school was ever disciplined for failure to report the allegations concerning Price. Dupree in 1971, Evans in 1974, Widenhouse in 1984 and Wahnee in 1985 all had ample notice of Price's acts. Instead, some of these supervisors gained promotions. Widenhouse was promoted to the BIA's Office of Education in Washington, DC. Wahnee was promoted to superintendent of schools on the Hopi Reservation. Lambert remains the Assistant Principal of the Cherokee school. Ultimately, supervising a pedophile who molested children at will for 14 years did not harm anyone's career at BIA. As Acting Assistant Secretary for Indian Affairs William Ragsdale testified before the Committee, it was "inexcusable" that the BIA allowed a pedophile like Price to thrive in its schools for 14 years.³⁴

The John Boone Case

John Boone was hired in 1979 as a remedial reading teacher at the Polacca Day School, a BIA school on the Hopi Reservation in Arizona. Boone gained the trust of the Hopis during the early 1980's and impressed many with his awards from the BIA for his innovative English-language teaching methods.³⁵

Boone was also a favorite of his Hopi students. They liked going to his house to play games and watch videos. Actively involved with the children,

³¹ Haigler at p. 17; Trampler at p. 6; Price Interview.

³² Trampler at p. 6; Haigler at p. 11; Lambert Interview.

³³ Price Deposition at pp. 319-20.

³⁴ Justice at pp. 30-31; Locust at p. 24; Haigler at p. 9; Ragsdale, Feb. 27 at pp. 259-60. Acting Assistant Secretary for Indian Affairs William "Pat" Ragsdale added that BIA's communication of sexual abuse incidents is "terrible." *Id.* at p. 262.

³⁵ Eloise Salholz, "Assault on the Peaceful: Indian Child Abuse," *Newsweek*, Dec. 26, 1988 at p. 31.



Boone coached basketball, volleyball and softball, and frequently took the children on overnight trips for sporting events. Beneath his appearance of normalcy, however, Boone concealed a darker side.³⁶

In March 1981, then-Navajo County Deputy Sheriff Larry K. Baldwin learned that Boone was taking Hopi boys between 13 and 18 years old to motels and to his own house. During these excursions, Boone provided alcohol to the boys in a ploy to get them drunk and remove their clothes. On one trip, a boy awakened on a couch in Boone's house to find himself without clothing. Boone, also naked, was staring at him from underneath a table next to the couch. In other cases, when the boys asked why their clothes were removed, Boone told them he had "washed" them because they were "dirty."³⁷

Although Baldwin could not get the boys to pursue their allegations, he contacted Thomas Goff, Boone's principal at Polacca. In March 1981 Baldwin met with Goff and told him that Boone was being investigated for sexual molestation of children. Goff replied that without additional evidence, Boone could not be fired.³⁸

Five years later, Boone removed the clothes of Debra Hood's ten-year-old son, again ostensibly to wash them because they were dirty. Shocked by Boone's inappropriate behavior, Hood reported the incident to Thomas Goff.³⁹

Goff called Boone into his office. After Boone denied the entire story, Goff simply told Hood she had better be "damn sure" of what she was saying or she might ruin Boone's teaching career. Goff then telephoned the BIA Superintendent for Education at the Hopi reservation, Albert Siquah. Siquah directed Goff to contact a federal labor relations officer and Boone was placed on a three-day temporary leave.⁴⁰

Despite the previous reports by Sheriff Baldwin against Boone, Goff and Siquah did not contact any law enforcement officials nor did they notify either their superiors at the Office of Education Programs in Gallup, New Mexico, or the BIA central office in Washington, DC. The BIA officials simply dropped any further action against Boone. By not pursuing the serious charges against Boone, BIA officials permitted him to continue teaching Hopi children and, consequently, to molest them.⁴¹

After the 1986 incident, Hood forbade her children from going to Boone's house. In 1987, however, Hood's children began to sneak over to Boone's house because they liked watching videos there. One day Hood's daughter peeked in a window at Boone's house and saw Boone and her brother wrestling. While Boone and her brother were wrestling, the girl entered the house and stole a

³⁶ Hood at pp. 273-75.

³⁷ Larry K. Baldwin, for Navajo County Deputy Sheriff, Interview.

³⁸ Baldwin also reported the allegations concerning Boone to then-Chief of the BIA Police at Hopi, Ivan Sidney. Id.

³⁹ Hood at pp. 273-75.

⁴⁰ Id.; Kenneth G. Ross, Assistant Director, South and West Agencies, Education Operations, Office of Indian Education Programs, BIA, Prepared Statement, Hearings, Part 3, Feb. 21, 1989 at p. 349.

⁴¹ Ragsdale, Feb. 27 at p. 260; Albert T. Siquah, Prepared Statement, Hearings, Part 3, Feb. 21, 1989 at p. 357.



book entitled *The Sex Book*, which contained explicit pictures and definitions of sexual terms.⁴²

Later that night, after Hood's son went to sleep, the girl gave her mother the book and told the disturbing story of Boone wrestling with her brother. Confused about what to do because of the BIA's previous lack of action, Hood contacted a Hopi tribal court counselor, who in turn contacted the FBI. In February 1987, the FBI arrested Boone and made a shocking discovery in his house. Boone had compiled a chart describing the sexual activities he had engaged in with 142 boys. Boone also had photo albums and videotapes of nude boys. Based on this gruesome evidence, Boone pled guilty in June 1987 and was sentenced to life in prison.⁴³

Tragically, the massive abuse at Hopi could have been halted if BIA officials had responded to the serious allegations against Boone. Even so, no BIA official was ever disciplined or reprimanded for failure to report Boone. Neither Goff nor Siquah suffered any adverse consequences as a result of their reporting omissions. As Co-Chairman McCain stated during the hearings, "Our commitment loses credibility if people who were in supervisory positions are simply transferred to other schools, rather than being held responsible for the actions that took place when they were in a supervisory capacity."⁴⁴

Moreover, the BIA and Indian Health Service response to the mental health crisis created by Boone was wholly inadequate. Instead of implementing crisis intervention plans, as is routinely done in public schools hit by such traumatic events, the BIA had no outreach to the parents of the students for six months.⁴⁵

While the pain and anguish caused by Boone festered within the Hopi community, the BIA employed a counselor at the Polacca Day School, Lee Cargile, who only added to the acute stress of the sexually abused Hopi students. Cargile questioned the students in exhaustive detail concerning the most intimate facts of their abuse and compiled his own chart of Boone's activities. Cargile even called representatives of the U.S. Attorney's Office and asked for money to fly to New York to interview John Boone in prison so that he could write his own book about the Boone case. At the insistence of the U.S. Attorney's Office in Phoenix, Cargile was removed from Polacca Day School. However, Cargile was not disciplined for his behavior but was simply transferred to the Keams Canyon Boarding School only eleven miles away. At Keams Canyon, Cargile sometimes acted as principal, supervising some of the same students he had inappropriately questioned at Polacca.⁴⁶

⁴² Hood at p. 275.

⁴³ Id.; David Small, Supervisory Special Agent, Phoenix Division, FBI, Testimony, Hearings, Part 3, Feb. 21, 1989 at pp. 41-42; Hood Interview, Feb. 9, 1989.

⁴⁴ Senator John McCain, Co-Chairman, Special Committee on Investigations, Hearings, Part 11, June 8, 1989 at p. 12; Ragsdale, Feb. 27 at p. 260; Hood Interview.

⁴⁵ "Sylvia" Testimony, Hearings, Part 2, Feb. 9, 1989 at p. 280; Hood Interview. William Mehojah, Branch Chief, Office of Indian Education Programs, BIA testified that BIA has never engaged in crisis intervention. Mehojah Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 90.

⁴⁶ David Breault, Clinical Social Worker, Testimony, Hearings, Part 3, Feb. 21, 1989 at p. 114; Ross at p. 82; Ragsdale, Feb. 27 at p. 260; Breault Interview, Feb. 21, 1989.



Other Cases of Sexual Abuse

Price and Boone were not the only pedophiles flourishing in BIA schools during the 1980's. Terry Hester applied to BIA in 1981 to teach at the Kaibito Boarding School on the Navajo Reservation. On his employment application to BIA, Hester wrote that he had a previous criminal arrest and listed the relevant Oklahoma statutory code citation. Inexplicably, BIA officials failed to look up the code citation. If they had checked the code, they would have learned that Hester had been arrested previously on a child molestation charge.⁴⁷

Hester escaped detection, however, and was hired by BIA. Rather than seducing boys, Hester's technique was to threaten and coerce them into sexual acts. After Hester was arrested for molesting children at the Kaibito Boarding School, a BIA law enforcement officer finally checked the code and learned that it referred to child sexual abuse. The officer also learned that Hester had "skipped" trial on that charge in Oklahoma and had fled to Arizona. Subsequently, Hester was returned to Oklahoma, where he was convicted. No BIA officials were ever disciplined for their failure to notice Hester's prior arrest.⁴⁸

J.D. Todd also molested children at a BIA school on the Navajo Reservation. Todd taught at the Greasewood Boarding School for twenty-one years. After a new counselor at the school heard stories of Todd's molestation activities from various children, she finally reported him. Todd was investigated by law enforcement officials, but still some of his fellow BIA teachers testified for Todd as character witnesses and otherwise at his trial, claiming that the children were lying. The principal at the Greasewood School even arranged joint transportation to the trial for both the teachers testifying for Todd and the victims of Todd. Only after the U.S. Attorney's Office intervened were the children provided separate transportation.⁴⁹

BIA's Approach to Reporting Child Sexual Abuse

Price, Boone, Hester, Todd and others demonstrate BIA's failure to protect Indian schoolchildren. That these pedophiles could operate in BIA schools with no systematic means of reporting can be traced in part to the failure of BIA to issue any reporting guidelines and Congress' failure to require them to do so. In 1974 Congress passed the Child Abuse Prevention and Treatment Act which mandated that state governments adopt minimum child abuse laws or forfeit federal aid. However, Congress inadvertently omitted federal and Indian lands

⁴⁷ Mehojah at p. 75.

⁴⁸ Id.; Ross at p. 92; Small Interview, Feb. 21, 1989.

⁴⁹ Small at p. 42; Christine Brown, Assistant Branch Chief, Indian Education Programs, BIA, Testimony, Hearings, Part 3, Feb. 21, 1989 at pp. 89-90; Brown Interview, Feb. 21, 1989. After a lengthy jury trial, Todd was found guilty in an Arizona federal district court on thirteen counts of sexual molestation and was sentenced to 99 years in federal prison. However, the Ninth Circuit Court of Appeals ordered a new trial because the children could not precisely identify the dates of the sexual abuse and the jury's factual determination was held to have been improperly influenced by the prosecution's use of an expert witness who presented testimony on the trauma of sexual molestation.



from this requirement. Thus, BIA schools were exempt from any sexual abuse reporting requirements.⁵⁰

Since the passage of the Child Abuse Prevention and Treatment Act of 1974, all fifty states have enacted and strengthened their own reporting laws. Yet no federal reporting law currently applies to federal schools on Indian lands. Moreover, despite the actions of all 50 states, the BIA for years failed to institute its own reporting guidelines or ask Congress for a mandatory statute.⁵¹

This regulatory gap tied the hands of the Cherokee tribal leadership in 1974 when it asked BIA to investigate Paul Price. Even today tribes are powerless to require BIA or the Indian Health Service to investigate and report cases of suspected child abuse. Until recently, tribal officials or parents of victims could not even refer to internal BIA policies on child abuse reporting because they were nonexistent. Even though the Price fiasco came to light in 1985, BIA's first official policy on reporting sexual abuse was not issued until December, 1987, and its first policy to strengthen the background checks of potential teachers was not issued until last year.⁵²

While the policies BIA has promulgated are an improvement over their previous lack of any reporting procedures, they are still seriously flawed. There are no criminal sanctions for failure to report and no protection from slander suits for those who do report child abuse allegations. Thus, as in the Price case, teachers who know of allegations may be frightened and intimidated into not reporting their information.⁵³

A federal reporting law would inevitably lead to increased reports of child sexual abuse and a need for greater treatment services. Unfortunately, the treatment of child abuse victims and offenders is currently underfunded and understaffed. Many reservations have neither licensed medical specialists to provide care to victims, nor mental health professionals to provide counseling. On the Hopi Reservation, the therapists treating the children traumatized by Boone must travel over 300 miles to their clients and are only available four days a month.⁵⁴

Moreover, multi-disciplinary sexual abuse teams trained in the issues of child sexual abuse are rare on Indian reservations. Mental health treatment is not only critical to relieving the depression and suicidal and homicidal ideations that victims experience, but also can help prevent victims from becoming future

⁵⁰ 42 USC §5101; Howard Davidson, National Legal Resource Center for Child Advocacy and Protection, Testimony, Hearings, Part 3, Feb. 22, 1989 at pp. 128-29.

⁵¹ Id.

⁵² Hilda Manuel, Chief Judge, Tohono O'Odham Judiciary, Testimony, Hearings, Part 11, June 8, 1989 at p. 32; Ragsdale, Feb. 27 at p. 261; Bradley Deposition at pp. 6-8.

⁵³ Justice at p. 32. Acting Assistant Secretary Ragsdale noted, "I would agree with the Secretary [Lujan] that I think federal legislation is needed to provide criminal penalties [for failure to report] as well." Ragsdale Testimony, Hearings, Part 11, June 8, 1989 at p. 13.

⁵⁴ The number of criminal complaints in South Carolina increased by 20 percent after the state enacted a mandatory sexual abuse reporting law. Justice at p. 33; Kenneth Hodder, Clinical Social Worker Testimony, Hearings, Part 3, Feb. 22, 1989 at p. 107; Hodder Interview, Feb. 21, 1989.



perpetrators. Paul Price, in fact, was sexually abused at the age of eight and at least two of his victims are now convicted molesters.⁵⁵

Conclusion

Collectively, Price, Boone, Hester, Todd and other cases the Special Committee investigated demonstrate BIA's gross negligence in reporting child molesters to appropriate social service and law enforcement authorities. After the Committee's investigation, Acting Assistant Secretary for Indian Affairs Pat Ragsdale sent official letters of apology from the BIA to the Hopi and Cherokee tribes. As Secretary Ragsdale testified, "I'm sorry it took a Special Committee investigation for us to discover this breakdown in our system."⁵⁶

The administrative breakdown, however, signifies fundamental institutional incompetence. BIA supervisors refused to report credible allegations against their employees and staunchly defended teachers who were later convicted of molestation. With threats of slander against those who pursued allegations, BIA officials stifled detection and intimidated anyone who chose to report allegations. BIA consistently refused to document molestation allegations in the personnel files of accused teachers, and routinely failed to investigate the background of teachers it hired. Moreover, negligent BIA officials were never disciplined by their superiors and many were even promoted within BIA. Instead of adopting reporting standards, as had all 50 states, the BIA for years failed to address known problems.

⁵⁵ Shiek at p. 15; Price Interview; Shiek Interview.

⁵⁶ Ragsdale, Feb. 27 at p. 250; Ragsdale, June 8 at p. 12. See Letter, William Ragsdale, Acting Assistant Secretary for Indian Affairs, U.S. Department of the Interior to Ivan Sidney, Chairman, Hopi Tribe, Hearings, Part 3, Feb. 27, 1989 at pp. 675-76.



Cultural Considerations

Dolores Subia BigFoot, PhD

The integrity of the Indian families should be respected with the inclusion of relevant cultural aspects. Many researchers have expressed concern about the appropriateness of service delivery and treatment to culturally different populations and have advocated culture specific techniques for ethnic minority groups (Dinges, Yazzie & Tollefson, 1974; LaFromboise & Rowe, 1983; Sue & Zane, 1987; Trimble & Hayes, 1982). The blending of specific cultural aspects with an effective technology provides a sound empirical foundation with a culturally sensitive approach.

The use of skills training for parenting competence has application especially with American Indians. The teaching of Indian children within the family circle was by example and explanation. Children and youth were provided lengthy explanations of the reasons for family and tribal guidelines and for preferred behaviors. Children were encouraged to see and follow the examples set by others. Positive self-concept was taught by letting a child practice and succeed at a task appropriate for that age level (Primeaux, 1977). Children were taught customs by observing the examples of others and also by participating in the practices themselves (Nichols, 1930). A young person gained from the learning of activities and tasks from other family members (Ryan, 1980).

Cultural Components

A training program that is culturally-appropriate for American Indians would include specific traditional parenting techniques that would emphasize language, examples, and/or procedures that are consistent with Indian values. Values, beliefs, and attitudes are defining expressions of culture. According to Sue (1981), culture consists of all those things that people have learned to do, believe, value, and enjoy in their history. Culturally specific concepts contain the attributes that American Indian families have used for generations and continue to value though they may have become fragmented as a result of the inequities families have experienced.

The Indians of today, and of the past, present a picture of broad diversity of culture. It is inaccurate to state that all American Indian tribes value or practice to the same degree all traditional concepts or tribal beliefs. It is important not to assume that all Indian tribes have similar traditions. In fact, most tribes wish to maintain their uniqueness and their tribal integrity. However, respect can be given to unique tribal traditions while recognizing the overall values that seem to be held by tribal groups collectively. Tribal differences diminish when contrasted with the majority population so that these differences between tribes seem less significant when one considers the differences between values held by American Indians generally and those of Anglo-Americans. Several writers (Bryde, 1972; Richardson, 1981; Trimble, 1976; Zintz, 1963) have identified some attributes that are considered to characterize Indian people and have listed those polar traits that correspond for the Anglo-



American majority culture. Briefly summarized below are the values perspectives that are commonly cited.

Basic Value Differences

1. Children are accorded the same degree of respect as an adult. Children are considered important units of the family and are central to the family. They are considered more important than material possessions. Children are not generally accustomed to the structure imposed by non-Indian adults, especially as found in school settings. Talking loudly and reprimanding children is considered ill-mannered.
2. Important is placed on harmony with the environment. Man is not accepted as the center of the universe but rather a part of it. One accepts the natural world and does not try to change it. Nature, in the Indian view of the world, is indivisible and a person is only a part of a much larger creation. The non-Indian attempts to control the physical world, to assert mastery over it. Indian people seek to be compatible with the surrounding environment both socially and physically.
3. Generosity and sharing has more value than personal acquisition or material achievement. Individuals are judged by their relative contribution to the group. Generosity and sharing are important attributes; Native American values place priority on giving rather than receiving. The one who gives the most, commands the most respect. The "give away" has an important part in the social and religious activities of Indian people. By contrast, the non-Indian is judged by personal achievement and by acquiring many possessions.
4. Group competition is encouraged if it is a cooperative venture, that is, team sports, as contrasted to individual competition which is not highly valued. Competition is unacceptable if it causes hurt or brings shame to another individual. The Native American learns to work with others by being cooperative and getting along. Within Indian groups there is conformity, not competition. Competition is learned early in the non-Indian environment where most believe that competition is essential. Progress results from competition and "progress" is considered necessary. In the Indian world, politeness is considered essential, while confrontation is a violation of cultural norms.
5. The orientation toward a present time frame versus the orientation toward a future time frame is another contrast. Native Americans live more in the present and are concerned about the now rather than anticipating unknown future possibilities. Traditionally, Indian tribes had to regard the future out of necessity for survival, for preparations were essential to survive the winter months and the non-harvest times, but there was an appreciation for being in the present. The non-Indian, however, lives for tomorrow, constantly looking to and planning for the future. The non-Indian life is governed almost entirely by time. Those who are prompt are respected, and those who are not are usually



- rejected and reprimanded. There still exists for Indian people, the appreciation of living for today, while today exists.
6. In tribal custom there is a respect for the elders who have lived a long time and are highly regarded for their wisdom and knowledge. Indians respect a person who has knowledge of the people and the natural world. The non-Indian society places a greater importance on youth, an emphasis seen daily on television and in politics, for example.
 7. There is value placed on the traditional lifestyle and teachings. Children are taught the ancient legends and cultural traditions. They are taught their history, who they are and where they come from. They are taught what is expected of them and how they are part of the family, clan, and tribe. Advancement, technology, and learning new methods to maintain a modern society are appreciated more by the non-Indian.

Family Structure

The strength of American Indian families can be appreciated by their persistent struggle to maintain a similitude of the former cultural structure while being confronted by opposing social, political, and economic events reshaping their lifestyles (Lewis, 1984).

Traditionally the time for child rearing was not when one had children but when one had grandchildren (Attneave, 1982). The older generation occupied a position closer to the grandchild than did the parent, making the bond between grandparent and grandchildren very strong. The basis for part of this pattern was economics. Attneave (1982) noted that hunting and gathering, even in rural agricultural villages, were traditionally the most prevalent means of sustaining life. The energies and strengths of young adults were crucially needed for the support of the clan as a whole. Physically, the young adult could be more active in the pursuit, dressing, and hauling of game, in addition to defending the interest of the tribe.

The American Indian family defined itself not so much as an individual unit but as an extension of the clan unit into tribes (Morey & Gillian, 1974). The clan system supported the formal organization and sustained the social order which governed the conduct of its members. An understanding of the clan system is basic for an understanding of its role in the rearing of children. The extended family network was a structure of relationships by group members toward other group members. The kinship structure was basically a tight-knit community in which everyone depended on everyone else for survival and support. Each relative or member was delegated formally or informally to guide, counsel, or teach the children that belongs within the clan. All cousins were treated as siblings; all aunts and uncles shared parental functions. Indeed, in almost every Indian language and tradition, these roles are blurred as far as the genetic lines are concerned (Attneave, 1982). The same kinship terms are used for brother/cousin, mother/aunt, and father/uncle. Great aunts and uncles were considered grandparents and functioned in that role (Attneave, 1982; Morey & Gillian, 1982; Primeaux, 1977). Teaching children correct behavior was the



responsibility of each adult person. Survival skills were taught so children could be competent to overcome obstacles they would encounter in their normal development. The child was reinforced by the family, community, and tribe since each contributed to the child's welfare and the child was the traditions passing forward.

Traditional Teachings

Traditional teachings were based on behaviors that proved to be successful in maintaining the integrity of the tribe and the individual. Harmony, respect, and generosity were considered the core of traditional teachings (Nichols, 1930). Traditional teachings were based on cultural values that gave essence to the Indian nations (Richardson, 1981). Cooperation, service, and concern for the group permeated all aspects of tribal life since it was necessary that all contribute to the livelihood of the group. Sharing and generosity were measures of personal worth. The values were rooted in survival of the tribe. Members needed to depend on each other for support, for protection, for direction, and for spiritual guidance. Geography and climate determined the degree to which the Indian community adapted to harsh surroundings or lived comfortably. Indian people sought a balance with nature and accepted the circumstances in whatever area they lived. They respected the elements and the trials they had to endure to survive. To show their appreciation of the gifts from the earth, they would try to use the natural resources in a beneficial and reasonable manner that would enhance the whole tribe. Tribal people would usually place offerings in exchange for the use of food or shelter from the earth. Respect for the earth, sharing of whatever one had, and seeking harmony with each other and the surroundings formed the foundations of the teachings. Traditions were built on these values held by the tribe and were taught to children as beliefs, attitudes, and rituals.

Traditional Talking Circle

The Traditional Talking Circle was a way of bringing native people together in a quiet, respectful manner for the purpose of teaching, listening, learning, and sharing (Archambault-Stephens, 1982). The Talking Circle was a circle of respect, a Sacred Hoop. Archambault-Stephens (1982) uses Black Elk's teachings as a way to describe the completeness of the circle. According to Black Elk, everything an Indian person did was in a circle because the Power of the World always worked in circles, and everything tried to be round. In other days the Indian people were a strong nation because they saw that the Sacred Hoop was unbroken. The knowledge of the world came from the outer religion that was based on the Sacred Hoop. The four quarters of the hoop nourished the flowering tree which was the living center of the hoop. Everything that is of the world is represented in some form of the circle. The sky is round, the earth is round, the wind, in its might power, also circles the earth. The birds and animals build their nests and dens with curves and roundness. The sun and moon both form circles with their substance from day to day, and from month to month. Things always come back again in the circle. The nation's hoop forms a circle.



The circle encompasses respect, love, understanding, communication, sharing, acceptance, and strength. This establishes an arena for discussion with rules and respect to govern behavior. When approached in the proper way, the circle can be a very powerful means of touching or bringing some degree of healing to the mind, the heart, the body, or the spirit (Archambault-Stephens, 1982).

Principle of Proper Living

The teachings of Indian people were based on spiritual beliefs given orally for generations. The Principles of Proper Living taught discipline, honesty, integrity, bravery, beauty, health, respect, kindness, devotion, willingness, action, vision, hope, faith, and knowledge (Stone, 1980). The Principles were taught because man was not only creation but existed with all other forms of creation. The buffalo, the bear, the eagle, the trees, the rivers, the very stones were believed to be intimately related in the structure of the world. Everything was thought to be vested with its own power through the work of the Creator. The Principles were for man's welfare to exist and to co-exist with self and with others. The world was part of man because it relates to the survival of mankind and for mankind's welfare. There was no separation of man from nature or the natural order of things. There was no separation of the physical from the spirit without suffering consequences. All undertaking would be done with fasting and prayer. To be strong and in good health meant not only the physical self but spiritual self also. Therefore to stay well, it was necessary to touch the Spirit in the circle, by song, dance, and prayer. Spirituality has played and continues to play an important role in the life of American Indians (Bryde, 1971). Spiritual preparation includes applying the Principles of Proper Living.

Storytelling

Creation stories are the history and tradition of the tribes; they tell how the world began and in what manner. They explain how the world, people, animals, and plants are related. Through creation stories, people can understand the natural order of life and in what direction they came and in what direction they are going. They give reason to the overall scheme of things. Parents are accountable for teaching their children that actions today are significant and important and attention should be given to their actions. Elders believe that how children are reared and what is said to them influences their behavior and parents need to pass on the knowledge. It is their duty and right (Ketcheshawno, 1983). It is therefore important to understand the creation of things because it provides the framework within which wise decisions can be made.

Storytelling was the form of transmittal for how things were and why things happened. There were winter stories and summer stories, stories for days that the rains fell, and stories for early mornings. Creation stories were retold and retold many times in the growing years. This was not only to re-create the beginning of the tribe but the stories would have different significance as children matured through the developmental stages. Storytelling gathered families together to share recreation time and to improve listening and oratory skills. Stories provided the answers to when, where, how, and how come.



Medicine Wheel

The Medicine Wheel was also part of the Sacred Hoop. From its teachings come the directions for guidance and understanding. The Medicine Wheel is divided into four parts to represent the four parts of man; the physical, mental, emotional and spiritual. The Medicine Wheel gives mankind an understanding of good medicine and bad medicine. The teachings of the Four Directions also come from the Medicine Wheel. Wisdom, knowledge, and learning come from using the Sacred Directions for guidance and understanding (White Crow, 1986). The Four Directions are for understanding; they are messengers.

The North direction is colored in white. The buffalo and deer come from the North. They represent food, clothing, and shelter. But if the direction of the North is misused, it is said to care only about itself; it is cold-hearted. The color of the East direction is gold. The eagle is part of the East direction, and the East direction marks the beginnings, the creation, and the light. If the medicine of the East becomes bad, a person misses opportunities. They are unable to use the opportunities that are about them. The South is marked with the color of green. The directions are sacred and so are the colors that correspond to the directions. From the South, come love, trust, and innocence. The mouse and rat are small and tiny, yet bring the qualities of love, trust and innocence. People do not always recognize the value of these gifts. The animal that has been called Brother by the Indian comes from the direction of the West and is the Bear. Black is the color that causes individuals to be introspective and to seek from within. This person is caring and loving. At times when the medicine is bad, the person may be taken advantage of.

The next two directions are upward to Father Sky and beneath to Mother Earth. Father Sky has the rights to the sunlight, the wind, and the rain. The change in the seasons, the change in temperature, and the change as the earth moves come from the direction of the sky. The Earth connection is necessary for life to continue. The Earth is the teacher and instructor for living. Together the two directions bring fertility and reproduction to the environment.

The last direction, called the Seventh Direction, is the medicine of self. When the medicine is good, then everything is in harmony with self. This is what is strived for. When people know who they are and the direction they are to follow they are self-assured. The Sacred Directions help to establish identity and self-confidence.

To Honor Children

To honor children is to touch a child, for they are the heart of the Indian people. "Of all the teachings Indian people receive this one is the most important. Nothing belongs to you of what there is, of what you take, you must share...touch a child – they are my people," are the words of Chief Dan George (LeBrasseur & Freark, 1982 pg. 6). Children were the center of the circle for the Indian community. The experience of community was a tangible one in which respect for children emerged as the people praised, advised, guided, and cared



for all the children. Children were encouraged to be in touch with their world. Whenever a child accomplished even a small task, he or she was given recognition for the effort. Celebrations surrounded different rites of passage. Name giving, ear-piercing, certain birthdays, first dance, first hunt, first art object – all were cause to celebrate the accomplishments of the child. Friends, relatives, family, the whole kinship system engaged in acknowledging the efforts of their children either formally or informally. For example, when the first beadwork article was completed, an aunt would give away some of her possessions to honor the work done by the niece. At the end of a successful hunt, the father or uncle would know the skills mastered by the youth. Encouragement was the essential ingredient for continued success by the next generation of Indian people. All the kinship system focused their efforts toward this end. Praise was an important part of the learning process. Plenty Coup expresses the significance of praise; “Our teachers...were grandfathers, fathers or uncles. All were quick to praise excellence without speaking a word that might break the spirit of a boy who might be less capable than the others. The boy who failed at any lesson got only more lessons, more care, until he was as far as he could go” (Marashio, 1982, pg. 6).

Vision Quest

It was not uncommon in American Indian society that children were brought early to gain knowledge about the world and their place in it. Children as early as seven, eight, or nine had visions which shaped the direction of their lives, and some received the power or prophecy (Marashio, 1982). Traditional Indian people believed that each individual has a vision and a special purpose in being on this Mother Earth. Learning through visions became a powerful method of knowing the direction of one's life. A person seeking the vision usually went through fasting and the sweat lodge and, once purified, went off alone into the wilderness to seek a vision. There was power in vision and much to be learned. Ceremonies were also used to gain knowledge and truth. A clear understanding of reality was necessary to develop a perception of the world that governed survival. The quest for knowledge, understanding, and wisdom answered the kinds of questions that provided the basis for one choosing or feeling confident in a sense of direction and meaning in life (Ortiz, 1945).

Conclusion

The teachings of Indian families have existed for generations and have survived over 200 years of federal policies. The strengths of the American Indian family are interwoven within the community network, within the spiritual quality of seeking peace and balance, and with the personal relationships among family members (Lewis, 1980). Traditional teachings may be seen as valuable resources today. There are many aspects of Indian culture that can be involved in the rearing of children. Trainers will, hopefully, be respectful of the teachings and of the families that they will work with, thereby maintaining the integrity of the Indian family.



Gun Violence on Indian Reservations: An Advocacy Campaign to Collect Data and Raise Community Awareness

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Executive Summary

The problem that will be addressed in this paper is gun violence on Indian reservations. The rates of fatal gun injuries on reservations are alarmingly high, but the rates of non-fatal gun injuries (which one would expect, based on national trends, to be higher than rates of fatal injuries) are unknown simply because such information is not routinely collected. In reservation communities, which tend to be small and rural, the major stakeholders in this discussion are gun owners and gun users; children and parents; young males, in particular; and tribal government officials. The author proposes a campaign that advocates: 1) the establishment of a surveillance system to collect accurate data on both fatal and non-fatal gun injuries on reservations; and 2) the use of those data to raise community awareness about the problem of gun violence. It is anticipated that these two steps would lead to the organization and mobilization of tribal government and citizen groups to begin to discuss both legal and programmatic methods of addressing the public health problem of reservation gun violence.

Statement of the Problem

The total numbers of reservation gun injury deaths do not at first seem large, but categorical examination and comparison to national mortality rates reveal their significance and indicate both the existence of a serious problem and the need for solutions. Though data on gun injury morbidity are incomplete, the gun mortality data may serve as an indicator and allow us to make estimates about non-fatal gun injuries. Incomplete though the data may be, the information we have is enough to tell us that we need to explore the facts more fully and address the problem of gun violence on reservations.

Addressing the problem of reservation gun violence is a complicated task in many respects. The social, economic, political, and legal facets of reservation life intertwine to form a complex weave. It is unwise to approach the problem of violence, in any of its forms, without a thorough understanding of this weave and all its threads. Also, it is essential to act in full partnership with the community involved and not to approach communities with preconceived ideas or plans. The first step is to examine the existing facts and the community resources that might be brought to bear to alter those facts in the future.

In the case of gun violence on reservations, however, all the facts are not available. The first part of this advocacy campaign, then, would be to determine the total number of gun injuries in Indian Country, fatal and non-fatal. Given national trends, it is likely that the number of non-fatal gun injuries far outstrips the number of those that are fatal. In a nationwide survey, non-fatal gun injuries were found to occur at 2.6 times the rate of fatal injuries. For people age 15 to



24 (the highest risk group among Native Americans, also) and African Americans, the ratios of non-fatal to fatal were 4.1:1 and 4.3:1, respectively.¹ Although these figures could not be directly applied to reservations, they give an indication of the magnitude of the problem of non-fatal gun injuries. They indicated, too, the need to implement a surveillance system to gather accurate data on non-fatal gun injuries on reservations to complete our understanding of the toll of gun violence. This would require the cooperation of health care facilities both on-reservation and in contiguous counties where reservation residents living near tribal boundaries might go for care. Those health facilities would need to agree to keep and submit data for all gun injuries, fatal and non-fatal.

The second part of the advocacy campaign would entail using the collected data to raise awareness at the tribal government level and in the reservation community. This would require working with the tribal council and organizing community-wide meetings and/or specific focus groups involving affected or interested parties. The third step (outside the scope of the advocacy campaign) would involve using the tribal government and community meetings to assess options for addressing the problem and working with community members to design an intervention cooperatively. This advocacy campaign does not go so far as to suggest which prevention tools any given tribe might choose, since that choice must come from the community itself after deliberation and group process. Rather, this campaign proposes to fuel the process whereby a community could, informed by the necessary data, be empowered to make its own choice.

Epidemiologic Context

From 1991 to 1993, there were 591 firearm related deaths (out of 5,210 deaths from all types of injuries) among American Indians and Alaska Natives living in the Indian Health Service Areas.² While those deaths that were deemed intentional (suicides, homicides, and some of undetermined intent) had lower rates than for the demographic category U.S. All Races, those that were unintentional occurred at a rate almost 3.5 times higher than for the U.S. population as a whole.² More recent unconfirmed (and disputed) figures indicate that between 1992 and 1996, homicides on reservation "increased by a shocking 87 percent."³ Regardless of the accuracy of that figure, the figures taken as a whole indicate that gun violence is taking a heavy toll in Indian Country.

To understand what is happening in Indian communities with regard to gun related deaths, it is necessary to break down the figures as much as possible. This was recently done by the Indian Health Service in the Richard Smith article, cited above. Of the gun related deaths during the studied period, 12.4% were unintentional, 52.5% were suicides, and 33.3% were homicides (with 1.9% undetermined as to intention). In most cases (64.6%), the type of gun used was not known, so the authors could not generalize about this parameter; but of those that were known, 15.1% were handguns and 20.3% were shotguns or rifles.



Though the overall number of 591 deaths may seem small, one must keep in mind the relatively small size of the American Indian and Alaska Native population as a whole, and, more importantly, the effect of underreporting of deaths and misreporting of race on death certificates. The fact that "Firearm-related deaths accounted for 11.3% (591/5210) of all injury deaths, making this the **second leading cause of injury death** after motor vehicles"² (emphasis added), though demands attention. The figures in the report by Smith have also been aggregated by sex, and show much higher rates for males than females both overall and with each category of intention and cause of death. Overall, the report showed that males "accounted for 86.8% (513/591) of all firearm-related deaths."² It is noteworthy that, of the intentional deaths, a large number were gun-related: in 53.1% (310/584) of suicides and 36.8% (197/535) of homicides, the means used was a gun.²

The figures are consistent with statistics released by the Centers for Disease Control and Prevention (CDC) in 1996 which showed that, between 1979 and 1992, firearms were the predominant method used in suicides for both male and female Native Americans, and were a significant method used in homicides (the majority for male victims, but not for female victims).⁴ The study did not address unintentional injuries and deaths. The report emphasized that, overall, violence is a significant health threat in Native Americans, exceeded only by heart disease, cancer and unintentional injuries.⁴

The CDC study showed that the group most at risk for homicide were young males, age 15 to 24 years. Although over the study period, the homicide rate actually declined, it was still higher than the overall U.S. rate and the second leading cause of death for males in this age group.

It should be noted, however, that although firearms are a significant factor in homicide patterns on reservation, they are used less than in the population as a whole. In the U.S. population, 63% of homicides involved the use of firearms, as compared to 38% for Native Americans in IHS Areas (this figure varied by IHS Area).⁴

Suicide was an increasing problem during the study period, 1979 to 1992, with 2,394 victims and a 19% increase over the duration of the period. Suicide was the eighth leading cause of death for Native Americans from 1990 to 1992 (although it ranked higher for younger age groups). Firearms were the main means of suicide for both males (59%) and females (41%).⁴

It might be possible to form hypotheses about the situation on specific reservations if data were collected by reservation.

Sociocultural Context

It is difficult, if not impossible, to define the sociocultural context on Indian reservations as a whole. This is because each tribe has a unique history and culture. It may be valid, though, to try to understand some general trends, demographics, and shared experiences among tribes. It might then be possible to take some general gun policy ideas and adapt them, as appropriate, to different community settings.



Upon the Back of a Turtle... A Cross Cultural Training Curriculum for
Federal Criminal Justice Personnel

Indian communities vary widely in location, size, and socioeconomic status. In 1980, there were Native Americans living in every state, but 44% lived in four states: Arizona, California, New Mexico, and Oklahoma.⁵ Of the total Indian population, only 23.9% lived on reservation, a fact which would have a significant impact on any gun injury initiative aimed at reducing gun deaths and injuries through the use of Indian legal authority (such legislation by a tribal council and enforcement by tribal police). Although some tribes and reservations are quite large, the average reservation population is 1,924, and half of all reservations have fewer than 602 inhabitants. Half of Alaska Native villages have populations of less than 214. The size of native communities must be taken into account both in understanding the statistics and in devising a plan to address the problem. Obviously, it is crucial to know the community well.

In addition to these facts, it is important that the demographics of Indian populations are different from those of the population as a whole. Some information about the overall demographic context on reservations can be gleaned from the Indian Health Service publication, *Trends in Indian Health*.⁶ This is a compilation of statistics gathered by the Indian Health Service, an Agency of the U.S. Public Health Service, on an ongoing basis. It contains quantitative information about the makeup of the American Indian and Alaska Native populations and their health status indicators (birth and death rates, health status, and services provided).

The IHS service population consisted, in 1997, of 1.43 million people. The Indian population, overall, is younger than the U.S. All Races population, with a median age of 24.2 years as opposed to 32.9 for U.S. All Races. Indians have lower incomes, overall, than the general population, with a median household income of \$19,897 as compared to \$30,056 for U.S. All Races; 31.6% of Indians live below the poverty level, compared with 13.1% of U.S. All Races.⁶ There are differences, also, between on- and off-reservation Indians. Those living on reservation tend to have higher percentages of people under 20 and over 60, as compared with Indians living in contiguous counties.⁵ This is significant in light of the fact that gun violence is more of a threat to younger Indians, especially young males.

The political, cultural, and economic environments vary considerably, but there are some common trends. Politically, most tribal governments are based on a democratic model, with tribal councils, court systems, chairpersons, and, often, a tribal police force. It is important to understand, in any given tribe, the structure of the government if one is to design a public health intervention with a legal are requiring enforcement (for example, a gun control law). It is also necessary, though, to understand the tribe's particular history and the political undercurrents that could affect community efforts.

Culturally, all tribes are unique, and the tribe's culture and history will have a great impact on how the proposed coalition-building stage of the problem-solving approach will proceed. It will be crucial to know, for example, if the tribe one is working with is matriarchal or patriarchal, what the clan structure is, what the importance of family is and what the religious values are. Family, clan, and religion are often the most dominant cultural determinants in tribes that are more



traditional. Even in more acculturated tribes, these factors can have a powerful influence.

Although, economically, Indians, as mentioned above, are worse off than the population as a whole, this is not true for every tribe. There are tribes that are wealthier due to ownership of a successful commercial operation (such as a gaming operation) or other resources (such as land, water, or any number of valuable minerals). These tribes would have more to spend on health care and interventions and might also have a very different political structure than poorer tribes. For example, they could have better health care facilities, more to spend on data collection, and more attorneys or lobbyists to help design and implement legal interventions. They could have more to spend on educational initiatives or longer term projects.

Advocacy Coalition Building

Indian communities have changed dramatically over the centuries as a result of, among other things, evolving Federal Indian policies and changing demographics. The changes during this century alone have been remarkable. Although there may be exceptions, many tribes retain their basic traditional social structures and values.

The stakeholders would be all those who are affected, in any way, by gun use, violent or non-violent. Gun ownership is widespread on many reservations, especially rural ones, so one group of stakeholders would simply be gun owners and users (for example, hunters and ranchers). Many of these would undoubtedly defend their gun ownership on the usual ground of necessity, tradition, and rights, and resist any proposed restrictions. There might also be political opposition to what could be seen as a movement by whites to disempower Indians once again. Tribes whose reservations are more urban, however, might have a different perspective, especially if they are plagued by urban gun violence. Parents and families in all Indian communities might be a gun control effort's best allies, since youths are so disproportionately represented among the victims of gun violence. Another group of stakeholders would be tribal government officials, who would have to address the difficult policy issues, and tribal police, who would be called upon to enforce any legal resolution. Health professionals, a potentially strong group of allies, would have an interest in seeing a reduction in gun injuries and deaths.

In seeking allies among the stakeholders and in the community in general, the public health practitioners and community activists would be well advised to start with the tribal elders and the tribal council. These tribal leaders can have a great influence on the community's readiness to acknowledge a problem and on its acceptance of an intervention. This level of influence is based in history and the leadership role of tribal elders, who often functioned as a council, in making important decisions in the community. Obviously, tribal council members can effect or influence the passage of legislation.

The resources to be used in such an effort will vary from tribe to tribe. Some wealthier tribes might have more monetary and physical resources⁷, but tribes that are not as wealthy might have resources that are less tangible, such



as community cohesion. Among the resources to be identified or sought are: tribal elders; tribal council members; tribal media; health professionals; youth and family groups or organizations; community boards; schools; tribal social services; tribal law enforcement; domestic violence groups; experts to gather, compile, and interpret data on fatal and non-fatal injuries (for example, to test a biostatistical hypothesis); and individuals or families personally affected by gun violence. In addition, material resources such as money and meeting places and, again, media conduits will need to be identified.

It will be important to decide which allies are most important and which adversaries the most formidable. It is likely, in this case, that among the most important allies will be the tribal council, tribal elders, health professionals, and parents and families. The most difficult and powerful adversaries will most likely be young men whose arguments will be based on necessity and rights. This is the group, of course, that has the highest rate of gun injury deaths. A cohesive coalition of allies will have to decide how to address the arguments of this latter group.

Objectives

The objectives of the advocacy campaign will be:

1. to create a complete database about all gun injuries (fatal and non-fatal); and, with that data,
2. to raise awareness in the reservation community about the impact and cost of gun violence.

The targets of change will be the rates of both fatal and non-fatal gun injuries. The agents of change will be the community itself, its citizens, government (possibly via a legislative or policy approach), police and the health care facilities used by that community, both on and off reservation. More specifically, the health care facilities will begin the process of awareness raising by collecting complete data and making it available to the community. These data will be used in the community meetings, focus groups, and meetings with tribal leaders.

Community groups, health professionals, and tribal leaders may have different approaches to addressing the problem of gun violence. In the face of this public health threat, the tribal council, in league with health professionals, might consider exploring the option of gun control. However, though gun control seems a logical approach to gun violence on reservation, it also raises many difficult and legal and political questions. Many of these questions are faced by any community considering this option, but some are peculiar to reservations because of their unique legal status as semi-sovereign nations that deal with the United States on a different basis than states. Although a tribal government would have the jurisdiction to pass gun control legislation to apply to its own territory and citizens, it is difficult to gauge what kind of reception such a law would receive on different reservations. The community, however, may want to link a legal campaign to a social one, such as a safety campaign to raise awareness and effect change in the community as a whole.



Recommendations for Action

Define the Issue or Concern: Initially, the public health practitioner will need to work with the tribe (most likely the tribal council and/or elders) to define the issues. This may well be the most difficult step of the process, in that there may be disagreement over what the issue really is, and there may be great hurdles to clear in terms of willingness to promote gun violence awareness. However this part of the process is essential in that it is here that the groups involved must agree on what problem to address: all of gun violence or, for example, gun violence as it affects youth. It may be effective here to use the national NEISS data study, cited above, to show the ratio of non-fatal to fatal injuries. This could help reveal the true magnitude of the problem (assuming the same patterns hold true on their reservation) and convince tribal elders that such data need to be collected.

Collect Background Data: Once the issue or concern is identified, the health professionals can begin to collect data at the various health facilities. The surveillance system would be established in such a way as to document both fatal and non-fatal gun injuries. To give a complete picture of what is happening with guns on the reservation, that data collected should include information that has previously been recommended for a Firearm Fatality Reporting System: type of death (homicide, suicide, unintended, undetermined); information about the victim (age, race, sex, and drug/alcohol involvement); information about the shooter (the same as about the victim, plus relationship to victim); information about the circumstances of the shooting (date, time, location, community, whether it occurred during the commission of a crime); and involvement of emergency medical services.⁸ Additional information could include the result of the shooting (death or specific injury), the type of gun, and, although this would be more difficult to define and calculate, the cost of the response and care given. An information sheet could be designed for use at health facilities and filled out for each case.

Surveillance: Surveillance would take place at all health facilities where gunshot injuries were treated. Those places would be tribal and IHS clinics and, also clinics and hospitals in contiguous counties. It would be important to design a data form, such as the one suggested above, to ensure the uniform collection of information about gun injuries and the related circumstances. Also it would be important to make sure that the form was user-friendly to assure compliance.

Coalition Building: Although this step is fourth in the model, one could argue that, in fact, it commences at the beginning of the process and continues throughout. In other words, it is necessary to begin coalition building when defining the issue or concern. Some coalition support is necessary to acquire accurate background data, and the coalition must be even stronger to organize and begin the surveillance process. As the model's steps progress, the coalition should be building and becoming stronger within the community in order to



conceive of a workable, acceptable plan and then, to implement it successfully. It might, then, be more accurate to show this step not as fourth, but as an ongoing part of the continuum.

After the surveillance step is well underway, public health practitioners would begin to work with the existing coalition on building community support and extending the coalition network so that a sustainable plan could be devised at the community level. This would involve working with community groups at center or schools, and at the tribal council level, sharing the data, and starting the process of creating a "shared vision."⁹ This may be more or less difficult, depending on the cohesiveness of the community. Because so many reservations are so small, it would be possible for the public health practitioner to work with many segments of the community and gain an understanding of what groups work well together. On the other hand, small Indian communities present their own problems in terms of coalition building. One particular problem is the clan and family structure that can engender friction and complicate the process of coalition building.

Strategic Plan: It would be important to make the plan community-based, as opposed to community targeted. There are many reasons for this, but foremost is that, in Indian Country, a community targeted project set up by someone who is not a community member has bleak prospects for sustainability. Therefore, even though there is the potential for the project going in a direction not necessarily envisioned by the public health practitioner, it is essential that the ideas for change come from within the community. The public health practitioner can offer guidance, experience, and ideas, but the community must develop the intervention in its own way. This is best achieved through the action of community institutions and groups that are already in place. These would most likely be the tribal council; tribal elders; tribal police; community boards; schools groups, such as the PTA; other groups addressing the needs of children, such as 4-H; the community newspaper or radio (native language and English); and local health professionals, such as community health representatives (CHRs).

The tribal council should be consulted early on for its support. The tribal council plays a very large role in tribal affairs and community change. If the council is not convinced of the need for change, or even discussion of the matter, it will most likely not happen. This institution, although based on a democratic model, has its roots in Indian tradition:

Indian tribes...were once primarily judicial in the sense that the council, whether it was that of a village, a league of tribes, or a simple hunting band, looked to custom and precedent in resolving novel and difficult social questions that arose... The task of the council, when it had a difficult questions to resolve, was to appeal to that larger sense of reality shared by the people of the community and to reach a decision that people would see as consonant with the tradition.¹⁰



This may still be said to be true, although the workings of tribal councils can be complex. Nevertheless, it would be advisable, early on in any project involving guns and gun control, to know and work with the tribal council.

In addition, if there is a tribal newspaper or radio program, it should also be used to raise public awareness about gun violence. The use of native language radio would be effective in reaching the older generation, but it would also be important to get messages out in English since that is now the first language of many younger Indians. The tribal media could focus on gun violence in general, highlight stories about individual deaths or injuries, follow the council's discussions on the issue, and, if one were designed, promote a safety campaign. It could disseminate information about the data once they were collected, in a way that citizens would understand. It could announce times, locations, and agendas for community meetings or focus groups to discuss intervention strategies.

The strategic plan, then, would consist of the following steps:

- build an initial coalition of health professionals interested in this health problem and work with them to collect background data and establish a surveillance system to collect complete data on gun injuries, both fatal and non-fatal;
- undertake surveillance using both tribal health facilities and health facilities in contiguous counties;
- continuing the process of coalition building, introduce tribal council and tribal elders to data and discuss the impact of gun violence in the community;
- facilitate the organization of community groups and focus groups to discuss the data and interventions, working toward a shared understanding.

Eventually, after a strong and diverse coalition has been built and awareness has been raised sufficiently, the community can then proceed, possibly with the help of the same public health practitioner, to consider interventions and the feasibility of various approaches. Then, it would go on to organize implementation of the chosen approach or approaches, and evaluate their impact on the problem. This process can be ongoing and cyclical, but needs to be community-based to be sustainable.

Implementation: Feasibility of this ongoing plan depends on the thoroughness of the approach of the public health practitioner and the willingness of the community to recognize gun violence as a threat to its health. Much will depend on both the timing of the effort and, importantly, on the nature of the relationship of the public health practitioner to the community. Of course, there will be opposition to efforts to control gun use. However, it could be that in such small communities grassroots efforts will meet with more success if they come from representative community groups and are not imposed by an outside organization.

It will be necessary to allow sufficient time for the project to take hold. Data gathering will take time, especially considering the relatively small numbers of gun incidents overall. Once the data are gathered, it will take additional time



to raise public awareness. There is a tradition, in many tribes, of true democracy at public meetings: everyone speaks his or her mind before any decision is taken. The democratic process in tribal councils and public meetings is time consuming. Therefore, the public health practitioner pursuing this sort of change must be prepared to spend months, even years, seeing it through to realization.

The task of making gun use and ownership safer becomes more difficult and complex when the setting is an Indian reservation. Aside from cultural differences, this difficulty also stems from the unique legal status of reservations, which affects their relationship with the federal government and with the states within which they lie. The jurisdictional questions, which are not examined here, are complex and would need to be explored by tribal council if gun control were all or part of that tribe's solution to the problem of gun violence.

Evaluation: This advocacy campaign involves only data collection improvement and public awareness raising, so the evaluation stage of the process would involve only those two steps. It is hoped that the campaign would spur another campaign or project to use those data and that new awareness to design actual interventions.¹¹ Depending on the hypothesis being tested, one could even go so far as to calculate Disability Adjusted Life Years (DALY) or some other measure indicating the greater extent of the loss to the community. For purposes of this campaign, however, we need evaluate only the first two steps.

Evaluation of the effectiveness of the campaign would involve identifying and calculating process, outcome, and impact measures. The time frame might vary from one community to another, depending on their sizes, but could take at least three years, since most Indian data are collected and analyzed in three year periods, due to small numbers. One would begin by measuring the effectiveness of the data collection system (how accurately and completely were the data forms filled out?). As to the next step of the campaign, it will be more complicated to measure community awareness. This may need to be done by looking at other indicators such as community participation in various meetings; media coverage; resources generated; and members' satisfaction ratings.⁹ It might be worthwhile to organize a community survey with basic questions about the data and the impact of gun violence on the community to see if the data have been understood. If the responses indicated an understanding of the need for community action, that might be a measure of the success of the campaign.

Conclusion

This advocacy campaign must be understood to be the first part of a larger campaign for change. These first steps, however, must be taken carefully or the later steps of actual social or legal change cannot be undertaken successfully. First, to understand what the actual impact of gun violence is in the community, health professionals must collect accurate data. Next, those data must be shared with the community in an organized and sensitive manner so as to further effective coalition-building. Once those steps have been taken, the community can discuss options for addressing the problem. It would be inappropriate to



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choose those options at this point without having the data. In addition, in order to be effective, the ideas for change must come from the community itself. In terms of implementation, it may be important for public health practitioners to start on a small scale on a reservation that might be more receptive to the idea of gun violence as a health problem. Then, if the program were a success there, its results could be disseminated and generalized* to other reservations that might then be more open to hearing about programs that have worked elsewhere.

This way of approaching the problem may be more time consuming and may go in directions the public health practitioner would not choose. However, if the problem-solving approach were community targeted and a solution were imposed on the community, the changes would most likely not be sustainable. Therefore, it is best to take the slower road and, as a public health practitioner, act as a team member in working with an Indian community to devise solutions to this pervasive problem.

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² Smith R, Handler A. The role of firearms in American Indian deaths. *IHS Primary Care Provider*. 1997;22:109-111.

³ Indian Reservations Witness Violent Crime Crisis. Join Together Online [Internet Source]. Nov. 25, 1997

⁴ Wallace L, David J, et al. Homicide and Suicide Among Native Americans 1979-1992. Atlanta, Georgia: National Center for Injury Prevention and Control; 1996. Violence Surveillance Series, No. 2

⁵ Rhoades E. American Indian and Alaskan Native Health (unpublished), Center for American Indian and Alaska Native Health, Johns Hopkins University, 1997

⁶ Trends in Indian Health 1996. Rockville, MD: Indian Health Service, US Department of Health and Human Services; 1997

⁷ Egan T. Backlash growing as Indians make a stand for sovereignty. *The New York Times*, March 9, 1998

⁸ Teret, S. Wintemute G, Beilenson P. The firearm fatality reporting system: a proposal. *JAMA* 1992;267:3073-3074

⁹ Altman D, Balcazar F, Fawcett S, Seekins, T. Young, J. Public health advocacy: creating community change to improve health. Stanford Center for Research in Disease Prevention in Cooperation with The Kaiser Family Foundation. 1994:2

¹⁰ Deloria V, Lytle C. *Americans, American Justice*. Austin, TX: University of Texas Press; 1983

¹¹ Teret S, Wintemute G. Policies to prevent firearm injuries. *Health Affairs*. 1993; Winter: 96-108

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Using an Interpreter

When using an interpreter, inform the person about the role of the interpreter. If interviewing a child, inform the parents, grandparents or other persons who are present about the role of the interpreter. The interpreter is acting as your agent, and that she or he will keep all information confidential. It may be necessary for the interpreter to explain why they are asking questions. Stress the importance of obtaining accurate information and try to make the person as comfortable as possible during the interview.

Even if the family speaks English as a second language, offer them the services of an interpreter, they may have minimal proficiency in English. Many times a person being interviewed will switch languages during the interview due to their lack of knowledge of the language and how to explain. There are many concepts in traditional Native languages that do not have English words to explain or express the emotions they experienced.

Suggestions for working with an interpreter

- Select an interpreter who is thoroughly familiar with the interviewee's language and the slang that is often used within the reservation or Indian community.
- Brief the interpreter thoroughly on issues that may affect his or her role. For example, discuss with the interpreter before you begin the interview:
 - (a) goal of the interview,
 - (b) areas you want covered,
 - (c) need for addressing sensitive topics,
 - (d) level of competence the interpreter has in both languages,
 - (e) attitude of the interpreter toward the interviewee and possible problem areas,
 - (f) need for accurate translations.
- Stress the importance of neutrality, not reacting judgmentally to what the interviewee says or to what you say, transmitting all the information between the parties, and the confidentiality of the interview.
- With some interpreters, you may need to deal with their feelings and reactions, especially when you discuss extremely sensitive issues such as sexual matters, child sexual abuse, child abuse and neglect, homicide or rape.
- The gender of the interpreter may be an issue if there are cultural taboos against males and females discussing certain topics. This should be addressed prior to the interview with the interpreter.



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- Discuss any technical terms that may be necessary to use during the interview so that the interpreter will become familiar with them and be able to determine if there is an appropriate word in the Native language that can be used.
- Encourage the interpreter to conduct a sentence by sentence interpretation to avoid having to explain what you are asking in the middle of an interview.
- Ask the interpreter to mirror your affective tone as closely as possible.
- Avoid talking to the interpreter about the family in the presence of family members.
- Do not interrupt the interpreter while he/she is speaking with family members or victim.
- Ask the interpreter to alert you to specific translated words that might be too difficult for the interviewee to understand.
- Summarize what you have learned at appropriate points, and ask the interviewee to confirm your understanding.
- Meet with the interpreter after you complete the interview to discuss problems that he or she encountered and to review his or her performance.
- If, by chance you have to interview the person again, try to use the same interpreter, if you feel the interpreter performed adequately.
- Be aware that non-verbal communications are a potential source of communication difficulties in cross-cultural interviews.
- Work with community members to identify persons who would make appropriate interpreters. It is very important that interpreters be well respected by community members. Law enforcement and Victim Advocates would be a good resource to assist in identifying interpreters.
- It is important that you allow the interpreter to assist you in determining what types of questions are appropriate while working with Indian families. The interpreter may suggest that you delay addressing sensitive topics until such time as the person feels more comfortable in being interviewed. You may also find that the interpreter may not be willing to address sensitive topics with the elderly, or other family members. You must be respectful in this area, as you may not find an interpreter who would be willing to do this.



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- It is sometimes important that you listen to the interpreter about what should be addressed, when it should be addressed and how. If you have found an effective interpreter, they will know the protocols within the community and will assist you in properly obtaining the information that you need.
- Be patient if the interpreter must introduce themselves to the person being interviewed. It is customary that you tell who you are, who your family is and the clan/band that you belong to when doing introductions. This may take several minutes and must be conducted prior to beginning the interview.
- Avoid using children as interpreters. This is often done when dealing with elders who have grandchildren living with them or at their home when the interviewer arrives. The use of children as interpreters is typically due to a lack of planning on the part of the interviewer.



Tribal Sovereignty Preserves Traditions of Indian People by Gary Sandefur

Daily Oklahoman, June 17, 1998

Gary Sandefur is a member of the Chickasaw Nation, and a professor at the University of Wisconsin at Madison. He is co-editor of *Changing Numbers, Changing Needs: American Indian Demography and Public Health* (National Academy of Press, 1996).

Today marks the 160th anniversary of the beginning of the Trail of Tears, an American form of ethnic cleansing that my great-great grandparents fell victim to. The Trail of Tears is generally known as the forced removal of members of the Cherokee Nation from the Eastern United States to Oklahoma. But members of other groups, including the Chickasaw, Choctaw, Creek and Seminole Nations were also forced to move to Oklahoma around this same time. My great-great grandfather, Ishtokenabe and my great-great grandmother, Shimonteche, were members of the Chickasaw Nation and were forced to move from Mississippi to Oklahoma.

The policy of forcing Indian people off their lands began early in the 19th century and was codified in the Indian Removal Act of 1830. European settlers and westward immigrants increased the pressure on the federal government to open up additional land. Indians occupied these lands. Many settlers and politicians saw Indian ways as incompatible with "civilization" and used this rationale to justify warfare, massacres and starvation. The American Indian population, already decimated by European diseases, declined from approximately 600,000 in 1800 to fewer than 250,000 in 1900.

Removal was followed by the Allotment policy. My great-great grandfather and his daughter, my grandmother, along with other Chickasaws, were allotted land in Oklahoma that was previously owned in common by the Chickasaw Nation. As did many other Chickasaws, they lost this land by the end of the Great Depression.

Many Chickasaws of my generation know about what happened to the land that was allotted to our grandparents. What most of us do not know is how much our ancestors suffered as individuals, what words and stories they told to one another to sustain themselves through this terrible experience, and how they remembered the land they were forced to leave in northern Alabama and Mississippi. Most of us know only a few words of the language, and many of us struggle to learn more words, to learn some of the remaining stories and songs, and to understand what it means to be Chickasaws and Americans.

The Chickasaw Nation survives. My mother, my daughters and I are registered members. We vote in elections, and we keep up with the tribal news through the tribal newspaper. My mother is active in the local senior citizens center in Madill, the small town in southeastern Oklahoma where I grew up. She and other Chickasaw elders occasionally represent the Chickasaw Nation at national events.

Despite the terrible legacy of the Trail of Tears, the Choctaws, Creeks, Seminoles, Cherokees, Chickasaws and hundreds of other Indian nations continue to exist as viable entities with functioning governments. Our ancestors insisted on retaining the principle of tribal sovereignty, even as they were being



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forced to give up land and rights. Although tribal sovereignty is complicated, the basic principle is that federally recognized tribes are subject to federal laws and policies, but have the right to govern themselves. If our ancestors had not insisted on retaining governmental privileges, our nations would have disappeared by now.

Today, some question the continued usefulness of tribal sovereignty. But it is only through tribal sovereignty that distinct groups of Indian people, their languages, stories and traditions have continued to exist.

We have come too far down our trail to give up now. So, for my generation and my daughter's generation, the true legacy of the Trail of Tears is to remember the beauty of the Chickasaw people and the Chickasaw Nation, and to fight to retain tribal sovereignty for future generations.



Understanding Indian Fishing Rights

What Is United States v. Washington?

United States v. Washington is the legal title of a suit brought by the treaty tribes of Western Washington, in conjunction with the United States government, to protect Indian fishing rights against historical encroachment by the State of Washington. The decision, handed down February 12, 1974 by United States District Court Judge George Boldt holds that, in accordance with the treaties, treaty Indians may catch up to half the harvestable salmon and steelhead which return to the "usual and accustomed" places where Indians fished historically. These places were protected by a series of treaties negotiated in 1854 and 1855; Indians ceded ownership to most of what is now Western Washington, but retained the right to fish. The federal government, in partial exchange for the land, guaranteed protection for that right. So today, the United States is legally obligated to go to court to protect these rights, as it did in **United States v. Washington**. The treaties on which the federal court decided the case under the Constitution of the United States, are the supreme law of the land by which the state and all citizens are bound.

Judge Boldt handed down the decision after three years of hearings and scholarly study; the court considered the biology of the fish, the history of the treaties and the historical attitude of Indian nations toward them, as well as present day positions and interests of all concerned parties: the state, non-Indian commercial and sports fishermen, and treaty Indians. Legal commentators have called the 200 page decision "The most carefully researched, thoroughly analyzed (ruling) ever handed down in a fishing-rights case." (Seattle **Post-Intelligencer**, January 19, 1977). The decision has been twice upheld by the Ninth Circuit Court of Appeals. That Court most recently denounced the continuing opposition of the state and the non-Indians to **U.S. v. Washington** as one of "the most concerted official and private efforts to frustrate a decree of a federal court witnessed in this century."

What Does The Decision Say?

As mentioned, the federal court decision affirms the right of treaty Indians to catch up to half the harvestable salmon and steelhead which return to the usual and accustomed places where Indians fished historically. The law of interpretation required Judge Boldt to determine what the Indians understood the treaties to mean when the agreements were signed. He determined that the treaties were understood to mean that the Indians could fish as they always had, without restriction by non-Indians. The treaties also contained language which said that Indians would fish "in common with" other citizens of the territory. The court found that the parties understood this to mean to share equally. Thus, a half share of the resource was reserved by the Indians. The treaties also said where this division would apply - in the "usual and accustomed" places where Indians had fished before white settlement. This means that an Indian may now



exercise fishing rights in those same places where his or her ancestors historically fished.

To protect the right to fish in this manner, the tribes gave up title to most of the land in Western Washington. To Governor Isaac Stevens, who negotiated them, the treaties seemed more than fair. The majority of white settlers of the time had come not to fish, but to raise crops and harvest lumber to sell to the gold boomtowns of California. Indian fishing provided a convenient source of food for the developing economy. To the Indians fishing was the center of their culture and their economy. The U.S. Supreme Court described fishing as "not much less necessary to the existence of the Indians than the atmosphere they breathed...."ⁱ

During pre-treaty times, the Indians had effective management techniques which allowed the runs to be maintained, despite the heavy harvest. The federal court decision re-established Indian's rights to manage their fishery, taking that exclusive power from the state, which had not upheld the intention of the treaties.

Why Did The Court Render Its Decision?

The state used its management power in conjunction with the interests of non-Indian sports and commercial fishermen for more than 80 years to deny treaty Indians their rights. State police arrested Indians for fishing within the terms of the treaties as early as 1913; in 1929, the state actually sold the Quinault's fishing rights to a private company, Bakers Bay, for \$36,000.ⁱⁱ State fish and game agencies consistently used their enforcement powers to violate the treaties under which the United States guaranteed the Indians their right to fish. The state confiscated the boats, nets and fish of Indians who had been exercising their legal rights. At the same time, the state encouraged the growth of the non-Indian fishing fleet. Between 1947 and 1976, for example, the number of commercial gillnetters rose from 428 to 1,659, an increase of almost 400 percent. Between 1965 and 1974, the number of commercial fishing licenses sold by the state more than doubled.ⁱⁱⁱ The money for the licenses, in turn, financed more policing gear which could be used to keep Indians from fishing.

As early as 1905 (U.S. v. Winans) the United States Supreme Court upheld Indians' rights to fish in "usual and accustomed" places. So long as the state continued its exclusive management of the fishery, however, it ignored the intent of that ruling. Indians took the case back to court in 1970, a move which resulted in the federal court decision of 1974. This decision not only upheld the treaties' intent (this had been done earlier), but provided means to force the state to abide by them. This was very important to the Indian nations and tribes because fishing had been - and remains - central to their way of life.

Were Indians Really Denied Their Rights Before The 1974 Ruling?

Treaty rights were denied in several ways in addition to those mentioned above. During the late 1950s, when the tribes were beginning to exercise their rights in the face of illegal state harassment, their catch was only one percent of



the total; the remainder was taken by non-Indians. Even then, the state accused Indians of depleting the runs.

Indian and non-Indian fishing methods are fundamentally different: Indians usually catch fish with nets at the mouths of rivers to which salmon and steelhead return to spawn: non-Indians often fish the open sea in expensive and technologically advanced boats which consume resources and energy. In so doing, they get fish (many of which are immature) before they reach the rivers' mouths. The state further cut the meager Indian catch by forbidding Indian gillnetting in rivers off reservations, even in the "usual and accustomed" places protected by treaties. Tribes with only a small land base (or none at all) were virtually forbidden to fish at all under these strictures. Indian fishermen sought a fair, constitutionally guaranteed share of the fishery and saw no reason why they should be forced to adopt expensive and wasteful methods to get it.

Did The Federal Court Decision Turn Washington's Indians Into "Supercitizens"?

No. The federal court only affirmed the tribes' inherited contract rights which their wise forefathers had secured by treaty. The provision of citizenship to Indian people in 1924 specifically did not impair negotiated treaty rights. The fact that Indians inherited a treaty right that others did not, does not make them "supercitizens" any more than the inheritance of a home or other property would. Do we accuse the Boeing family of "supercitizenship" because of inherited property ownership? No, the supercitizenship argument is being used against Indians as a smokescreen to hide the greed of those who want for themselves the property rights the treaties guaranteed to the Indians.

Do Indians Like Other Citizens Pay Taxes?

Another fiction used by those who call Indians "supercitizens" is the assertion that they do not pay taxes. This is not true. Indians do pay user taxes which are levied by the state - sales, excise, and gasoline taxes, for example. In addition, the Bureau of Indian Affairs levies fees for "management" of Indian resources - taxes which non-Indians do not pay. It is true that Indians do not pay state cigarette or liquor taxes on reservation land; many do pay taxes on these items to tribal governments. State taxes do not apply on other federal land within state boundaries, such as military bases, where thousands of non-Indian veterans shop for food and other goods. Because their land is held legally "in trust" by the federal government, Indians share this tax status.

Who Is Opposing Honoring The Treaties? Why?

The primary opponents of Indian fishing rights are non-Indian commercial and sports fishermen, who are motivated by self-interest. This self-interest was protected and promoted by the state as long as it held management power over



the entire fishery. White fishermen's associations and processors have used their political power in state government to destroy Indian rights.

Exploitation of the fisheries resources by non-Indians is a privilege, granted by state license. This privilege does not allow non-Indians to usurp treaty-guaranteed rights to fishery resources. The state may grant these privileges to the half of the fisheries resource allocated to non-Indians by the treaties. The treaties do not allow the state to administer the whole fishery resource, as it had tried to do before the 1974 federal court decision. In its attempt to manage the entire resource (contrary to the treaties) the state was acting like a title company which wrongfully gives clear title to property on which a prior claim exists. It is the responsibility of any small businessman to scrutinize any title or other legal advice given him. The interests of non-Indian fishermen have been hurt because the state, at their request, granted many of them a privilege to take more fish than it had the authority to grant.

Non-Indian citizens have more than a moral stake in the honoring of treaties. The price of salmon could fall if more Indians used their relatively inexpensive and resource-conserving fishing methods, instead of the expensive, wasteful gear employed by many non-Indians. Also, when Indians practice economic independence, welfare and other social service costs fall, saving tax money.

Should 2 Percent Of The Population Get 50 Percent Of The Fish?

Such a question might be valid if fishing were the main economic support for most non-Indians, as it is for a large proportion of Indian people in Western Washington. In actuality, non-Indian commercial fishermen comprise less than 1 percent of the total non-Indian population; their size is not much larger than the total number of Indian fishermen. No additional non-Indian licenses are being issued by the state. If the Indians were to lose the 50 percent of the fish to which they are entitled under their treaties, the non-Indian fishermen, who comprise less than 1 percent of the population, would then be entitled to 100 percent of the commercial harvest. Indians have historically been at or near the bottom of every standard of material well-being maintained by the United States Census; they live in a society where 2 percent of the white population controls 80 percent of the wealth. Looked at in this context, Indians can hardly be called "greedy" for insisting that fishing rights be enforced.

How Many Fish Have Indians Been Taking Since The Federal Court Decision?

Indians have not caught anywhere near the 50 percent guaranteed them by the treaties. In 1974, the year of the federal court decision, Indians took 7 to 8 percent of the salmon and steelhead harvest. In 1975, they took 11 to 12 percent. In 1976, Indians took between 12 and 25 percent, depending on whether Indian or state statistics are used.^{iv}



Why Shouldn't The State Regulate Indian Fishing?

The Indian tribal governments are capable of regulating their own members through tribal fishing commissions, police and courts. Tribal biological staffs also provide assistance in fisheries regulation. Indians have been, and continue to be, very careful about conserving the fish runs. The state, on the other hand, has used its management power to destroy the fish runs in this state and frustrate Indian fishing rights in an illegal manner. The state fisheries enforcement system is racist. In 1977, when massive illegal fishing by non-Indians occurred in Puget Sound, state enforcement officers arrested many Indians for illegal fishing, while arresting only a few non-Indians, in spite of the huge number who were known to be illegally fishing. The state Dept. of Fisheries refuses to provide comparative figures.

Can Indians Manage Their Fisheries?

Several thousand years of experience, during which Indian people subsisted on fish and maintained bountiful runs, attest to Indian management skills. These traditional skills have been augmented in recent times by enhancement programs and tribal regulatory and enforcement programs. Most tribes have their own fisheries patrol officers, to ensure that the resource is protected and the law respected. Overall Indian fishery activity is coordinated by the Northwest Indian Fisheries Commission. Indian people have proved that they are more than capable of managing the share of the fishery reserved for them under the treaties - the Quinaults, for example, developed written fisheries regulations several years before the state did.

What Rights Do Indians Have To Steelhead?

The treaties did not make a distinction between steelhead and other species. If the state desires to designate its half of the steelhead as a game fish, it may do so. Indian people have never considered steelhead a game fish. It has traditionally been used as a winter food fish. Fishing is not a game for Indian people - it is a way of life.

Does Indian Fishing Deplete The Resource?

The opinion of the federal court in its 1974 decision stated that the state had failed to prove a single case of Indian destruction of a salmon run. Before the treaties were signed, 50,000 Indians fished the Columbia River system for an average harvest of 18 million pounds of salmon and steelhead a year, an amount equal to the total (Indian and non-Indian) harvest in recent years. The runs were sustained, even with a heavy harvest, in part because of Indian management techniques and also because Indians did not use industries which pollute streams, forestry methods which clogged them with slash and silt, or dams which prevented salmon and steelhead from moving up streams to spawn. Indians did



not industrialize the Northwest, just as they did not buy the ballooning number of licenses that the state issued between 1947 and 1976. Indians did not send expensive boats to sea to destroy immature fish. The evidence on this point supports Indians' assertions that the state and some non-Indians have depleted the salmon runs during the 20th century.

What Is The Economic Impact Of The Federal Court Decision On Washington State's Economy?

In addition to the economic benefits mentioned, increased Indian fishing conserves energy because traditional rivermouth harvest methods do not demand as much fuel as the non-Indian marine fishery. Indian fishing also increases the weight of the harvest, since large numbers of immature fish are not destroyed at sea. Indian fishing is also biologically sound because individual fish stocks can be managed and enough fish allowed to escape upstream to perpetuate the runs over time. For these reasons, fish runs actually could increase if the state and non-Indian fishermen cooperated with Indian people to sustain the runs and lower the economic, environmental and energy costs to all citizens of the state, rather than merely pursuing narrow special interests along racial lines.

Why Not Renegotiate The Treaties?

The treaties between the Indians of Western Washington and the United States were solemn agreements entered into between two sovereign powers. This is as true for the 371 treaties between the United States and native nations as well as for treaties between the United States and other nations. Attempts to abrogate or modify treaties, such as those which have been introduced in the United States Congress, are veiled attempts to change the "rules of the game" just as some of the treaties are finally being enforced. If a precedent is set whereby special-interest groups are allowed to usurp the rights of Indian people, the rights of non-Indian people secured under treaties will not be secure. Supreme Court Justice Hugo Black once said: "Great nations, like great men, keep their word." The United States should not let narrow special interests keep its word - in the treaties - from being honored. Failure to keep its word would not only be dishonorable for the United States, it would be very expensive because, under the Constitution, property rights may not be taken without compensation.

Why Should Non-Indians Support Treaty Rights?

Treaties are contracts. If a few powerful and wealthy special-interest groups may take away the property rights of some of our poorest citizens, a precedent may be set which will endanger other contractual rights, such as home ownership. Even the Bill of Rights is a contractual agreement between the government and its citizens. The debate over treaty rights thus has implications for a majority of our non-Indian citizens who are interested in preserving



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constitutional rights, including the rights to own one's home and express oneself freely.

ⁱ **United States v. Winans**, 198 U.S. 371 (1905)

ⁱⁱ William Meyer, **Native Americans: The New Resistance**. (New York: International Publishers) 1971, p.70

ⁱⁱⁱ Bruce Brown, "A Long Look at the Boldt Decision," **Argus**, December 3, 1976, p. 4

^{iv} Fred Brack, "Fishing Rights. Who is Entitled to Northwest Salmon?" **Seattle Post-Intelligencer Northwest Magazine**. January 16, 1977, p. 8.



"Victim Advocacy in Indian Country: The Role of the Victim Advocate."

Eidell Wasserman, PhD

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. At this time formal Victim Advocate positions were developed within tribal systems. 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.

Victim Advocates are housed in a variety of departments within tribes; Social Services, Behavioral Health, Prosecutor's Office, Law Enforcement Agencies, Domestic Violence Shelters, Private/Non-Profit Agencies and even stand alone programs. The location of a victim advocate 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 Advocate program leads to differing community expectations. A program which is housed 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.

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 a "one person shop;" a situation where one person is responsible for all components of the program, including direct services 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, on-going therapy, transportation, support, assistance in filing for victim compensation, assistance with the criminal justice system, 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 with 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 that 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 the reservation. In that case, the Advocate may be involved with tribal, county, state, and federal systems! Not all Advocates will be involved with the criminal justice system, although most are. For Advocates who provide court-related services, they will 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 District Attorney's offices this 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.



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Each Advocate may view their role differently. Some Advocates will only provide services to victims who request services; others will offer service to every victim contacted by law enforcement. Some Advocates may expect the victim to come to their office for services; most Advocates travel vast distance 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 propose 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 by community members because they 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 center, domestic violence shelters, child abuse program, and specialized grassroots organizations (e.g., Mother's 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 service 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 program 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 components. 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.



Sample Training Materials

Upon the Back of a Turtle... A Cross Cultural Curriculum for Federal Criminal Justice Personnel

Evaluation

This form evaluates the usefulness of this training. Please circle your response and answer each question. Please note that this evaluation addresses your knowledge **BEFORE** the training and **AFTER** the training.

1. Rate your level of knowledge of Introduction to Indian Country **BEFORE** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

2. Rate your level of knowledge of Introduction to Indian Country **AFTER** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

3. Rate your level of knowledge of the Historical Overview of Federal Policies and Events **BEFORE** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

4. Rate your level of knowledge of the Historical Overview of Federal Policies and Events **AFTER** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

5. Rate your level of knowledge of the Historical Trauma and Present Impact **BEFORE** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

6. Rate your level of knowledge of the Historical Trauma and Present Impact **AFTER** training.

very little knowledge				great deal of knowledge
1	2	3	4	5



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7. Rate your level of knowledge of the History of Federal Victim Assistance Services and Programs in Indian Country **BEFORE** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

8. Rate your level of knowledge of the History of Federal Victim Assistance Services and Programs in Indian Country **AFTER** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

9. Rate your level of knowledge of the Issues and Cultural Considerations in Delivery of Victim Services in Indian Country **BEFORE** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

10. Rate your level of knowledge of the History of Federal Victim Assistance Services and Programs in Indian Country **AFTER** training.

very little knowledge				great deal of knowledge
1	2	3	4	5

What did you find most useful about this training?

What did you find least useful about this training?

What additional training do you feel you need in working with American Indians?

Please rate the following areas:

	Poor		Average		Excellent
1. Organization	1	2	3	4	5
2. Handouts	1	2	3	4	5
3. Visual Aides	1	2	3	4	5
4. Presentation	1	2	3	4	5
5. Presenters	1	2	3	4	5

Was the video useful in initiating discussion within the training group?

Additional Comments:



SELF RATING SCALE FOR USING THE CROSS-CULTURAL TRAINING CURRICULUM

It is important to recognize, understand and accept your own culture and ethnicity prior to facilitating groups on cultural awareness. In answering the following questions you will begin to realize how comfortable you are with persons of another race/culture. If you answered at least half of these questions with a 4 or higher, you are fairly comfortable with your own race/ethnicity and have the ability to develop a skills knowledge base in working with others in cultural issues.

Rate your level of comfort around people of a different race:

Low Level				High Level
1	2	3	4	5

Rate your level of comfort around people of your own race:

Low Level				High Level
1	2	3	4	5

Rate your level of comfort around people of different ethnic groups:

Low Level				High Level
1	2	3	4	5

I understand how it feels to be discriminated against because someone is of a different race:

Strongly Disagree				Strongly Agree
1	2	3	4	5

I understand how it feels to be discriminated against because someone is of a different religion:

Strongly Disagree				Strongly Agree
1	2	3	4	5

I am interested in learning more about race related cultural preferences, identifications and values of others:

Strongly Disagree				Strongly Agree
1	2	3	4	5



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Federal Criminal Justice Personnel

People should have and express their own cultural identities even if they are different from their co-workers or associates:

Strongly Disagree				Strongly Agree
1	2	3	4	5

Cultural differences should be valued:

Strongly Disagree				Strongly Agree
1	2	3	4	5

I am open minded and willing to learn more about working with different racial groups:

Strongly Disagree				Strongly Agree
1	2	3	4	5

I am willing to share what I know about cultural differences with my co-workers:

Strongly Disagree				Strongly Agree
1	2	3	4	5

Overall, how do you identify with your particular race:

Very Little	Some	Moderate	Fairly High	Very High
1	2	3	4	5

Overall, how would you rate your own practice of traditional values/customs?

Very Little	Some	Moderate	Fairly High	Very High
1	2	3	4	5

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