

## **Early Initiatives Affecting American Indian Families**

### **Objectives:**

1. Participants will learn about the various laws and acts passed by Congress in relation to child welfare in Indian Country.
2. Participants will better understand the impact of boarding schools on American Indian families, communities and tribes.
3. Participants will better understand how cultural differences of authority figures affected the lives of American Indian families, children and tribes.

### **Activities:**

1. How did the laws passed by Congress affect the way Indian children were removed from Indian homes? How did they affect the way Indian children were placed?
2. What could have been done to prevent the mass removal of Indian children from their families? Why was this not done?
3. How can we better educate non-Indian social workers about the cultural differences of American Indian children, families and communities?

### **Discussion Questions:**

1. What laws most affected the family life of American Indians?
2. How did American Indian families cope with the mass removal of their children?
3. How did the loss of thousands of American Indian children affect tribes?
4. What can we do to educate others on the cultural differences that are not understood?

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## **Early Initiatives Affecting Indian Families**

In the early 1600's, the Virginia Company encouraged settlers to kidnap American Indian children in order to begin "civilizing" the American Indian population. By 1819, Congress has passed the "Civilization Fund Act," which authorized an annual fund of \$10,000 to pay benevolent societies to provide schools where American Indian children could be schooled in the ways of "civilization" (Prucha, 1990).

The Lake Mohonk Conferences of Friends of the Indian, meeting from 1883-1916, marked the beginning of serious, organized attempts at the education and assimilation of American Indian and Alaska Native children. In 1889, the Commissioner of Indian Affairs at Lake Mohonk (Prucha, 1990), detailed a plan for a national system of Indian schools, which heralded the beginning of the era of large-scale removal of American Indian/Alaska Native children to boarding schools; an era which lasted into the 1950s and played a major role in the breakup and disintegration of American Indian and Alaska Native families in the United States and Canada (Adams, 1995).

### **The Boarding School Era**

During the boarding school era, American Indian and Alaska Native children were taken from their homes and placed in either militaristic government boarding schools or in Christian mission schools. Child removal was handled by federal employees who could and would forcibly take children to schools without parents' consent (Coolidge, 1977). This removal was seen as compassionate, as it was supposed to lead the American Indian or Alaska Native away from a life of poverty and "savagery."

Unfortunately, a side effect of boarding school life was the learned physical and sexual abuse of others (Johansen, 2000; Macqueen, 2000), previously unknown among American Indian/Alaska Native people, who traditionally treated children with great respect (Cross, 1986; Red Horse, 1997; Red Horse et al., 2000).

### **The Indian Reorganization Act and Tribal Self-Determination**

A shift in U.S. policy toward American Indian and Alaska Natives occurred with the passage of the Indian Reorganization Act in 1934 (Wheeler Howard Act). This act permitted greater tribal control over reservations. With this Act, some of the boarding schools began to close, and schools that stayed open became residential facilities for American Indian/Alaska Native children found to be dependent and/or neglected (George, 1997).

### **Public Law 280**

During the 1950s, U.S. policy toward American Indians and Alaska Natives again moved away from self-governance. In 1953, Congress passed Public Law 280 67 Stat. 588 (1953), shifting control over most civil and criminal proceedings from

tribes in 6 states (CA, NE, MN except Red Lake Reservation, OR except Warm Springs Reservation, WI, and eventually Alaska) directly to the states in which they were located. Although P.L.280 made American Indian and Alaska Native people eligible for some state services, the law eroded tribal authority and tribe's capacity to protect children and ran directly counter to the treatment of Indian Nations as sovereign, as stated in the U.S. Constitution and reaffirmed by the U.S. Supreme Court. Additional states were eligible to take over tribal court jurisdiction without tribal consent up until 1968, when the Indian Civil Rights Act amended P.L.280 so that no state could assume jurisdiction thereafter without the consent of the tribe concerned (Canby, 1998).

### **The Indian Adoption Project: 1958-1968**

In 1957, the BIA contracted with the Child Welfare League of America (CWLA) to operate a clearinghouse for the interstate placement of American Indian and Alaska Native children with non-Native families. The mission of the Indian Adoption Project was "clear and deliberate" about the placement of American Indian/Alaska Native children with Caucasian families far from the reservation (George, 1997).

The Indian Adoption Project promoted the adoption of American Indian/Alaska Native children so well that the demand by adoptive parents (middle class whites) for American Indian/Alaska Native children exceeded the capacity of the project. In the project's lifetime, more children were placed for adoption by the child's home state than by the project itself (Fanshel, 1972).

Many social workers assessed the American Indian/Alaska Native family without cultural knowledge, imposing their own economic and cultural values and behavioral standards and interpreting the child's best interest as served by removal from the American Indian/Alaska Native family and culture. In most instances, this was despite a tribal insistence that family preservation and tribal integrity were in the children's best interest (Horejsi, Heavy Runner Craig, & Pablo, 1992; Ishisaka, 1978; Westermeyer, 1977).

### **Initiation of the Indian Child Welfare Act**

In 1968, Devil's Lake Sioux tribal members approached the Association on American Indian Affairs (AAIA) with concerns about routine removal of American Indian/Alaska Native children from tribal families by child welfare officials. Other tribes began passing resolutions demanding an end to removal practices. In response, the AAIA undertook a series of studies, the first in 1969, of state child welfare agencies in states with large American Indian/Alaska Native populations (Mannes, 1995).

Concurrently, the civil rights movement and President Johnson's War on Poverty were bringing changes to U.S. American Indian/Alaska Native policy. The federal government was again changing its tribal policy in favor of tribal self-

determination. Senate subcommittee Indian child welfare hearings, held in 1974 through 1978, investigated the extent to which current child welfare policies undermined tribal survival through unwarranted removal of American Indian/Alaska Native children to non-Native cultural settings.

A survey by the AAIA in the 1970s found that 25% to 35% of all Native children had been separated from their families (George, 1997). Statistics varied in different parts of the country. In Maine, for example, American Indian children were placed in foster care at a per capita rate 19 times greater than that for non-Native children. Statistics from other states demonstrated that these rates were not uncommon. In New Mexico, when adoptive care, foster care, and federal boarding school placements were added together, the result showed that American Indian children were being separated from their families at a per capita rate 74 times that for non-Native children (Association of American Indian Affairs, 1977).

Given the “shocking” facts regarding foster care and adoptive placements for American Indian/Alaska Native children, Congress determined that fundamental changes in Indian child welfare policy and practices were necessary, and ICWA was passed in 1978.

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.

### **Indian Child Protection and Family Violence Prevention Act of 1990**

The purpose of the 1990 Indian Child Protection and Family Violence Prevention Act (P.L.101-630) is to require that reports of abused Indian children be 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. Without mandated funding this legislation was severely impacted.

### **Involvement of Law Enforcement Agencies**

Because of the unique American Indian/Alaska Native-federal relationship, child welfare laws specifically related to law enforcement apply to child abuse or neglect cases that occur within the bounds of Indian Country. These provide that when there is no law to the contrary, the federal criminal justice system has the legal duty to investigate allegations of abuse and neglect. According to the U.S. Attorney's Office (1997), law enforcement for most of Indian Country is not the responsibility of the state or local police but of the FBI and the BIA, as well as the tribal governments. "Indian Country" is defined by federal law as Indian reservation lands under the jurisdiction of the U.S. government, dependent Indian communities within the U.S., and all Indian allotment lands still in Indian hands (U.S. Attorney's Office, 1997). "Laws to the contrary" include Public Law 280 (1953), which has given control of most civil and criminal proceedings to six specific states in which Indian Nations are located.

### **Federal Crime Control Bill of 1994**

The 1994 Federal Crime Control 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.

Rockwell (1998) reported that only 40% of local law enforcement agencies were involved in interagency investigations of child abuse and/or neglect in New York and that when called upon to investigate cases, only 33% involved other agencies. In contrast, 72% of the Indian Nations surveyed in 2000 included law enforcement as members of their child protection teams (Earle, 2000). This may lead to an over-reporting of cases of abuse and/or neglect that occur on American Indian/Alaska Native lands and territories. On some reservations, as many as six law enforcement agencies have overlapping jurisdiction: the FBI, the BIA police, the county sheriff, the highway patrol, the tribal police, and the city police (Taft, 1981).

## **How to Report Child Abuse**

The 1974 Child Abuse Prevention and Treatment Act (CAPTA) set the national standard for reporting child abuse and neglect. However, states and those in charge couldn't agree on how to implement it. Sweeping reform of child welfare services didn't take place until 1980 with the Child Welfare and Adoption Reform Act. It defined child abuse; required cross reporting between law enforcement and child protective services (CPS); and expanded the professions considered mandated reporters. It also required child welfare to make every effort to keep the child in the home or to find permanent placement. Permanency became key.

The majority of child abuse happens in the home by the main caretakers. This crime is committed by "nice people."

*Who is to report:* CPS workers, law enforcement, teachers and school administrators, day care workers, firefighters, school bus drivers, recreation and camp counselors, film processors, animal control, or any person having knowledge of a child being abused or neglected.

Report any suspected abuse immediately by contacting law enforcement or your local CPS or Indian Child Welfare program staff. If you believe the child is in danger, phone the police first to protect the child and preserve any evidence.

This call can be made anonymously. The law provides the reporter with immunity from civil and criminal penalties for making reports in good faith.

## **Do's and Don'ts upon Hearing a Disclosure of Abuse:**

### **DO...**

- Pay attention to your body language. Give the child signals that you are hearing what he/she says and that you can help.
- Know the reporting law.
- Reassure the child they did the right thing by telling you and that you will do everything you can to help the child.
- Let the child know that it was brave to share something (no matter how minimal) about a difficult subject.
- Affirm you're caring for the child and that your relationship has not been negatively altered. Some children feel ashamed and assume they're less loveable because of the abuse.
- Document the actual words used by the child.
- Call the police, the Indian Child Welfare, or the child abuse hotline.

### **DO NOT...**

- Try to determine for yourself if abuse or neglect occurred. This is the role of the child welfare and the police.
- Act shocked, horrified, scared, etc.

- Share this information with friends or relatives.
- Try to talk a child out of what he/she is saying.
- Suggest to a child that he/she may have been abused.
- Attempt to find out the details of the abuse.
- Stand over or smother the child while he/she talks to you.