

PRACTICE NOTES

For North Carolina's Child Welfare Workers

From the NC Division of Social Services and the Family and Children's Resource Program

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In summarizing recent research, we try to give you new ideas for refining your practice. However, this publication is not intended to replace child welfare training, regular supervision, or peer consultation—only to enhance them.

Let us hear from you!

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WORKING WITH AMERICAN INDIAN FAMILIES

Note: in this issue the term "American Indian" is used interchangeably with "American Indian/Alaska Native" solely for the purposes of brevity.

Despite their amazing cultural variety, all American Indians have one thing in common: a history of astounding resiliency.

Today, after centuries of violence, racism, and adversity, American Indian tribes are growing and continuing as unique, vibrant cultures. Many Indian families are thriving, healthy, and strong. They are nurturing their ancient ways, building their economies, strengthening their communities, and looking to the future with optimism and hope.

Yet oppression has left its mark. Many people believe that Indians' history of discrimination and forced assimilation is the true reason for the alcoholism, drug abuse, and domestic violence that plague some Indian families (Gover, 2000).

Whatever their cause, problems such as these can make it hard for some Indian families to ensure the safety and well-being of their children. To work successfully with Indian families in crisis, child welfare workers must keep several things in mind.

First, they must understand that many Indians are citizens not only of the U.S. but also of their own tribes, which are distinct sovereign entities. Because of this, child welfare practice with many Native people is governed by the Indian and Child Welfare Act (ICWA), a federal law with which all child welfare workers must comply.

Child welfare workers must also understand that our government's past efforts to break up Indian families and destroy Native culture casts a terrible shadow over their work. Though it goes back many years, this history extends to the very recent past and directly involves child welfare agencies.

As recently as the 1970s even the Child Welfare League of America, which sets standards for child welfare practice in the U.S., participated in a program that promoted the adoption of Indian children by non-Native families. Through CWLA's involvement thousands of Indian children grew up alienated from their families and their cultures. (In 2001 CWLA formally apologized to Native people for its "hurtful, biased, and disgraceful" actions.)

Let us be clear: many child welfare organizations have acted in ways that hurt Indian families. We highlight this part of CWLA's history because it illustrates how ignorance and societal values can lead astray even the most respected, best qualified, and best intentioned people.

They say that past behavior is the best predictor of future behavior. If this is true, unless they make a special effort to learn about, partner with, and support American Indian children and their tribes, child welfare workers today are probably still at serious risk of misunderstanding and harming Native families.

To help you guard against the mistakes of the past and prepare for successful partnerships with American Indian families, this issue of *Practice Notes* provides a brief overview of events that have impacted Native families, a discussion of Indian culture, suggestions for complying with ICWA, and more. ♦



Photo Illustration

You must make a special effort to learn about, partner with, and support American Indian children, families, and tribes.

A HISTORY WE ALL SHOULD KNOW

To understand and successfully engage American Indian families you must know something of their history. This is a brief overview.

EXTERMINATION

Before 1871, the U.S. government used warfare and other means to try to eliminate the “Indian Problem.” Tribes that survived were removed from their lands and forced onto reservations (Halverson, et al., 2002).

ASSIMILATION

After 1871 the government policy toward Indians changed to one of assimilation (Halverson, et al., 2002). Boarding schools were an essential part of this policy. From the 1870s through the 1930s many Indian children were taken from their families and raised in harsh, rigid institutions, the primary purpose of which was to “civilize” Indians and eradicate all traces of Native culture.

In boarding schools children were beaten for using their native language. Their hair, an important cultural symbol, was cut short. They were required to wear uniforms instead of individually created and uniquely decorated clothes. Their names were taken away and they were given new “American” ones. Many schools, even government ones, required children to engage in Christian worship. Many children lost all contact with their parents, grandparents, and extended families (Horejsi, et al., 1992).

The boarding schools can be seen as a continuation of the war on Indians, only the focus had shifted to the children (Keohane, 2005). An example of the ruthlessness of this war was the fact that from 1910 to 1930 the government offered bonuses to boarding school workers to kidnap Indian children from their homes and take them to boarding schools. These workers were known as “kid snatchers” (Goldsmith, 2002).

The boarding schools had a devastating effect on Native families, in part because they prevented the passing on of traditions and knowledge about how to raise children and be a family. In addition, the schools introduced new and dysfunctional behaviors, such as the use of severe physical punishment of children, which previously was rare among the tribes. Many children were also subjected to sexual abuse (Horejsi, et al., 1992).

“Many of the boarding school survivors returned to their tribes/nations and were unable to pick up the thread of family life, inadvertently continuing the legacy of abuse they themselves experienced away from home” (Fox, 2004).

Boarding schools were phased out after an official re-



Photos courtesy of the Western History/Genealogy Department, Denver Public Library

Above: Boarding school “before and after” photos. The schools aimed to destroy American Indian culture without killing individual children. Their legacy is a trauma of shame, fear, and anger that is still felt today.

port criticized government policy for educating Indians. Although the boarding school era ended around 1940, the resulting trauma, shame, fear, and anger—and related social problems—continue to ripple through the generations, hurting Indian families and children today (Kalamakal, 2001; Andrzejek, 2004).

ADOPTION AND FOSTER CARE

In the years after 1940 the push to get American Indians to assimilate continued. Adoptions and child welfare intervention were a significant part of this effort.

From the 1950s to the 1970s many private organizations tried to “save” Indian children by removing them from their homes and placing them for adoption in non-Native homes (Goldsmith, 2002).

At the same time, Indian children were placed in foster care at shocking rates: a 1969 survey conducted in 16 states with large Indian populations found that between 25% to 35% of all Native children were removed from their families and placed in foster or adoptive homes. In some states Native children were 13 times more likely to be removed from their homes than non-Native children (Goldsmith, 2002; CWLA, 2005). The majority were placed in non-Native foster homes.

Statistics such as these, as well as ten years of hearings, led Congress to pass the Indian Child Welfare Act of 1978. For information about this law and how it applies to you, turn to page 6. ♦

AMERICAN INDIANS IN NORTH CAROLINA

Building your knowledge of the different groups you serve is essential to culturally competent child welfare practice. When it comes to working with American Indians, however, it is a matter of learning not about one culture, but many. This article will help you develop some knowledge of Native Americans in North Carolina.

NATIONALLY

According to the U.S. Census, in 2000 approximately 4.1 million people, or 1.5% of the total population, described themselves as fully or partly American Indian/Alaska Native. Of these, 2.5 million, or 0.9% of the U.S. population, described themselves Indian only. These Native peoples belonged to more than 800 tribes (NICWA, 2005).

Diversity. The number and diversity of Native tribes—and the fact that Indians are much more likely to identify themselves as belonging to one or more additional racial groups—underscores how important it is that child welfare workers approach every Indian family with respect and without making assumptions about the family’s values, culture, or approach to life (NCHS, 2005).

Sovereignty. Most Indian tribes are independent sovereign nations with a special relationship to the U.S. government. Currently there are 562 federally-recognized tribes, each of which retains the powers of self-government. Child welfare matters regarding children who are or who are eligible to be members of these tribes are governed by federal law (*to learn more see page 6*). For a list of federally-recognized tribes dated spring/summer 2005 go to <www.doi.gov/leaders.pdf>.

NORTH CAROLINA'S STATE-RECOGNIZED AMERICAN INDIAN TRIBES/ORGANIZATIONS

- Coharie Tribe, Sampson County
- Cumberland County Association for Indian People
- Eastern Band of the Cherokee, * Swain & Jackson Counties
** This tribe is also federally recognized*
- Guilford Native American Association
- Haliwa Saponi Tribe, Halifax County
- Lumbee Tribe of North Carolina, Robeson County
- Meherrin Indian Tribe, Hertford County
- Metrolina Native American Assoc., Mecklenburg County
- Occaneechi Band of Saponi Nation, Alamance County
- Sappony Tribe, Person County
- Triangle Native American Society, Wake County
- Waccamaw Siouan Development Association, Columbus County

NORTH CAROLINA

According to the US Census Bureau, 99,551 North Carolinians, or 1% of the people in the state, described their race as American Indian during the 2000 Census. Nationally, along with Kansas, Minnesota, and Oregon, our state is ranked 12th in the percentage of its population that is Native American (US Census, 2005).

Age. As a group, North Carolina’s Indian population is younger than the state’s general population. Approximately 33% of Native Americans in North Carolina are under age 19, compared with a state average of 24% (NICWA, 2005; US Census, 2005). This means that our state’s Native population has a greater need for all types of community services for children and youth.

Distribution. Nationally, at least 50% of Native Americans live in metropolitan areas (Bennett, 2003). In North Carolina all counties have some Indian residents. Based on Census data, eight counties (Cumberland, Hoke, Jackson, Mecklenburg, Robeson, Scotland, Swain, and Wake) are home to 2,000 or more Native Americans. In several of these Indians make up a significant percentage of the population: Hoke (10%), Jackson (10%), Robeson (33%), and Swain (25%).

Affiliation. There are Native Americans from many tribes across the nation living in North Carolina. However, most belong to one of 12 North Carolina-based tribes and organizations (see sidebar). The Eastern Band of the Cherokee is the only federally-recognized tribe based in North Carolina.

According to the 2000 Census, the largest single Indian group in North Carolina is the Lumbee, who number 46,896 and make up 47% of the Native population in the state. For links to all tribal governments and Indian groups in North Carolina, including contact information, go to <www.doa.state.nc.us/cia/tribes.pdf> (dated Feb. 2005).

CONTEMPORARY INDIAN FAMILY LIFE

Families. Forty-eight percent of American Indians are married (ICCTC, 2005). In most Indian communities, “family” is defined broadly, and often includes extended family, and even non-blood relatives. Families are often close-knit, and usually consist of groups of siblings or cousins living close together; elders may live with their adult children. Parents, aunts, uncles, and grandparents often share the responsibility for all the children in the



Native Americans from tribes across the U.S. live in NC; every county has Indian residents.

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AMERICAN INDIANS IN NORTH CAROLINA *continued from page 3*

extended family group. Just as tribes vary markedly in culture, so do individuals and families. Red Horse and colleagues (1978) describe three common lifestyles of Indian families today:

Traditional. Families use the tribal language and practice the tribal religion. They may participate in the dominant culture's activities, but tribal activities take precedence.

Bi-cultural. Persons in these families cope comfortably in both tribal and non-tribal settings. English is the predominant language. Non-Indian beliefs and recreational and social activities may be predominant. Bicultural families remain interested in Indian cultural activities.

Pan-traditional. Conversation within the family may be in English or the native tongue. Religious beliefs may be a composite of a number of traditional forms. These families often reject activities of the dominant society in an effort to recapture traditional ways in danger of being lost or abandoned (e.g., traditional singing and dancing).

Spirituality. It has only been legal for Indians to publicly display their religious practices since the American Indian Religious Freedom Act of 1978. Therefore, many Indians are very protective of their spiritual practices.

Though Indian spiritual traditions are quite diverse, most emphasize a respect for life, a connectedness with nature, and a belief in a spiritual existence after the physical body has died. Most Indian religions promote the notion there must be balance between one's physical, mental, emotional, and spiritual health (AIMHAC, 2004).

Many Indians reject traditional Native spiritual practices and embrace Christianity; some have no strong spiritual beliefs (AIMHAC, 2004).

Child-rearing. Traditionally, responsibility for caring for, teaching, disciplining, and raising children in most

American Indian cultures was shared between the child's mother and father and other members of the tribe, especially extended family members. Many Indian families today still raise their children this way, although the increasing urbanization of Native peoples can undermine strategies connected with this approach to child-rearing.

INDIAN CHILD WELL-BEING IN NC

How are our state's American Indian children faring? In a word, things could be better.

Willeto (2002) assessed the well-being of Native children nationally and in 13 states, one of which was North Carolina. She found that we did not compare well with other states in several important categories, including:

- **Low birthweight:** in 1999, 11.2% of NC's Native American babies were born with low birthweights, compared to the national Indian average of 7.1%
- **Teen birth rate:** in 1999, for every 1,000 Native teen girls in NC an average of 53.5 gave birth, compared to the national Indian average of 41.4 per 1,000
- **Infant mortality:** between 1997-1999, NC averaged 13.7 Indian infant deaths for every 1,000 births, compared to the national Indian average of 9.1 per 1,000
- **High school drop out:** in 1999, 24% of North Carolina Indians dropped out of high school, compared with the national Native American average of 15.85%

We did perform better than most of the other 13 states in some areas, including child poverty: 25.4% of NC's Indian children lived below the poverty level in 1999, compared with the national Indian average of 31.6%. Still, the fact that one in four children lived in poverty is not good.

NATIVE WELL-BEING NATIONALLY

In fact, focusing on the well-being of North *cont. p. 5*

CULTURAL CONSIDERATIONS FOR PRACTICE WITH NATIVE AMERICANS

- **Help-seeking patterns.** For various reasons Native people may be reluctant to seek "official" help. If an individual is unable to resolve a problem on her own, she will commonly turn to the following resources, in this order: (1) immediate family, (2) extended family (cousins, aunts, uncles), (3) religious leader, (4) tribal council/organization, (5) mainstream resource system.
- **Time.** Indian people may not feel a sense of urgency about time. Many will come to an appointment late—or not at all—if they have something they believe is more important to do. Events that may be considered more important can include the needs of family and friends, family crises, ceremonies, or deaths.

Sources: AIMHAC, 2004; Dial, 2005

- **Communication Styles.**

Nonverbal: Often Indian people communicate a great deal through nonverbal gestures, such as using downcast eyes or ignoring an individual when they are unhappy with or disagree with a person.

Humor: Indians may use humor to express truths or difficult messages, and might cover great pain with smiles or jokes. It is important to listen closely to humor, as it may be seen as invasive to ask for too much clarification.

- **Criticism.** It is often considered unacceptable for an Indian person to criticize another, even if the individual has been exceedingly abusive. There is a common belief that people who have acted wrongly will pay for their acts in one way or another, although the method may not be the legal system.

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Carolina’s Indian children relative to Native children in other states obscures the fact that at the national level, Native American children and youth performed worse on nine of the ten well-being indicators Willetto measured.

The bottom line is, regardless of where they live many American Indians—adults and children—are at risk. Some of the risks they face include:

Poverty. Despite income from casinos and other projects, most Indians are worse off economically than the general U.S. population. In 2001–03, more than one in five Native Americans lived in poverty (NCHS, 2005).

Untimely death. Native people have a life expectancy of 65 years, well below the U.S. average of 77.6 years (Bennett, 2003). In 2002 the death rate for motor vehicle-related injury for American Indian males aged 15–24 was almost 40% higher and the suicide rate was almost 60% higher than the rates for those causes for young White males (NCHS, 2005).

Violent Crime and Domestic Violence. Rates of violent victimization for both males and females are higher among American Indians than for all races. Native women are at special risk for intimate partner violence (CDC, 2005). Violence is reported in 16% of all marital relationships among Indians, with severe violence reported in 7% of these relationships. Indian victims of intimate violence are more likely than others to be injured and need medical attention (NIH, 2002).

Illness. Some illnesses, including diabetes, chronic liver disease, and cirrhosis, pose a special challenge to Native populations (NCHS, 2005). The fight against illness is made more difficult by the fact that many Indian communities have inadequate numbers of physical and mental health care providers (Cross, 2005).

Child Maltreatment. Indian children consistently have the highest rates of maltreatment victimization in the U.S. In 2002 Indian children were abused and neglected at a rate of 21.7 per 1,000 Native children; the rate for White children was 10.7 per 1,000 (USDHHS, 2005). Neglect is the most common form of maltreatment among Native Americans, while sexual and physical abuse appear to be less common than among other groups (ICCTC, 2005).

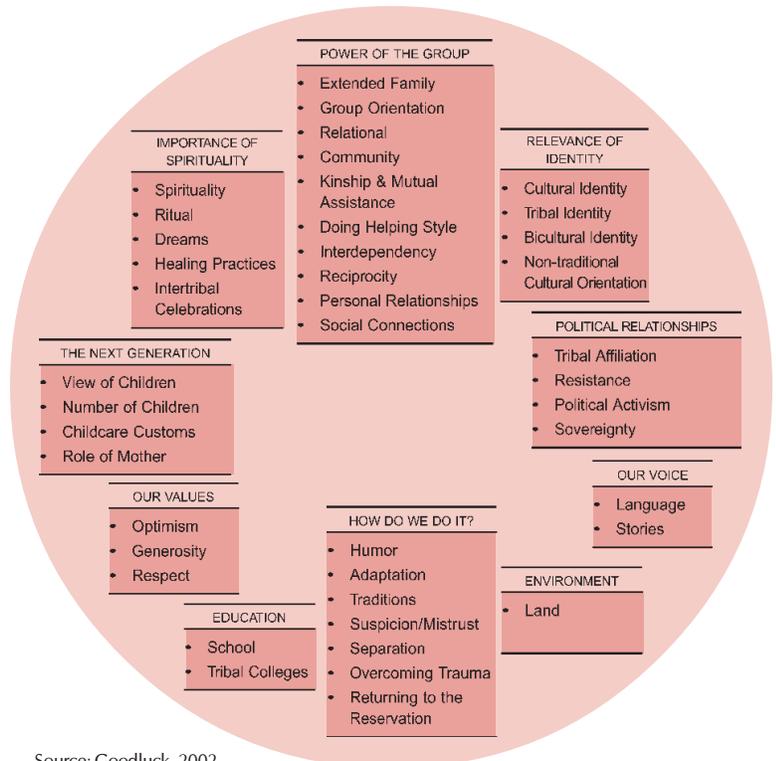
AMERICAN INDIAN STRENGTHS

Although the challenges they face are real, Native Americans also possess many strengths.

Foremost among these is their resiliency. Indeed, after centuries of racism, discrimination, boarding school placements, forced relocation, attempted genocide, and transracial adoption, Native Americans’ very existence is a remarkable achievement (Goodluck, 2002). But Indians

THEMES OF NATIVE AMERICAN STRENGTHS

This list is important because it can help non-Native child welfare workers understand what is important to Indian families.



Source: Goodluck, 2002

have done more than survive. Evidence for this can be found in statistics about home ownership (nearly 55% of all Native people own their own home) and education (75% of Indians age 25 and over have at least a high school diploma, 14% have at least a bachelor’s degree), and in the fact that today American Indians are growing and continuing as unique cultures and tribes.

To better understand American Indians’ successes, Goodluck (2002) conducted a study in which she identified 42 Native strengths. These strengths included the sovereignty of tribes, humor, traditions, and many more (see figure). This list is important because it can help non-Native child welfare practitioners understand what is important to Indian individuals, families, and tribes.

Goodluck also developed a model of Native American well-being. At the heart of this model are three domains: extended family, spirituality, and social connections. Goodluck believes activities in these domains reinforce one another to create a cycle of Native American well-being.

Workers who want to improve their ability to recognize Indian strengths and empower Native families should consider reading Goodluck’s report, which contains suggestions for identifying behaviors associated with different Native strengths. It is available at <www.casey.org/Resources/Publications/NICWAWellBeingIndicators.htm>. ♦

IMPLEMENTING THE INDIAN CHILD WELFARE ACT OF 1978

It has been almost 30 years since Congress enacted the Indian Child Welfare Act. Though we've made some strides during this time, child welfare agencies occasionally struggle with the why and the how of this important law.

ICWA protects the rights of Indian children and their tribes.

As the story of Zak's family illustrates (see facing page), failing to understand and implement the requirements of ICWA can cause delays and unnecessarily adversarial relationships between the various parties in child welfare cases that involve Native families. It can also cost child welfare agencies in terms of time, money, and frustration. Worst of all, it can threaten the well-being of Indian children, their families, and their tribes.

This article will review the reasons ICWA was created and describe how to comply with it to safeguard the interests of Indian children and their tribes.

THE LAW

Congress passed ICWA in 1978, spurred on by evidence that 25% to 35% of all Indian children at that time were being removed from their families and placed in non-Native foster and adoptive homes. The law can be seen as an effort to end state and county child welfare policies and practices that Congress believed were devastating American Indian tribes.

ICWA does several important things to protect Indian children and Indian tribes. First, it establishes a federal standard that defines what is in the best interests of Indian children. This standard is different from the standard for other children, in part because Indian children enjoy a different status in the courts because they are also part of

tribes, which are distinct sovereign entities. This standard acknowledges that it is of vital importance to the well-being of Indian children to protect their rights as Indians, including their right to be raised in a home that immerses them in their cultural heritage (Goldsmith, 2002).

ICWA also protects the decisionmaking role of the child's tribe by requiring state courts and child welfare agencies to notify tribes, invite them to intervene, and comply with tribal preferences during: (1) foster care placements, (2) TPR proceedings, (3) preadoptive and adoptive placements, and (4) juvenile court custody or guardianship of the juvenile. Even if a tribe initially declines to intervene, it can change its mind at any time.

KEY POINTS

Particularly important elements of ICWA that all child welfare workers and agencies should know include:

Identification of ICWA Children. ICWA applies only to Indian children who are either (1) a member of a federally-recognized tribe or (2) eligible for membership in a federally-recognized tribe AND is the biological child of a member of that tribe.

As the NC Supreme Court recently confirmed, only children from federally-recognized tribes are subject to ICWA (see 169 N.C. App. 701, 612 S.E. 2d 639, 2005). For a list of federally-recognized tribes dated spring/summer 2005 go to <www.doi.gov/leaders.pdf>.

To fully comply with ICWA child welfare workers should inquire whether children/parents are American Indian with every family and at every stage of each family's case.

10 TIPS FOR COLLABORATING WITH TRIBES UNDER ICWA AND ASFA

1. Approach tribes with respect as unique, sovereign entities. Treat tribes as partners.
2. Know the law and state/tribal agreements.
3. Inquire whether children/parents are American Indian in *all* cases at every stage of the case.
4. Provide tribes with timely notice of ICWA cases. Be sure to notify the right contact at the tribe, usually the social service provider.
5. Give tribal court orders and acts full faith and credit. Tribal courts have full authority to conduct Indian child custody proceedings (ICWA, P.L. 95-608, Section 1911 (d)).
6. Work collaboratively with tribal social workers in implementing ICWA requirements; include tribal social workers in all aspects of case plan development, including permanency planning.
7. Remember that the ICWA active efforts requirement is a higher standard of service than the reasonable efforts requirement under ASFA.
8. Contact extended family members. Remember that American Indian extended families are much larger than mainstream families and include relatives beyond grandparents, aunts, uncles, and cousins.
9. Follow ICWA or Tribal placement preferences.
10. Do not fast-track potential Indian child welfare cases without immediately involving the tribes and/or extended family members.

Source: Amanda Cross, Institute for Child and Family Policy, Univ. of Southern Maine, in consultation with NICWA (Muskie, 2003).

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Even if ICWA does not apply to an Indian child, child welfare workers should still engage these families as they would any family. This means applying the family-centered principles of partnership and making the assumptions that form the basis of our work. Among these is the belief that the safety of children and others is always the first concern, that children have a right to their families, and that families themselves are our primary resource for protecting children.

Notification of Tribes. If it suspects a child is Native American, a child welfare agency must immediately contact the child's tribe to determine whether the child is an Indian child as defined by ICWA. Only the tribe has the power to determine whether the child is, or is eligible to be, a member.

Once tribal affiliation is determined, the child welfare agency must provide written notice of any impending placement proceedings to the child's parents, Indian custodian, and tribe. ICWA spells out the information that must be contained in that notice, which must be sent to the tribe via registered mail, return receipt requested. It is best to phone the tribal contact person and let that person know that you are sending the required registered letter. It is also advisable to make a follow-up phone call a few days after the letter is mailed out.

Active Efforts. Under ICWA, during foster care or termination of parental rights proceedings child welfare agencies must prove that they have used "active efforts" (a higher standard than "reasonable efforts") to provide remedial services and rehabilitative programs to prevent the breakup of the Native American family, and that these efforts have failed. Active efforts must be directly connected to the parenting problems that are requiring your agency to seek or maintain custody of the child (NCJFCJ, 2002).

Higher Standards of Proof. When ICWA applies, in order for the child to be placed in or remain in foster care, DSS must use a "qualified expert witness" to present clear and convincing evidence in court to demonstrate that continued custody with the parent is "likely to result in serious emotional or physical damage to the child." If a TPR petition is filed, the standard of proof rises to beyond a reasonable doubt, which is higher than North Carolina's "clear and convincing" standard for non-ICWA cases.

Placement Preferences. If placement of the child is necessary, ICWA also establishes specific placement preferences. Under ICWA, Indian *cont. p. 8*

THE VOICES OF ZAK'S AUNT AND UNCLE

When we first found out that our nephew, Zak, (my brother's 2-year-old son) was in foster care, we weren't sure what to do. He was in another state and his parents had been accused of physically abusing him. Even though he is an enrolled member of our tribe, he wasn't in an Indian foster home like the ICWA requires. But at the time, that was the least of our worries. We just wanted to find out what we could do to help my brother, sister-in-law, and nephew.



Photo illustration

Things didn't look too good. Even though the abuse charges were alleged, they hadn't been proven. But besides the abuse charges, my brother and his wife were pretty heavily involved in drugs and didn't seem to be doing anything to try to get their son back. My husband and I didn't think Zak would ever be returned to them because they really weren't working on their treatment plan.

We were licensed foster parents on the reservation where we live. We figured we'd have a good chance to get our nephew placed with us when the permanent plan was decided. My brother and sister-in-law were OK about us having Zak placed with us. But the child welfare agency in their state thought we wouldn't protect him from his parents, so they left him in the non-Indian foster home.

At first the child welfare agency didn't notify our tribe about our family situation. My brother didn't tell the worker that he was a tribal member, and she didn't think Zak looked "Indian." If the agency worker had asked Zak's parents more about their Indian heritage, she would have found out that Zak was enrolled with our tribe. By the time the agency worker found out about Zak's Indian heritage and notified our tribe, Zak had already been in foster care for three months. The tribe intervened and told the child welfare agency that they wanted to transfer Zak's case to tribal court in our state. But the state court found "good cause" not to transfer and noted that Zak had bonded with the foster family.

So Zak stayed in the non-Indian foster home where he'd been placed. We were able to visit him only about once every six to eight weeks because it was hard for us to travel out of state to see him. But we didn't want him to forget us so we kept visiting as often as we could. In the meanwhile, our tribe kept trying to get jurisdiction.

After a year, Zak's mom and dad had not finished their treatment plan and had done nothing to reunify with Zak. The agency worker decided that the permanent plan for Zak would be adoption. Even though she wanted the foster family to adopt him, we also wanted to adopt Zak since he's our nephew. Our tribal lawyer was able to show in court that the purpose of ICWA is to keep Indian families together. He proved that the social service agency didn't follow the ICWA from the beginning. He also showed that we had kept close connections with Zak with our visits, and we were bonded to him, too. It took a long time, but finally the court ruled in favor of the ICWA and transferred jurisdiction to our tribal court, and we adopted Zak.

We know it was hard for his foster family to give him up, so we try to make sure he has visits with them sometimes. But now Zak is growing up with his cousins, grandparents, aunts, and uncles who live near us on the reservation. He is learning the traditions and ceremonies of our tribe.

If it hadn't been for the Indian Child Welfare Act, our family probably would have been separated forever.

Reprinted from *A Family's Guide to the Child Welfare System* (2005 Edition)
<gucchd.georgetown.edu/files/products_publications/AFamilyGuide.pdf>

IMPLEMENTING THE INDIAN CHILD WELFARE ACT OF 1978 from p. 7

children must be placed in the least restrictive setting possible, and the placement must be within reasonable proximity to the child's home.

Additionally, foster care placements are given the following order of preference: (1) with extended family (third-degree blood ties—first or second cousins, aunts, uncles, grandparents, or stepparents); (2) with Indian foster parents approved by the tribe or with an Indian foster home licensed by the state; or (3) in residential care approved by the tribe. The following is the preferred order for adoptive placements of Indian children under ICWA: (1) extended family, (2) non-related members of the same tribe, (3) other Indian families. Tribes may alter the order of preference for its children, and the child welfare agency must follow this new order. Also, consideration may be given to a parent's or a child's wishes with regard to placement. (It should be noted that these Indian/tribal preferences are possible because another federal law, the Multiethnic Placement Act, has no effect on ICWA; thus an Indian child may be moved from a non-Indian foster home to comply with these preferences without a MEPA violation.)

Social workers must make every attempt to identify placements that fit with this prescribed order, and they must carefully document any reasons for failure to follow it (Goldsmith, 2002). These preferences apply in ICWA cases even if the tribe elects not to intervene.

If a county or state child welfare agency places an Indian child in foster care and the placement disrupts, compliance with ICWA must continue: the agency must send notification via registered mail to the tribe, which has another opportunity to intervene or indicate preferences.

FURTHER LEARNING

There is more to know about ICWA than we have space to relate. For additional ICWA learning resources, including online courses, see vol. 7, no. 2 of *Training Matters* <www.trainingmatters-nc.org>. ♦

KEY POINTS FROM THIS ISSUE

Success with Indian families will depend in large part on your cultural competence. This means you must learn about the history, customs, and world view of the families you serve. It is especially important to understand:



Photo Illustration

- That to comply with ICWA and to effectively serve Indian families, you must ask **every** child and family you work with whether they are American Indian
- The broad definition of “family” in many Indian communities, and the implications this has for practice
- Communication styles and help-seeking and child-rearing traditions of Native peoples
- Native people's history of oppression and the impact this has on their well-being and attitude toward mainstream society
- Not only ICWA's requirements but its intent, which is to protect the interests of Indian children and their tribes
- The challenges Indian families face today, including poverty, alcohol abuse, domestic violence, and untimely death
- The many strengths that Indians are drawing on to solve problems and to grow and continue as unique cultures and tribes

IN THIS ISSUE: WORKING WITH AMERICAN INDIAN FAMILIES

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