

Ozha Wahbeganniss

# OZHA WAHBEGANNISS



Exploring Supervised Visitation and Exchange Services in Native American Communities

## EXPLORING SUPERVISED VISITATION AND EXCHANGE SERVICES IN NATIVE AMERICAN COMMUNITIES

*Prepared By Lauren J. Litton, JD, I.S.P. Consulting  
and Oliver J. Williams, Ph.D. Executive Director,  
Institute on Domestic Violence in the African American Community*

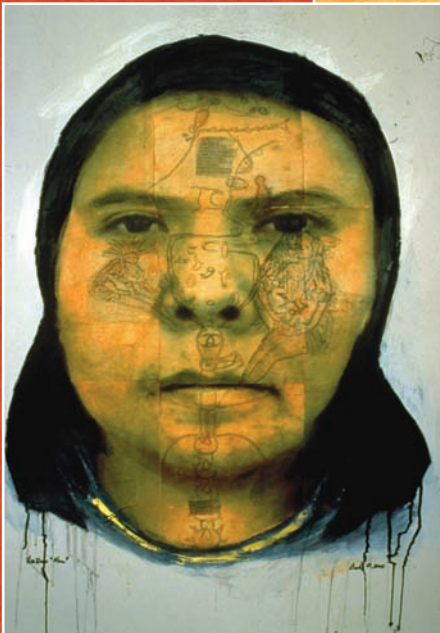
Health & Healing ~ Serenity

# ACKNOWLEDGMENTS

*The Institute on Domestic Violence in the African American Community (IDVAAC) is honored to have worked in collaboration with individuals and agencies committed to addressing and ending violence against women in the Native American communities in a way that honors people and culture.*

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*IDVAAC is a non-native organization focused on addressing the unique circumstances facing culturally-specific groups when dealing with the issue of domestic violence. IDVAAC understands that it has been used as a vehicle to tell a story that belongs to native communities and that the story should be carried forward by those communities.*



*“Alma”*

*Each person we encounter is a unique mapping of qualities and energies that are invisible to the naked eye. Often, we seem to react to each other based on skin-to-skin appraisals or other superficialities. Yet, some part of us intuits the presence of much, much more.*

*Herstories are an ongoing series of mixed media paintings exploring the face as a mask and the tattoo as the indelible mark, shield, and sacrifice.*

*The subjects are women I have photographed. Their faces are tattooed with images relating to each woman's life and something beyond, mythic and archetypal. The markings include ancient characters, symbols, and maps that emerge as cryptic images.—Baila Litton*

## Grant Information

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# OZHA WAHBEGANNISS:

## EXPLORING SUPERVISED VISITATION AND EXCHANGE SERVICES IN NATIVE AMERICAN COMMUNITIES

*We need to rededicate ourselves to understanding our traditional ways. In our songs, ceremonies, language and relationships lie the instructions and directions to recovery. The issues of violence in our communities are diverse and so are our own cultural ways. It will be a long journey to recovery. The East, South, West and North all must develop their own process of healing – as must urban areas and reserve. This must be done if we are to return once more to a people without violence.*

*—Sylvia Maracle, Mohawk from Tyendinaga First Nation<sup>2</sup>*



# INTRODUCTION

This project was the start of a journey of inquiry. A journey where Native Americans<sup>3</sup> discuss how to serve their own communities and families who have experienced intimate partner violence and where children are visiting or being exchanged between the abused and abusive parent. The concept of designing and providing supervised visitation and exchange through a domestic violence lens, where the victimized parent and child's safety and well-being is given equal regard, is still a relatively new and emerging concept. In tribal communities, operating a specialized service outside of the child welfare system is almost non-existent. Thus, this report reflects the first step in an opportunity to critically think about how this service can be crafted and implemented by tribal communities in a manner that offers safety, respect, healing, health, and serenity.



## INTERPLAY OF CHILD VISITATION AND EXCHANGE WITH INTIMATE PARTNER VIOLENCE

Communities across the country are grappling with how best to eliminate and respond to violence against women. Domestic violence<sup>4</sup> can impact every aspect of a battered woman's life and shatter a family. The prevalence of domestic violence in the United States is astonishing. However, when turning one's attention to Native Americans, the picture painted by research and statistics is even more staggering. Native American women experience the highest rate of violence<sup>5</sup> of any group in the United States with per capita rates of more than twice the resident population. Homicide is the third leading cause of death for American Indian women with at least 75 percent being murdered by a family member or an acquaintance.

Domestic violence is defined as a pattern of assaultive and/or coercive behaviors that a person uses against an intimate partner in order to gain power and control in that relationship. The behaviors exerted can include physical, sexual, emotional and economic abuse. More than half of women abused in the United States have children under the age of twelve. It is estimated that annually at least 3.3 million to 10 million children are exposed to domestic violence. When there are children in common, they remain the link between the battering and abused parent after separation.

Post-separation violence is common in intimate partner violence situations and separation can serve as an impetus for increased abuse. Victims have reported that after separation, their former partners have stalked, harassed, verbally and emotionally abused, beaten, and sexually assaulted them. The battering parent employs a wide variety of tactics, many which involve the children, in order to try to retain power and control over the adult victim. Some examples include, showing up unexpectedly to see the children or changing visitation plans without notice; threatening or belittling the victimized parent during exchanges of the children; maintaining ongoing litigation around custody and visitation; making false child abuse or neglect reports; showering the children with gifts during visitations; undermining the victim parent's rules for the children; keeping the children longer than agreed upon or abducting them; or asking the children for information about what the victimized parent is doing and who she is seeing. Thus, custody and visitation arrangements are potentially dangerous for both the children and the abused parent.

Native American victims of domestic violence, in addition to the above referenced ongoing challenges around custody and visitation arrangements, face added complications that can impact safety such as complex court jurisdictional issues, institutional oppression and racism, geographical barriers, and limited community resources.

# PROJECT OVERVIEW



Supervised visitation and exchange services are not a new concept. Child protection agencies and social workers have been providing supervised visitation to families who have children in the foster care system for some time and the services have become an integral part of developing reunification case plans. Domestic violence advocates identified a similar need for families who experienced domestic violence and were separating, divorcing, possessed a protection order, or desired visitation and exchange services that were tailored to account for the safety needs of both the children and adult victims of domestic violence.

The U.S. Department of Justice, Office on Violence Against Women (OVW) acknowledged this gap as a necessary safety measure that could further protect adult victims and their children. The Safe Havens: Supervised Visitation and Safe Exchange Grant Program (Supervised Visitation Program), was established by the Violence Against Women Act of 2000 and is a mechanism through which communities can obtain funding to establish or enhance services for the supervised visitation and safe exchange of children, by and between parents, in situations involving domestic violence, child abuse, sexual assault or stalking. The Supervised Visitation Program is the first federally-funded initiative to examine the policies and practice issues involved in creating safe visitation and exchange of children in cases involving intimate partner violence. Since 2002, grants have been awarded to states, Indian tribal governments, and units of local government, which are required to work in collaboration with state or local courts and nonprofit, non-governmental domestic violence or sexual assault programs.

OVW appreciated the need to examine cultural competency in the context of supervised visitation and exchange. A one-size-fits-all approach has never worked as it discounts an individual's values, experiences, and culture. Yet, while there is a high incidence of domestic violence among African American and Native American populations, little was known about their experiences with supervised visitation and safe exchange, or that of other diverse populations. To address this, OVW awarded a grant to the Institute on Domestic Violence in the African American Community (IDVAAC) to explore and identify guideposts for consideration for tribal communities who wanted to develop differential and flexible delivery of visitation and exchange services in the context of domestic violence for Native Americans families.<sup>6</sup>

IDVAAC partnered with Mending Sacred Hoop<sup>7</sup> and together created the collaboration now known as Ozha Wahbeganniss. The collaboration was named during a feast and blessing arranged by Mending the Sacred Hoop. Ozha Wahbeganniss translated into English from Ojibwe means yellow flower; it is a symbol of health, healing, and serenity. The goals of the project were to begin to ascertain strategies, priorities, and considerations for the delivery of



Ozha Wahbeganniss translated into English means yellow flower; it is a symbol of health, healing, and serenity.



The goal of the center should be to provide a safe and nurturing environment for children to have contact with their parents and where families can access resources.

—*Apache participant*

supervised visitation and exchange services in domestic violence cases for Native Americans. This was accomplished by hearing from key constituents through a roundtable discussion and by conducting community assessments with the Apache Tribe of Oklahoma and Pueblo of Zuni.<sup>8</sup> The roundtable participants were Native American legal scholars, professionals, and organizational and community leaders knowledgeable about domestic violence and child visitation or exchange. As part of the community assessments, a series of focus groups were conducted with stakeholders, including Native

American consumers (both mothers and fathers); domestic violence and other social service providers; law enforcement; and court personnel, including judges.<sup>9</sup>

Mending the Sacred Hoop brought credibility and expertise to the project that helped bridge relationships with the partnering Native American communities. In accordance with Native American tradition, prior to working with each community project partners met with tribal leaders and other members of the community in order to develop a relationship and describe the goals of the project. Additionally, in a demonstration of respect collaborators “gifted” the leaders with tobacco and rice and asked for their permission and support on the project before any project-related activities were undertaken.

Many of the questions posed to project participants were formulated in order to consider how tribal nations could begin to develop approaches which align more effectively with community values and helping systems to address child visitation and exchange in the context of domestic violence. Some of the questions probed, included:

- How does your community currently respond to parent-child contact in the context of domestic violence?
- What are some of the best approaches to starting a visitation program for a Native American community?
- What are some of the challenges to offering supervised visitation and exchange services in domestic violence cases in Native American communities?
- What would a supervised visitation center look like that reflects the community’s needs and values?
- What things need to be in place to encourage families to use this kind of program?

This report is a compilation of information gathered through project activities. There are hundreds of tribes, each with its distinctive culture. Collaborators realize that this information will not be comprehensive or applicable to all indigenous people. Instead, the findings assembled in the report is intended to be a beginning point for communities that are considering developing or implementing visitation and exchange centers for cases involving domestic violence cases.

# SUPERVISED VISITATION AND EXCHANGE SERVICES IN NATIVE COMMUNITIES

## GENERAL FINDINGS

Under the Supervised Visitation Program, communities are afforded an opportunity to inquire into ways in which they can set-up or augment the provision of supervised visitation and exchange services for families that experienced intimate partner violence. There are various aspects to this inquiry, such as center location, center mission and values, scope of services offered, documentation, information sharing, safety components, policies and procedures, fees, referral systems, and collaborative relationships. Project participants talked about these aspects for Native Americans and how they are viewed under a race and class analysis.

It appeared challenging for project participants to identify ways in which the service could be tailored for Native Americans. Two reasons emerged for this difficulty. First, participants indicated that as Native Americans this was an issue that they were not historically used to dealing with. Additionally, over the years they have become removed from their culture and are now in the process of reclaiming their traditions, practices, and beliefs. Thus, they wanted to create a traditional response to a non-traditional issue, and that would take a lot of thought and be specific to each tribe. Second, currently there is no frame of reference for supervised visitation outside of the child welfare system. Supervised visitation and exchange in domestic violence cases is still a foreign concept. If a family is not involved with the child protection system, they are typically left to work parent-child contact arrangements out to their mutual satisfaction. When domestic

violence is a factor, mutual satisfaction is rarely a reality. Families are using fast food establishments, convenience stores, police stations and other public venues for visits and exchanges. These locations are not child-friendly, lack privacy, and safety is uncertain as no one is dedicated to observing or helping the family. Most frequently, extended family members are responsible for arranging and carrying out visits or exchanges. While familial relationships are extremely important to Native Americans and offer many supports and strengths; this cultural value also adds a complexity in domestic violence situations. Project participants reported that family members can cause added conflict and increase safety issues for children and adult victims. Extended family members often get in the middle of the disputes or wind up revictimizing the parent that needs protection. Project participants indicated that the greatest gift to give children is care and understanding and the community must provide that to children when a family cannot.

The current visitation and exchange options are not working in domestic violence cases and thus project participants expressed a need for this specialized service. Themes quickly emerged about what considerations are important in order to establish a service that was both useful and used by Native Americans. **The overarching guiding factor indicated by almost all project participants was safety for the child and abused parent.**

A problem with exchanges at a police station is that often the police are not aware that an exchange is taking place. Also, if there is a problem the police may have to arrest one or both parents in front of the children.

—Apache participant





No matter how many conditions a court sets up, the extended family will still ensure that a parent has contact with his child.

—Roundtable participant

The following is a brief recitation of other key components suggested by project participants that could contribute to the use of a visitation center by Native Americans:

- Include local tribal culture in the orientation, structure, design and the values of the visitation center.
- Obtain blessing of tribal leaders and elders.
- Locate service in a central, convenient and accessible area.
- Hire Native American staff, preferably that speak the native language, or if non-native staff is employed, ensure they are educated about the culture to foster respectful interactions.
- Create a child-friendly and comfortable environment with wide-range of activities that are developmentally appropriate, including an outdoor space.
- Make the center feel like a home, where interior matches the roots of indigenous life.
- Work to actively reduce the stigma in the community of using the visitation center.
- Fashion a space that is private, confidential, and reflects native values.
- Offer transportation to the center.
- Market the existence and goals of the center to the community.
- Use the center as a means of reintroducing Native American culture to families.
- Bring the community and parents who will be using the services into the planning process in order to build trust.
- Do not require fees in order to obtain center services.
- Offer a range of available services at the center, such as counseling, parenting and life skills, legal assistance, substance abuse and domestic violence.
- Make the center a place of healing and helping and viewed as a community service.
- Include hours of operation that are flexible and reflect the lives of people using them, like evening and weekend hours.
- Have graduated responses available with services tailored to the needs of a particular family and based on overall safety concerns.

Additionally, numerous considerations were discussed by project participants that are unique to tribal communities and could impact the approach, development, and implementation of supervised visitation and exchange services for tribal communities. Many of the thinking points were in response to, or intertwined with, the oppression that Native Americans have experienced including the imposition of western norms, forced assimilation, and a social service structure. Some of these include:

- Suspicion of established institutions including law enforcement and social services.
- Limited resources and pervasive poverty which influences different priorities for tribal communities.





- Insufficient infrastructure to build upon, such as deficient transportation, telephone and utility lines, buildings, and programs.
- Varying understanding about intimate partner violence and post-separation violence.
- Diverse governing structures and models employed by tribes.
- Complex jurisdictional issues with few people truly

understanding which laws and authoritative bodies apply in different circumstances.

- Inadequate awareness and appreciation of native issues by non-natives.
- The need to provide supervised visitation and exchange services in both urban and rural areas.
- The development of centers that will probably serve native and non-native individuals.

## DEFINING AND UNDERSTANDING DOMESTIC VIOLENCE

Project participants indicated that there is still disbelief among Native Americans that their once peaceful culture that revered women has become one marked by violence, poverty, and alcoholism. It seems as if people are mourning the loss of their culture. In fact, domestic violence rarely existed in pre-colonization society, and the response to such actions included banishment, public shunning, and even retaliation. A study of Native American history reveals “decimation by disease and war, racism, exploitation of resources, seizure of lands, forced migration, introduction of alcohol, and the establishment of oppressive and coercive policies such as the boarding school and land allotment programs which have together detrimentally affected the traditional values of Native peoples.”<sup>10</sup> This domination and mass assimilation was internalized, resulting in a significant loss of cultural identity and a general devaluing of indigenous people, particularly Native American women.

Intimate partner violence is understood more broadly for many tribes as “family violence.” Project participants indicated that the definition encompasses child and elder abuse and responses to domestic violence are often confused with child protection actions. This stems from the fact that federal law has driven responses to family actions which are focused on domestic violence in the context of child abuse. Thus, tribes may have a misunderstanding of the difference between intimate partner violence and child abuse and believe children will be removed from their mother’s custody in family law matters due to domestic violence.<sup>11</sup> Participants stated that the definitional differences cause confusion and tension between battered women’s advocates and social service providers. A tribe that is supporting the establishment and operation of a visitation center will need to educate its members, including the courts and other professionals, about domestic violence and the ongoing safety risks that persist despite separation between a victim and her batterer. This education will help ensure that victims and their children are being offered services that can contribute to their overall safety and well-being. Another suggestion was to have cultural counseling by elders available to families using the center. Families can learn about a time in native life when domestic violence did not exist in the hopes of reclaiming that aspect of culture.



The vast majority of the domestic violence that goes on here is [due to the fact that] people are now unfamiliar with their own traditions and culture.

—Zuni participant

# CULTURAL CONSIDERATIONS



More education about domestic violence is generally needed. The risk associated with post-separation violence by tribal communities is equated to the danger of chemical dependency.

—Roundtable Participant

Culture has been defined in many different ways with most highlighting that it is complex and dynamic, consisting of collective solutions to problems faced by a particular group. It is an intricate set of relationships, responses, and interpretation that includes “a creative and continuous process, including behaviors, values and ways of thinking and reacting, shared by a people to guide them and give meaning to their lives.” Culture is not static and instead is ever changing. While culture binds groups together, it is also important to recognize that diversity exists among people. This is true for indigenous people.

It is estimated that there are 4.4 million American Indian and Alaskan Natives living in the United States, with approximately 567 federally and 300 non-federally recognized tribes and Alaskan Native groups in existence. More than 250 languages are spoken among these tribes with each tribe having their own customs, ceremonies, and history. Yet, even with these differences, Native Americans often share certain core cultural understandings and set of values. For example, most tribes share a respect for: elders, family, nature, personal integrity, and the tribal group. It is important to take these core values into account when developing and operating a supervised visitation and exchange program as they differ from the Anglo-American perspective; the perspective that most visitation centers to date have been developed from. The core values influence behavior and hence may impact the way an individual’s actions may be interpreted and evaluated by those working at an Anglo-model supervised visitation center.

The following is an overview of some of these core values, although it is imperative that these are understood as generalities and are not held as truths for every Native American:

**Significance of Kinship and Clan Relations.** An indigenous person’s identity is often grounded in a sense of community or being a member of a group. While individuality is also valued, people are obliged to give up that individuality when matters of group survival arise. This is represented by loyalty and devotion to the tribe, clan, and extended family. Parents and the extended family members are expected to raise and nurture children. Traditionally, Native American children are encouraged to maintain relationships with both their maternal and paternal families as it is how they arrive at their identities. For purposes of the examination of supervised visitation for Native Americans, this value is critical in understanding where a battered woman and child will turn to in time of need, some pressures she may receive, and the involvement of family members in the process. Stigma is a concern for many Native American victims of domestic violence.

Battered women may be reluctant to access services in a small community where involvement with the agency may actually cause shame and embarrassment, especially if the clan system requires traditional forms of social control or interventions that involve the entire extended family. Project participants expressed the desire that centers permit grandparents and other relatives,<sup>12</sup> in addition to the battering parent, to be allowed to visit with children.

Grandparent contact is considered a right, one that is just as essential as children visiting with their fathers. This would also help foster trust and support if extended family was involved in the visits and exchanges and be more aligned with the traditional methods of healing.

**Non-Interference.** In many tribes, children learn early to regard absolute non-interference in interpersonal relations with high esteem. This policy has been explained as “[A]n Indian will never interfere in any way with the rights, privileges and activities of another person.”<sup>13</sup> It is closely associated with respect for the individuality of others and is reinforced by non-authoritarian methods of child rearing. For example, most Native American children are typically not banned from doing something. Instead, potential consequences of an action are explained so that they can decide for themselves whether not to act or not. This policy allows people to have the freedom to experience life as they so choose and learn from the consequences of those choices. This parenting style holds in esteem lessons learned through teaching, story telling, and natural consequence. The value of removing oneself from interfering was the bridge to forgiveness of other’s actions and thoughts.

Historically, Native Americans have experienced negative repercussions for this practice when their “lack of intervention” with their children was interpreted by Anglo-established institutions, like child protection agencies, as a lack of concern for children’s well-being. Thus, there is a level of mistrust when it comes to others “evaluating” or “assisting” families. Additionally, Native Americans may not be accustomed to others imposing rules on them and may see interventions into their parenting or other aspects of the lives

as coercive. Accordingly, careful consideration should be given to how rules would be imposed at a visitation center and how behavior would be corrected.

**Harmony, Balance, and Restoration.** Many aspects of Native American culture focus on individuals seeking harmony and balance with oneself, the tribe, and nature. It is believed that discord is the result of an individual being out of balance with the universe or tribal members. In order to restore balance, the underlying issue of the problem must be assessed and a resolution offered by the community, often involving tribal elders or respected family members. Thus, the inclusion of family and clan members is a common and desired practice. This would also hold true in domestic violence situations. Non-adversarial methods are employed by Native Americans in order to restore balance with the goal of the conflict disappearing from the family and larger clan system. True to this value, several project participants from the male consumer groups voiced interest in centers assisting parents to rebuild their relationships and even at times reunite.<sup>14</sup>

Other core cultural values that may play out in a visitation center setting:

- **The significance of courtesy.** Possessing patience and bestowing courtesy is important to Native Americans. This is often misinterpreted as passivity or indifference.
- **The notion that time is relative.** Time is considered a continuum, with no beginning or end. The result is that time is de-emphasized, schedules remain flexible to account for individual interests, and tasks are completed as needed.

Participants embraced the idea of using the visitation center as a mechanism of reintroducing culture back to the community.



Parents recognize the link with clan to better support the tribe and their children. We are all working toward community healing, as a community, of what ails us.

—Zuni  
participant

It is important to maintain the link between family members regardless of the circumstances. The identity begins by linkage to the family for children.

Zuni is spoken in the home. That is the language that should be used at the visitation center to emulate family, home, and culture.

—Zuni participant

Project participants echoed the importance of developing a center that is respectful and reflective of Native American culture. They discussed that there is range of how connected Native Americans are to their culture, often dependent upon his/her level of acculturation. For example, several generations of Native parents were raised in boarding schools where they were forcibly removed from their homes, required to learn English, and were prohibited practicing their traditions, religion, or speaking their native tongue. Participants embraced the idea of using the visitation center as a mechanism of reintroducing culture back to the

community by having community nights and incorporating activities that teach cultural traditions that parents can engage in with their children during visits, such as beadwork, drumming, dance, cooking, painting and other artistic activities. Participants further stated that to truly understand Native American culture, one must also have knowledge about the sovereign status of tribes, appreciate the effect of oppression, racism, and be familiar with the history of assimilation practices, and comprehend the jurisdictional entanglement that exists among tribes, states, and the federal government.

## OTHER CONSIDERATIONS

Examining the issue of establishing supervised visitation and exchange services through a Native American cultural lens is a multi-faceted process, requiring an analysis of history and the cost of that history that many indigenous people continue to live with.

## RACISM AND OPPRESSION

The history of oppression and racism faced by Native Americans is expansive and can not be adequately captured in a report of this kind or given proper due. However, as project participants pointed out it is the standpoint from which Native Americans respond and thus service providers must comprehend the magnitude and ever-lasting impact of these acts. Oppression occurred through colonization and has continued through the loss of land, resources, family ties, and religious and cultural practices. For example, Native Americans have been removed: from their ancestral lands (an estimated 150 million acres have been seized); from their language (English has been mandated to be the only language taught and spoken in schools); and from their children (the boarding school system started in the late 1800's was developed as a way to force assimilation). Natives Americans continue to encounter racism and discrimination. In school, Native American children experience racism when they are taught a dominant culture's values and learn to disregard their own. The media frequently perpetuates stereotypes and mistruths about Native Americans. Additionally, oppression has been maintained through widespread poverty, disputes over scope of sovereignty, and an overall sense of helplessness and disconnect from native traditions and values.



One of the most decimating effects of colonization, oppression, and assimilation has been the pervasive use and abuse of alcohol. Studies estimate that the rate of alcoholism in the Native American population is 627 percent higher than the national average. Two or three generations of countless Native American children have grown up with at least one alcoholic parent and corresponding patterns of dysfunctional behavior have been integrated into ordinary life. Any service developed to address one type of family issue should be prepared to also address the intersection of alcoholism. Project participants conveyed that visitation center staff should have the proper knowledge to understand how these interrelated problems affect a parent's decision-making in regard to their own and their children's safety and emotional needs.

Several other suggestions were formulated by project participants as ways to help reduce effects of oppression and racism playing out in the visitation center. For example, they advocated for families to be permitted to speak their native language while at the center; thus requiring center staff to possess the same language skills. This correlates to their next recommendation which is to hire Native Americans to work at the center. Many Native Americans have internalized the racism they experienced leading them to devalue their own culture. One result has been to hold the education and experience brought to the reservation by Anglo-Americans higher than that held by Native Americans who are engrained in the cultural perspective. Project participants strongly recommended that supervised visitation staff be representative of the people they serve. Hiring Native Americans will help address the internalized self-hatred and begin the healing process that involves the appreciation and recognition of native people's knowledge and experience.

## POVERTY

Native Americans as a population are the poorest group in the United States. Despite the federal laws protecting the civil rights of Native Americans, the failure of the federal government to provide adequate resources to reservations, tribal courts, and law enforcement is well documented. Statistics indicate that the average Native American community receives 55 to 75 percent of the resources compared to similarly-situated non-tribal communities. The 2000 U.S. Census revealed that the poverty rate among Native American people is 25.9 percent compared to the national rate of 11.3 percent, with unemployment rates estimated as high as 65 to 85 percent. The shortage of resources influences numerous areas of reservation life ultimately creating a lack of access to: justice, quality health care, affordable and suitable housing and good education. All of these generate additional barriers that keep many tribal communities isolated<sup>15</sup> and economically distressed.

Establishing responses, services, and safety measures for victims of domestic violence and their children is difficult in normal circumstances. For Native Americans, it is even more challenging due to the substantially limited available resources and significant barriers produced by the indigenous people's political status and federal laws affecting reservation lands. Many tribes do not have formal domestic violence programs in existence that could provide input and partner in the development of a visitation center nor the network of resources needed for offender accountability, like a court system. Moreover, the infrastructure of the majority of tribal communities is in such a state that families residing on reservations may not have access to telephones, transportation, or child care. Project participants reiterated that one of the largest obstacles for tribes interested in establishing this much needed service will be finding a location, including a



There is often no money for construction in grants; one of our greatest needs.

—Roundtable participant

building, to house the visitation center. Federal grants typically do not allow funds to be used for construction and structures are hard to come by on a reservation. The enveloping poverty also impacts other issues for a visitation center, like fees. With such a high unemployment rate, money to do anything outside of feeding ones' family and paying for housing is often out of reach. Participants suggested that no fees be attached to the services in order to encourage use of the center.

## CONFIDENTIALITY, TRUST AND CREDIBILITY



The community has to be ready for a visitation center, especially in Native communities where everyone knows each other (lots of politics, families pitted against each other). It is hard to enforce [policies/laws] without the community backing.

—Roundtable participant

Racism and oppression have impacted Native Americans in many ways that relate to their willingness to reach out and accept help from social service and community-based agencies. Due to ongoing mistreatment, many Native Americans rightfully have an overall mistrust of systems. This is especially true if the agencies are operated by or employ Anglo-Americans or if the agency has earned the reputation for being insensitive to cultural values or treating those seeking assistance with disrespect. Other results of institutionalized oppression can be a sense of powerlessness and a forced dependency on government authority. Native Americans have grown accustomed to agencies making decisions for them. Out of habit or fear, many individuals simply follow recommendations of agencies and courts in a quiet resignation or passive defiance. This response to the power and control exercised

through agencies has been likened to survival responses that some battered women display when living in a violent situation. Reluctance to access supervised visitation services may be further exacerbated by the belief that shame will be brought upon the clan and family for exposing the issue and bringing outsiders into the resolution of the problem. For all of these reasons, it is imperative to ensure that a supervised visitation center addresses the interlocking issues of confidentiality, trust-building, and credibility.

For many Native Americans the words and wishes of clan or family leaders are very influential. Having a traditional community leader endorse a plan, program, or activity can be critical to its success. Accordingly, for a visitation center to thrive it needs the backing of the community and ownership starts with the tribal leadership. Tribal governments and elders set priorities for the tribe, which may or may not include responding to intimate partner violence. Therefore, it is important to engage tribal elders, spiritual leaders, and community members from the onset of planning in order to think about what would work well for that particular tribe and to create a service that will be sustained, even if there is a subsequent change in leadership at the tribal government level.

It is also essential that victims of domestic violence are empowered. Some Native American parents may have experienced extreme tragedy and sorrow or may have emotional scars from being removed from their own childhood homes, contributing to their feelings of hostility toward any helping service. Project participants indicated that it is imperative to have parents involved at all stages of service delivery by eliciting their input about how to structure services that will be useful to them under an umbrella of safety. This will counterbalance some of the decision-making dynamic described briefly above. Center workers should be aware of the impact extended family members have on issues related

to child rearing, parenting, and community based child rearing practices to promote the victimized parent's and children's safety. Oftentimes, simply obtaining a history from the abused parent and listening to her story can promote trust-building. She then may feel more comfortable in accessing the agency's services. Confidentiality on reservations, especially in small rural areas, is another issue. One bad experience can affect the entire tribe's attitudes about the services. Thus, the visitation center should publicly market their services, responding to questions about what the purpose and goals of the center are so there are no perceived secrets and ensuing misperceptions. Additionally, the center should take great care in creating a space where families have confidentiality and privacy.

Project partners also recommended that thought be given to what to name the center and how to refer to the service itself. The language used to describe the center's mission and scope of service can convey either a positive or negative message. For example, the terminology "supervised visitation" may itself be a deterrent as spending time with your children is a right and "supervised" is an invasion of privacy. It should be offered as an opportunity to have quality time with children. Other examples, included building upon the cultural value of holding motherhood as sacred and referring to the abused parent as the "mother of your children" versus "ex"; offering, instead of ordering, the services to victims of domestic violence; and clarifying for a battered mother that such visitations are not a result of her actions, but rather, are prompted as a result of the batterer being held accountable for his abusive behavior and for the safety of her children. Participants also thought that having both men and women working at the center was an important way to convey the necessity of having fathers and mothers in children's lives. Finally, communities should work to build comprehensive centers that provide a wide variety of needed, culturally-appropriate services such as education, financial assistance, parenting and life skills, and chemical dependency counseling. By developing a gathering place where families can receive a host of services will assist in breaking down the stigma attached to using the visitation center.

## SOVEREIGNTY, JURISDICTION AND GEOGRAPHY

Perhaps the most perplexing issue when it comes to service-delivery for Native Americans is jurisdiction. The entanglement can involve local/tribal, state, and federal jurisdictions which impacts legal remedies, funding streams, and resource allocation. Sovereignty is an extremely valued tribal asset. Article I, Section 8 of the United State Constitution recognizes that Native American tribes have the right to self-government and self-determination. There are more than 560 Native American tribes, nations, pueblos, rancherias, and bands in the United States. Their individual forms of government are varied. Many have adopted a government which has a legislative branch, executive, and judicial, with a formal constitution formed under the Indian Reorganization Act,<sup>16</sup> while others have maintained traditional theocracies, in which religious leaders rule the community. Native Americans hold dual citizenship – to their own tribe and to United States. As a result, tribes are subject to federal laws including the Indian Civil Rights Act,<sup>17</sup> which provides constitutional-like protections.

Before 1953, the federal and tribal courts shared jurisdiction over almost all civil and criminal matters involving Native Americans that lived in "Indian Country."<sup>18</sup> This changed with the enactment of Public Law 280 where affected states received



The concept of a reservation does not exist in Oklahoma. There are no clear boundaries. The service delivery area is large and it is confusing to determine when you are on or off tribal land and who will enforce orders.

—Apache participant

concurrent criminal jurisdiction with tribes living on land situated within their respective state borders and opened state courts to civil litigation that formerly was accessible in tribal or federal court. A major consequence of Public Law 280 was that federal resources were no longer available to tribes in those states<sup>19</sup> to support law enforcement and justice-related activities, including operation of courts systems. The majority of the analysis and consternation of the jurisdictional maze (which requires examining the type of act, where it occurred, and the race of the perpetrator and victim) has pertained to criminal matters, covering investigative, prosecutorial, and enforcement powers. Due to the confusion, batterers are able to easily manipulate the system and victims often feel helpless and re-victimized.



For purposes of the Supervised Visitation Program, the majority of families who are availing themselves of a supervised visitation center are coming from the civil court;<sup>20</sup> primarily through a protection order or child custody proceeding.<sup>21</sup> Unlike the criminal arena, civil jurisdiction is defined more broadly giving tribal courts authority to hear most civil matters, including family law cases. However, project participants stated that the jurisdictional complexities should be understood by anyone working with Native Americans as it pertains to power of arrest and enforcement of violations of domestic violence protection orders. For example, if a non-native parent commits a crime on the premises of a visitation center that is on tribal land, there may be no criminal remedy for such actions outside of the federal or state authorities.

Forum shopping is a manipulative tool that is frequently used by batterers as jurisdiction issues are complex and vast.

— *Roundtable participant*

Approximately half of the Native American population lives on a reservation. Reservation communities differ as to structure and geography. For example, some are composed of contiguous tracts of land and others have more of a "checkerboard" layout where tribal and non-tribal land is interspersed or various tribal lands are intermingled. For instance, participants from the Apache Tribe of Oklahoma explained that seven tribes and five counties were covered in their jurisdiction. It is a very large service area that involves a patchwork, where as you travel you are on tribal land, then off, then on again. Project participants discussed how this issue poses unique challenges and opportunities for the establishment of a visitation center. As mentioned above, the location of a center can impact law enforcement response and resource availability. It can also affect other aspects of service delivery. For example, if it is situated off-reservation, there will be a greater number of non-natives using and maybe employed at the center. This could influence the center's mission and remove the focus from establishing a culturally-tailored service for Native Americans. On the other hand, if the reservation is comprised like a checkerboard, there will be better opportunities to find an appropriate structure to house the center on non-tribal land and that location may in reality be more "central" for many Native Americans who belong to that particular tribe.

For tribes that live on a large geographic area, there may be an enormous amount of traveling to reach a destination and there may be no real "centralized" area. The question of where to locate the visitation center can become complex especially where there may not be a transportation system to assist people in reaching the center or personal transportation is non-existent or unreliable. Project participants emphasized that the way children and parents are spending their time together is important and must be considered when crafting visitation guidelines and planning where a visit or exchange will take place. People may be driving long distances, such as two to three



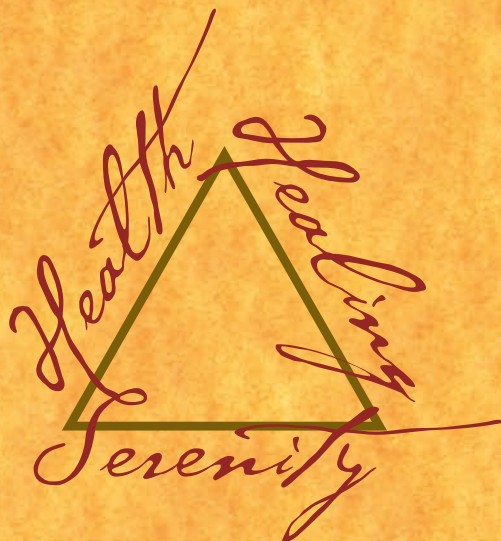
hours for a 1 hour visit. This will only breed hostility for the service. Project participants advised communities in this situation to consider offering services in multiple locations or provide transportation for people. Overall, steps must be taken to ensure that safety is not compromised for victims of domestic violence and their children and sometimes that means providing other needed services to the family so that the focus remains on offender accountability and victim safety.



## CONCLUSION



Supervised visitation and exchange services for families dealing with domestic violence is a needed resource for tribal communities. There are numerous considerations and challenges Native American communities must address when designing and implementing these services, such as maintaining safety as the overarching goal, working with limited resources, and interweaving traditional values and native teachings. The process to develop a local tribal response that is blessed and accepted by the community requires time, patience, and energy as there are no native-specific models yet to draw from. However, the outcome of offering supportive services in a way that honors cultural values can help families and communities begin to heal and restore health, serenity and the Native American heritage of living violence free.



# SEVEN PHILOSOPHIES FOR A NATIVE AMERICAN MAN<sup>1</sup>



*These philosophies, although tailored to Native American men, have been included in this document because they outline the traditional beliefs of tribal communities. Family, women, community, and nature are revered. The philosophies mirror the sentiments expressed by the people who participated in the focus groups and roundtable discussions that frame this report. When addressing violence against women and healing communities, it is important to recall a time when violence was not apart of the Native American culture and reclaim the values that embraced harmony and respect.*

The Seven Philosophies for a Native American Man are guidelines for Indian men on their journey through life. The wisdom of Native Elders is contained in the Seven Philosophies and is offered to Native American men so that they may be better fathers, sons, husbands, uncles, relatives, friends, Tribal members and citizens of the countries in which they live. The Seven Philosophies point the way towards a return to the values of Native American culture for the healing of individuals, families and Native Communities.



## FIRST PHILOSOPHY—TO THE WOMEN

The cycle of life for the woman is the baby, girl, woman and grandmother. These are the four directions of life. She has been given by natural laws the ability to reproduce life. The most sacred of all things is life. Therefore, all men should treat her with dignity and respect. Never was it our way to harm her mentally or physically. Indian men were never abusers. We always treated our women with respect and understanding. So, from now on,

- I will treat women in a sacred manner. The Creator gave women the responsibility for bringing new life into the world. Life is sacred, so I will look upon the women in a sacred manner.
- In our traditional ways, the woman is the foundation of the family. I will work with her to create a home atmosphere of respect, security and harmony.

- I will refrain from any form of emotional or physical abuse. If I have these feelings, I will talk to the Creator for guidance.
- I will treat all women as if they were my own female relatives
- This is my vow.



## SECOND PHILOSOPHY — TO THE CHILDREN

As an eagle prepares its young to leave the nest with all the skills and knowledge it needs to participate in life, in the same manner so will I guide my children. I will use the culture to prepare them for life.

- The most important thing I can give to my children is my time.
- I will spend time with them in order to learn from them and to listen to them.
- I will teach my children to pray, as well as the importance of respect.
- We are the caretakers of the children for the Creator. They are His children, not ours.
- I am proud of our own Native language. I will learn it if I can and help my children to learn it.
- In today's world it is easy for the children to go astray, so I will work to provide positive alternatives for them. I will teach them the culture. I will encourage education. I will encourage sports. I will encourage them to talk with the Elders for guidance; but mostly, I will seek to be a role model myself. I make this commitment to my children so they will have courage and find guidance through traditional ways.

## THIRD PHILOSOPHY - TO THE FAMILY

The Creator gave to us the family, which is the place where all teachings are handed down from the grandparent, to the parent, and to the child. The children's behaviour is a mirror of the parent's behaviour. Knowing this, I realize the importance for each Indian man to be responsible to the family in order to fulfill the need to build a strong and balanced family. By doing this, I will break the cycle of hurt and ensure the positive mental health of the children, even the children yet to be born. So, from now on, I will dedicate my priorities to rebuilding my family.

- I must never give up and leave my family only to the mother.
- I am accountable to restore the strength of my family. To do this, I will nurture our family's spiritual, cultural and social health. I will demonstrate trust, respect, honour and discipline; but mostly I will be consistent in whatever I do with them.
- I will see that the grandparents and community Elders play a significant role in the education of my children.
- I realize that the male and female together are fundamental to our family life. I will listen to my mate's council for our family's benefit, as well as for the benefit of my Indian Nation.

The Creator gave to us the family, which is the place where all teachings are handed down from the grandparent, to the parent, and to the child. The children's behaviour is a mirror of the parent's behaviour.

## FOURTH PHILOSOPHY—TO THE COMMUNITY

The Indian community provides many things for the family. The most important is the sense of belonging; that is, to belong to "the people," and to have a place to go. Our Indian communities need to be restored to health so the future generation will be guaranteed a place to go for culture, language and Indian socializing. In the community, the honour of one is the honour of all and the pain of one is the pain of all. I will work to strengthen recovery in all parts of my community. As an Indian man,

Our children  
and grandchildren  
will inherit  
healthy  
communities.

- I will give back to my community by donating my time and talents when I am able.
- I will cultivate friendships with other Indian men for mutual support and strength.
- I will consider the effects of our decisions on behalf of the next seven generations; in this way, our children and grandchildren will inherit healthy communities.
- I will care about those in my community so that the mind changers, alcohol and drugs, will vanish, and our communities will forever be free of violence.

If each of us can do all these things, then others will follow; ours will be a proud community.

## FIFTH PHILOSOPHY—TO THE EARTH

Our Mother Earth is the source of all life, whether it be the plants, the two-legged, four-legged, winged ones or human beings. The Mother Earth is the greatest Teacher, if we listen, observe and respect her. When we live in harmony with the Mother Earth, she will recycle the things we consume and make them available to our children and to their children. As an Indian man, I must teach my children how to care for the Earth so it is there for the future generations. So from now on,



- I realize the Earth is our Mother. I will treat her with honour and respect.
- I will realize the interconnectedness of all things and all forms of life.
- The natural law is the ultimate authority upon the lands and water. I will learn the knowledge and wisdom of the natural laws. I will pass this knowledge on to my children. The Mother Earth is a living entity that maintains life. I will speak out in a good way whenever I see someone abusing the Earth. Just as I would protect my own mother, so will I protect the Earth. I will ensure that the land, water, and air will be intact for my children and for my children's children - the unborn.

## SIXTH PHILOSOPHY—TO THE CREATOR

As an Indian man, I realize we make no gains without the Great Spirit being in our lives. Neither, I, nor anything I attempt to do, will work without our Creator. Being Indian and being spiritual has the same meaning. Spirituality is our gift from the Great One. This day, I vow to walk the Red Road.

- As an Indian man, I will return to the traditional and spiritual values which have guided my ancestors for the past generations.
- I will look with new eyes on the powers of our ceremonies and religious ways, for they are important to the very survival of our people.
- We have survived and are going to grow and flourish spiritually. We will fulfill our teachings and the purpose that the Creator has given us with dignity
- Each day, I will pray and ask for guidance. I will commit to walk the Red Road, or whatever the spiritual way is called in my own culture.
- If I am Christian, I will be a good one. If I am traditional, I will walk this road with dedication.

If each of us can do these things then others will follow. From this day forward, I will reserve time and energy for spirituality, seeking to know the Creator's will.



## SEVENTH PHILOSOPHY— TO MYSELF

- I will think about what kind of person I want to be when I am an Elder. I will start developing myself now to be this person.
- I will walk with the Great Spirit and the grandfathers at my side. I will develop myself to remain positive. I will develop a good mind.
- I will examine myself daily to see what I did good and what I need to improve. I will examine my strengths and weaknesses, then I will ask the Creator to guide me. I will develop a good mind.
- Each day, I will listen for the Creator's voice in the wind. I will watch nature and ask to be shown a lesson which will occur on my path.
- I will seek out the guiding principles which guided my ancestors. I will walk in dignity, honour and humility, conducting myself as a warrior.
- I will seek the guidance of the Elders so that I may maintain the knowledge of culture, ceremonies and songs, and so that I may pass these on to the future generations.
- I choose to do all these things myself, because no one else can do them for me.
- I know I CANNOT GIVE AWAY WHAT I DON'T HAVE, so I will need to learn to walk the talk.

I will seek out  
the guiding  
principles which  
guided my  
ancestors.

I will walk in  
dignity, honour  
and humility,  
conducting  
myself  
as a warrior.

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## FOOTNOTES

- 1 The seven Philosophies were compiled by White Bison, Inc., an American Indian non-profit corporation, with the help of Elders who guided the Fathering of Native American Men which was held in Colorado in early June of 1996.
- 2 Maracle, Sylvia, A Historical Viewpoint, Vis-à-Vis (Family Violence: Aboriginal Perspectives), Vol. 10, 10, No. 4, p. 4 (Spring 1993).
- 3 American Indians, Native Americans, indigenous peoples, and native populations are used interchangeably throughout this document to denote the native peoples of continental U.S. and Alaska.
- 4 For the purposes of this report, domestic violence is also referred to as intimate partner violence, violence against women, and abuse.
- 5 In addition to intimate partner violence, three-fourths of American Indian women have experienced some type of sexual assault in their lives.
- 6 A companion project was also undertaken by IDVAAC with a focus on the creation and delivery of supervised and visitation services for the African American, Latino, and South Asian communities.
- 7 Mending the Sacred Hoop is a Native American program that provides training and technical assistance to American Indian and Alaskan Native relations in the effort to eliminate violence in the lives of women and their children.
- 8 Apache and Zuni were selected as each had formal domestic violence program established and they also received a Supervised Visitation Program grant from the Office on Violence Against Women.
- 9 In this report, the participants are collectively referred to as "project participants." The only place they are distinguished is in the quotes that appear dispersed throughout the report.
- 10 Project participants indicated that failure to protect is an issue in tribal communities, where battered mothers are losing their children through the child protection system because domestic violence is occurring in the home. This is another stigma a domestic violence focused visitation center may have to overcome.
- 11 National Sexual Violence Resource Center, *Sexual Assault in Indian Country - Confronting Sexual Violence* (updated November 2001).
- 12 The term relative is being used loosely as many non-blood individuals are

- considered relatives and part of the circle that supports and raises a child.
- 13 Ross, Rupert, *DANCING WITH A GHOST: EXPLORING INDIAN REALITY*, Toronto, Ontario: McClelland and Stewart, Inc., (July 1992).
- 14 Reunification was discussed in two different ways. First as the goal in a child abuse and neglect case (again emphasizing the lens that participants knew around these services) and second in terms of reunification with the other parent. The latter was only put forth by men who participated in the focus groups.
- 15 It is estimated that 40 percent of Native Americans live in rural areas.
- 16 Indian Reorganization Act of 1934 (25 U.S.C. §§461-479).
- 17 Indian Civil Rights Act of 1968 (25 U.S.C. §§ 1301-03).
- 18 Indian Country is defined under 18 U.S.C. §1151. Three types of Indian Country are defined (a) all lands within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent and including any rights-of-way running through the reservation, (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, including rights-of-way running through the same.
- 19 Alaska, California, Minnesota, Nebraska, Oregon and Wisconsin were mandatory Public Law 280 states, another ten had the option. The law was amended in 1968, requiring tribal consent before a state received criminal jurisdiction over Native Americans. Since the amendment, there has been almost no expansion of PL 280 jurisdiction. Additionally, through the statute's retrocession provision states have returned jurisdiction to the federal government for more than 30 tribes.
- 20 Criminal courts may impose conditions in bonds or as part of sentencing that provide for no contact, supervised contact, or contact in accordance with other protection order or custody orders, but to date, this is still rare.
- 21 Depending upon the center, families may be able to use services without a court order. This is a recommended practice especially when a center wants to be perceived as a community service.

# Ozha Wahbeganniss



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