



**Developing a Framework for Analysis of the Key Issues
Influencing Disproportionality
in the Child Welfare System:**

Federal Policies and Their Impact on Racial/Ethnic/Disproportionality*

This draft version has been prepared by the Policy Subcommittee of the Race Matters Consortium for the National Heritage Coalition Summit on December 11 and 12, 2002. It is meant to serve as a vehicle to begin to discuss issues rather than as a completed document. Other important laws recognized as potentially important include Title VI – The Civil Rights Act of 1964 and other Civil Rights Legislation, Equal Protection Clause of the Fourteenth Amendment, the Thirteenth Amendment, Treaties With Indian Tribes, state constitutions, and state and tribal laws.

Statutory Framework	Policy Implications /Issues (Including Funding Issues)	Practice Implications /Issues	Research Implications /Issues	Social Marketing/ Public Education Considerations
<p>Federal Law:</p> <p>PL 96-272: The Adoption Assistance and Child Welfare Act of 1980</p>	<p>The Adoption Assistance and Child Welfare Act of 1980 was designed to reform State public child welfare systems. It has three distinct aspects: (1) it made the public child welfare systems accountable to the federal government and to the families they serve; (2) it changed the way in which public child welfare was funded, shifting the emphasis from foster care to placement prevention, reunification, or other permanency outcomes; and (3) it created adoption subsidies for children previously considered “unadoptable” or “hard to place.”</p>			
	<p><u>Title IV-B Child Welfare Services</u></p> <p>Federal IV-B funds for child welfare services were made available to states. In return, states were required to develop: personnel standards, monitoring systems to ensure compliance with the Act, information disclosure policies, procedures for reporting to and responding to institutional abuse, standards for foster care, and program auditing.</p> <p>States were required to set goals for children receiving federal assistance who have been in foster care for twenty-four months or more.</p>		<p>Because many of the provisions of PL 96-272 were amended by ASFA, a number of questions need to be addressed as to whether practice has improved and permanency is being achieved more quickly under ASFA. (particularly given more expedited permanency hearings and the mandates re: TPR).</p>	<p>Public Perceptions that Need to be Addressed:</p> <ul style="list-style-type: none"> • Negative perceptions of families whose children enter foster care • Punitive public attitudes toward families for whom abuse/neglect are substantiated • Racism and classism with regard to support for government over-intervention into the lives of poor/minority families • Negative public perceptions of children and youth in foster care

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<p>Federal Law:</p> <p>PL 96-272: The Adoption Assistance and Child Welfare Act of 1980</p>	<p>The Act required states to develop case plans and a case review system that review the status of children in foster care at least every six months. The case review system must: (1) assess the necessity and appropriateness of the child's current placement; (2) assess compliance in regards to the previous treatment plan; (3) determine the amount of progress toward alleviating the circumstances requiring placement of the child; and (4) set a projected date by which the child should achieve a permanent placement.</p> <p>The Act provided enhanced reimbursement (75%) for case management activities but only reimbursed time spent in direct interventions at the lower administrative rate of 50%.</p>	<p>PL 96-272 was the onset of the compliance culture in child welfare services as agencies spent more time on documentation and less time in direct helping activities. More time was spent following well-intended procedures than assuring that goals were actually being obtained. Originally intended as a form of quality assurance, in many jurisdictions, review had become a means of compliance review to assure that IV-E requirements are met. Shortly after the settlement of the RC consent decree in Alabama, an administrator was asked why case review had not detected the flaws in practice revealed in disclosure. He replied that case review in Alabama had become primarily a means to assure IV-E claims.</p>	<p>Is a case management strategy the best service strategy for child maltreatment services?</p> <p>To what extent are placement prevention activities undertaken? With what effect? Are some strategies more effective than others?</p> <p>How do different definitions of reasonable efforts result in different outcomes for children and families? A class action law suit, <i>Suter V. Artist M.</i>, claimed that the state was not exercising reasonable efforts. This claim was based on the fact that the state was not assigning social workers soon enough to new foster care cases and to cases where the worker had transferred the case. The Supreme Court, in a 7-2 decision, ruled that reasonable efforts language in P.L. 96-272 did not contain</p>	<ul style="list-style-type: none"> Views of adoptive families as "superior" to biological families <p>What are reasonable efforts?</p> <p>From the mid-1980's to the late 1990's, a dramatic 74% increase in the number of children in out-of-home care occurred [Petit & Curtis, 1997]; the length of time children remained in care and their rate of reentry into care also rose.</p> <p>This law makes non-relative foster care more available than relative foster care.</p>

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<p>Federal Law:</p> <p>PL 96-272: The Adoption Assistance and Child Welfare Act of 1980</p>	<p>Reasonable efforts must be made to maintain a child with her family prior to placement in foster care in order to prevent foster care placement. Reasonable efforts must be made to make it possible to return a child home</p> <p>Each child in foster care must have a dispositional hearing within 18 months of entering foster care (amended by ASFA to a permanency hearing within 12 months).</p> <p><u>Title IV-E Foster Care Maintenance and Adoption Assistance</u></p> <p>The Act established federally funded foster care maintenance payments for children eligible under the federal law who are placed in licensed homes or facilities.</p>	<p>[Note: The procedure-focused review [Section 427] was discontinued in the late 1980s. It has since been substantive outcome focused Child and Family Service Reviews.]</p> <p>Led to widespread redesign. Traditional casework practice had always been seen as a mix of direct work with families and coordination of other services being used by the family. Revenue maximization strategies designed to capture more IV-E and Title XIX federal funds emphasized devoting more time to case management as a way to capture more federal funds.</p> <p>The reasonable efforts provision gave families the right to treatment when it could be expected to prevent placement or promote reunification. Reasonable</p>	<p>an implied right for individuals, harmed by state non-compliance, to sue for state compliance with the statute. This decision hampers the ability of child welfare advocates to sue for change within the public child welfare system (Kopels & Rycraft, 1993).</p> <p>Do “reasonable efforts” vary for different groups of children and families (particularly, are there racial disparities?)</p> <p>An evaluation of the Adoption Assistance Program was supposed to take place</p>	

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<p>Federal Law:</p> <p>PL 96-272: The Adoption Assistance and Child Welfare Act of 1980</p>	<p>The Act established adoption assistance to facilitate the adoption of children with special needs in the public child welfare system. This provision was designed to remove financial disincentives for states by providing federal money to support adoption subsidy payments for children with “special needs” and who are Title IV-E or SSI eligible. (Special needs generally are defined as age, ethnic background, membership in a sib group, or having an emotional, physical, or mental handicap).</p> <p>No means test of adoptive parents is allowed; eligibility is determined on the basis of the child’s “special need(s).” Subsidy may not be more than the foster care maintenance amount. Children receive continued Medicaid coverage. Adoptive parents have the ability to renegotiate subsidies at a later</p>	<p>efforts were not defined, leaving each state to define the term. As a result, there are different interpretations and, as a result, inconsistent implementation.</p> <p>Relative care payment is limited to families who become licensed as foster families, encouraging non-relative foster care over relative foster care alternatives.</p>		

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<p>Federal Law:</p> <p>PL 96-272: The Adoption Assistance and Child Welfare Act of 1980</p>	<p>date.</p> <p><u>Day Care Services</u> Provided 100% day care reimbursement under Title XX. Up to \$200 million or 8% of a state's total allotment under Title XX .</p>			

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<p>Federal Law:</p> <p>The Family Preservation and Family Support Initiative/Promoting Safe and Stable Families Program (1994/1997)</p>	<p>Family preservation and support services were authorized as part of the Omnibus Budget Reconciliation Act of 1993. Family preservation was intended for families at risk or in crisis, and family support services were community-based services meant to promote well-being of children and families (i.e., increase the strength and stability of families, increase parents’ confidence and competence, afford children a safe and supportive family environment, and otherwise enhance child development). Grants to states were authorized as a capped entitlement under Title IV-B, Subpart 2 of the Social Security Act. Although prior to implementation in 1994, states had the flexibility to use federal funds under Subpart 1 of Title IV-B (funding for general child welfare services), few states were using a significant portion of this funding for family preservation and family support services. Funding was authorized for 5 years, building from an initial level of \$60 million for Fiscal Year 1994 to \$255 million in Fiscal Year 1999 or the 1997 level for the program, adjusted for inflation – whichever was greater. Funding for individual states was based on the ‘food stamp percentage’. No more than 10% of program funds could be used for administration, although administration was defined differently in different states. One percent of funds was reserved for Indian tribes. Set-aside funds in the amount of \$26 million total for five years were authorized for research, evaluation, training, and technical assistance. Research and evaluation activities were undertaken by Westat, Chapin Hall Center for Children, and James Bell Associates as well as Abt Associates. In 1997, the Adoption and Safe Families Act (ASFA), section 305 amended Title IV-B, Subpart 2, changing the name to the Promoting Safe and Stable Families (PSSF) Program. The authorized level of funding for the program was \$275 million for Fiscal Year 1999; \$295 million for FY 2000, and \$304 million for FY 2001. The reserved funds and set-asides remained the same with an additional \$25 million total in research, evaluation, training, and technical assistance funds authorized for four years. ASFA also added two new categories of services to PSSF: time limited reunification services and adoption promotion and support services. The law does not state a percentage or a funding minimum that must be spent on any one of the four categories (family support, family preservation, time-limited family reunification services, or adoption promotion/support) but requires that each state devote “significant portions” of their expenditures to each of the four categories. In 1998 and again in 1999, the Department of Health and Human Services (DHHS) issued program instructions that required that states have a “strong rationale” for spending less than 20% of their allotments on each of the four categories of services.</p>			
	<p>In 1993, grants to states for family preservation and family support services were authorized as a capped entitlement under Title IV-B Subpart 2 of the Social Security Act. Funding was authorized for 5 years.</p>	<p>The types of services that states have the opportunity to develop with federal funding from this program – particularly family preservation and family support services – can be utilized to increase the</p>	<p>Research conducted on these topics has led to more questions. Research on family preservation using a particular model suggested programs were not effective in preventing foster care placement. Research on</p>	<p>Promote a better understanding of the PSSF services and the principles that underlie these services: a family-focused approach that allows for individual needs and a service delivery approach that stresses</p>

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<p>Federal Law:</p> <p>The Family Preservation and Family Support Initiative/Promoting Safe and Stable Families Program (1994/1997)</p>	<p>In 1997, ASFA amended Title IV-B, Subpart 2, changing the name of the program to Promoting Safe and Stable Families.</p> <p>Two new categories of services were added in 1997: time-limited reunification services and adoption promotion and support services. The law requires that each state devote “significant portions ” of their expenditures to each of the four categories. If less than 20% is spend in each category, DHHS requires “a strong rationale” be provided</p>	<p>likelihood that children and families of color are provided with the services needed to prevent the entry of children into foster care.</p> <p>The time-limited reunification services and adoption promotion and support services mandated by PSSF can be utilized to address the longer stays of children of color in out-of-home care.</p>	<p>family support programs suggests that programs have important effects for some populations but not others. In all cases, research is hampered by the fact that a very large number of disparate types of programs are being administered in different ways, and comparability is an issue. Additional research is necessary to better understand what the needs of families with children at risk of out-of-home placement are and how to meet those needs most effectively</p>	<p>flexibility, accessibility, coordination, and respect for cultural and community strengths.</p>

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<p>Federal Law:</p> <p>The Multiethnic Placement Act/Interethnic Placement Act Amendments (1994/1996)</p>				
<p>Federal Law:</p> <p>The Multiethnic Placement Act/Interethnic Placement Act Amendments (1994/1996)</p>	<p>Prohibits states and other entities that are involved in foster care or adoption placements and that receive federal assistance under Title IV-E, Title IV-B, or any other federal program, from delaying or denying a child’s foster care or adoption placement on the basis of the child’s or the prospective parent’s race, color, or national origin.</p> <p>Prohibits states from denying to an individual the opportunity to become a foster or adoptive parent on the basis of the prospective parent’s or the child’s race, color, or national origin.</p> <p>In order for a state to remain eligible for federal assistance for the child welfare</p>	<p>The law does not provide clear, concrete direction to child welfare workers in implementation of this law. As a result, implementation at the practice level is not consistent.</p> <p>Without foundational information regarding the impact of racial and ethnic differences, foster and/or adoptive placements may not have the information necessary to provide adequate support to the youth in their home.</p> <p>What are the consequences for states that do not diligently recruit foster parents?</p>	<p>How is the law being implemented in different jurisdictions and what impact Does that have on outcomes?</p> <p>Is their training support in place for individuals who chose to foster or adopt children of different racial or ethnic backgrounds?</p> <p>More research is needed to assess the impact of this law on the fact that older “special needs” black children are more likely to be adopted by single black women than single white women.</p> <p>Did states comply with the recruitment aspect of the law? Which states and to what degree?</p> <p>What is the impact of targeted</p>	<p>This law is not sensitive to the fact that the majority of “special needs” children in the child welfare system are African Americans.</p> <p>Since research shows that relative placements have many positive outcomes for children, kin networks should be viewed as major resources for finding suitable foster and adoptive homes for “special needs” children.</p> <p>More effective marketing is needed to reach groups that are more likely to adopt the older, “special needs” minority children, such as relatives and single black women.</p>

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<p>Federal Law:</p> <p>The Multiethnic Placement Act/Interethnic Placement Act Amendments (1994/1996)</p>	<p>programs, states must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes.</p>		<p>recruitment programs?</p> <p>Are there barriers that affect the recruitment of foster parents of diverse racial/ethnic backgrounds?</p> <p>Are their barriers that impact the retention of foster parents of diverse racial/ethnic backgrounds?</p>	
<p>Federal Law:</p> <p>The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)</p>	<p>In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The new law replaced the more than 60-year-old Aid to Families with Dependent Children (AFDC) program. This new state-administered block grant program entitled, Temporary Assistance for Needy Families (TANF) is time limited and conditional upon the recipient's participation in work activities. It is rescheduled for reauthorization in 2002. There is considerable debate about how the program is working.</p>			
	<p>There is a possibility that the changes in assistance will impact the number of children entering foster care as potentially more children enter care when their families exhaust their benefits.</p> <p>There is a continued link</p>	<p>The need to provide preventive services to avert the need for children to enter foster care when their parents exhaust TANF assistance as well as the provision of reunification services once children are forced to enter foster care once families</p>	<p>Continued research on the impact of TANF on: 1) the rates at which children are being put at risk of neglect due to the limited family financial resources, and 2) the rates at which children enter foster care.</p>	<p>Public education on the role of TANF and other government assistance programs in supporting positive child outcomes (including family stability and the avoidance of entry into foster care).</p>

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<p>Federal Law:</p> <p>The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)</p>	<p>between IV-E eligibility and AFDC eligibility.</p> <p>The requirement for relative placements when appropriate for children is a positive implication for families.</p>	<p>exhaust their benefits.</p> <p>What kind of services need to be provided to older kin caregivers of “child-only”</p> <p>TANF families to promote healthy child development and to prevent their entry into foster care?</p> <p>The increased use of relatives as a placement preference and the development of the appropriate services and supports to help make these placements successful.</p>	<p>Research on the interaction of poverty, race/culture TANF eligibility and benefits, and child welfare system involvement.</p> <p>Research on the impact of the AFDC Title IV-E eligibility relationship and the effect of this policy on Title IV-E eligibility rates.</p> <p>Research on outcomes for children associated with relative placement vs. other types of care.</p>	
<p>Federal Law:</p> <p>PL 93-415: The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974’s Amendments of 1988</p>	<p>The 1988 amendments required that States participating in the JJDP’s Act’s Part B Formula Grants programs address the disproportionate confinement of minority juveniles in secure facilities. This provision required State plans to assess the extent of disproportionality, examine the contributing factors, and implement strategies to address the contributing factors to reduce disproportionate minority representation where it is found to exist. In 1992, DMC was elevated to the status of a “core requirement” 25% of each State’s formula grants allocation is contingent upon compliance with this requirement. To reduce DMC, OJJDP has guided States to address the issue of overrepresentation at all stages of the juvenile justice system -- from police disposition at first contact, detention while awaiting court adjudication, through placement in secure facilities and receiving differential sentencing and capital punishment.</p>			

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<p>Federal Law:</p> <p>PL 93-415: The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974's Amendments of 1988</p>	<p>DMC joined deinstitutionalization of status offenders; removal of juveniles from adult jails; "sight and sound" separation of juveniles from adults to become one of 4 core requirements of the JJDP Act of 1974, as amended. Each State must demonstrate efforts to reduce DMC through identification, assessment, intervention, evaluation and monitoring activities.</p>	<p>The DMC acknowledges that the disparate representation or "overrepresentation" of minorities in the juvenile justice is a problem that needs to be solved. It is the result of a multitude of factors in the individual, family, community, educational and juvenile justice system. Therefore multiple intervention strategies are required to effect change.</p>	<p>These amendments mandate States to implement research studies, audits and monitoring systems that: (a) identify the extent of disproportionate representation of minorities (i. e., African Americans, Hispanics, Native Americans and Asians and Pacific Islanders) at various stages of juvenile justice processes; (b) specify the causes of this disparate representation; and (c) implement and evaluate strategies to reduce this overrepresentation. While these studies have identified individual risk factors (e.g, poverty, broken families, etc) that are correlated with high rates of arrest or confinement of minority juveniles, this research also places major emphasis on identifying systemic processes that may contribute to DMC.</p>	<p>Evaluations of state efforts to reduce DMC have revealed that more effective strategies involved the following processes: assigning organizational responsibility; analyzing juvenile justice data; identifying individual and systemic factors; creating and enhancing interventions; and developing methods to measure the interventions' impact. A major component of effective interventions is using community-based strategies to involve diverse groups of stakeholders in the planning to address DMC. These results suggest that it is very important to conduct extensive public education and marketing campaigns to involve minority stakeholders at all stages of development and implementation of plans.</p>

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<p>Federal Law:</p> <p>HR 3839: The Child Abuse Prevention and Treatment Act of 1974</p>				
<p>Federal Law:</p> <p>HR 3839: The Child Abuse Prevention and Treatment Act of 1974</p>	<p>Instructs HHS to conduct the 4th National Incidence Study (NIS-4) to include the examination of the incidence and prevalence of child maltreatment by reason of family structure, including the living arrangement of the resident parent, family income, and family size.</p> <p>Promotes the evaluation and dissemination of best practices.</p> <p>Encourages improving the training of personnel in best practices to promote collaboration with families from the initial time of contact during the investigation through treatment and to protect the legal rights of children and</p>	<p>Is there a true capacity for child welfare workers to include families in the development of assessments and the receipt of services? Are practices developed to recognize the differences of children and families with different racial/ethnic backgrounds?</p> <p>There is no interpretation of this for use in child welfare practice.</p> <p>? Are there meaningful and effective partnerships and collaboration models?</p> <p>Are there best practices that can be the same for children and families of all races and ethnicities? If not, are best practices developed for</p>	<p>The NIS is currently the primary vehicle through which the incidence of child abuse and neglect is tracked in the general population. There are questions regarding the validity of data obtained through the NIS. What can be done to develop an agreed upon method of gathering information to examine this issue?</p> <p>Have best practices been examined by race/ethnicity?</p> <p>Are best practices developed to include different racial and ethnic characteristics?</p> <p>Has training impacted family participation? Are there differences by race?</p>	<p>How can the discussion of disproportional representation be addressed without agreement on what the current state of affairs is?</p> <p>\What information can be put forward to inform the public accurately about the issues of child abuse that pertain to the entire population of affected children?</p> <p>There is a need or the recognition of different best practices by race/ethnicity.</p> <p>Distribution of information regarding family structures of individuals in different races and ethnicities.</p> <p>There is a need to provide information to families</p>

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<p>Federal Law:</p> <p>HR 3839: The Child Abuse Prevention and Treatment Act of 1974</p>	<p>their families throughout the process.</p> <p>Provides for the protection of the legal rights of children and their families throughout the process.</p> <p>Encourages the promotion of best practices to promote partnerships between child protective services and private and community-based organizations to offer child abuse prevention and treatment services.</p> <p>Provides for the development and delivery of information to improve public education relating to the roles and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect.</p>	<p>children and families of different races and ethnicities?</p> <p>Is public education provided? Has it been developed to be communicated to people of different races/ethnicities?</p> <p>What are the roles and responsibilities for the collaboration? What processes need to be developed? What services are needed and for whom?</p>	<p>Have the changes had an impact on outcomes?</p> <p>How are the legal rights of children and families defined in training? Does the training make a difference in the lives of children and families? How? What impact does this have on outcomes?</p> <p>Is there an increase in child abuse prevention and treatment services? Are they racially, ethnically relevant? Have they improved the condition of families in the community? Have the decreased the need for placement of children in the child welfare system? How do successful partnerships operate?</p> <p>Is there an expansion in public education? Has it been developed to be</p>	<p>regarding the legal process and describing child and family legal rights. Families need access to competent legal assistance.</p> <p>There is a need to develop modes and methods for providing public education to people of different races/ethnicities.</p> <p>There is a need for public information regarding dually involved children and the prevention of children becoming involved in both systems.</p>

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<p>Federal Law:</p> <p>HR 3839: The Child Abuse Prevention and Treatment Act of 1974</p>	<p>Encourages interagency collaboration between the child protection system and</p> <p>the juvenile justice system for improving the delivery of services.</p>		<p>communicated to people of different races/ethnicities?</p> <p>What are the outcomes for children as a result of this collaboration? What are the practice implications for both systems?</p>	
<p>Federal Law:</p> <p>The Indian Child Welfare Act (ICWA) of 1978</p>	<p>ICWA has a combination of procedural and substantive provisions designed to accomplish three primary objectives: 1) eliminate the need to remove Indian children from their families, both nuclear and extended, because of cultural bias and ignorance; 2) assure that Indian children who need to be removed for their own protection be placed in foster and adoptive homes that reflect their unique cultures and background; and 3) encourage tribal court adjudication of child custody proceedings involving Indian children.</p>			
	<p>ICWA gives tribes exclusive jurisdiction over child custody proceedings on the reservation (some tribes fall under PL280, the state may take concurrent jurisdiction in those states).</p> <p>State courts may exercise jurisdiction off the reservation, but that</p>	<p>Tribes that lack a court system or the funds to follow ICWA cases off the reservation often have no choice but to give up their rights tribal children off the reservation.</p> <p>Most public agency workers have little or no training about how to identify an AI</p>	<p>What is the rate of parental and tribal notification of custody proceedings?</p> <p>What is the percentage of American Indian children in public care? What is the percentage of American Indian children being served by tribal social service agencies?</p>	<p>ICWA does not apply to Native American children (Canadian First Nations children, Native Hawaiian, or other any other non- federally recognized tribe). Those groups do not have the same rights under ICWA.</p> <p>ICWA encourages state/tribal agreements to meet both state</p>

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<p>Federal Law:</p> <p>The Indian Child Welfare Act (ICWA) of 1978</p>	<p>jurisdiction is subject to transfer to the involved tribal court.</p> <p>Public agency implementation of ICWA relies on the proper identification of Indian children and notification of the Indian parent and tribe.</p> <p>ICWA requires that Indian families be given remedial and rehabilitative services <u>prior to and after</u> custody is taken in order to maximize the possibility of reunification.</p> <p>State and/or tribal authorities must prove, beyond a reasonable doubt, that continued parental custody of the child would prove harmful.</p> <p>A qualified expert witness</p>	<p>child/family.</p> <p>Most public agencies do little to train their workers regarding proper implementation of ICWA.</p> <p>Lack of funding may be a factor in the states' willingness to provide ICWA training to their workers.</p> <p>Some states follow the 'Indian family doctrine' which does not recognize Indian children born outside a nuclear family or those reared without strong cultural ties to the tribe.</p> <p>There is limited funding to tribes to implement ICWA. Title IVE funding requires tribes to enter state/tribe agreements for reimbursement.</p> <p>There is no federal or state funding to non-tribal entities for special training or</p>	<p>How do public (or tribal) agencies train their workers to identify American Indian children/ families?</p> <p>Are there enough American Indian foster parents to meet the needs of American Indian children? How are American Indian foster parents being recruited? Are non-Indian foster parents trained to care for American Indian children. How?</p> <p>How does the state/tribal relationship differentially affect the rate of ICWA compliance for that state?</p> <p>How can tribes and states (local public agencies) work together to successfully implement ICWA for Indian children both on and off the reservation? Are there successful state/tribal ICWA partnerships that can be replicated?</p>	<p>and tribal needs, but there is no legal obligation for those agreements and very few exist.</p> <p>ICWA does not apply to non-tribal entities such as Urban Indian communities. Those communities may function in many of the same ways (offering social services, etc.) that tribes do, but the members of those communities must also be tribally enrolled to benefit under ICWA.</p> <p>ICWA decisions that happen off the reservation can take a very long time, leaving children without a permanent home well beyond what the state/public agency may have determined to be reasonable.</p> <p>ICWA does take into account the rights of fictive kin or non-kin (who may or may not</p>

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<p>Federal Law:</p> <p>The Indian Child Welfare Act (ICWA) of 1978</p>	<p>(with specific knowledge of Indian child rearing practices) must testify in support of involuntary removal or termination.</p> <p>The tribe has the right to decide the placement priority of the child. Placement preferences (foster care and adoption) usually apply to a) the child’s Indian family, b) another tribal family, or c) another Indian family.</p> <p>There are no monetary penalties for non-implementation of ICWA.</p>	<p>programmatic services around ICWA.</p> <p>The large amount of work that may be involved in tribal and Indian parent notification, determination of enrollment eligibility, and lack of knowledge about ‘how to’ etc. may act as a deterrent to proper ICWA implementation.</p> <p>Failure to correctly follow ICWA guidelines could open the door to tribal intervention to overturn an adoption or other placement.</p> <p>ICWA does not apply to children who are culturally (tribally) attached but not eligible for tribal enrollment. Implementation of an ICWA process will do little more than elongate the placement</p>	<p>What is the rate of implementation of preventative efforts for AI families?</p> <p>What types of preventative measures are being used and which work best (what are public agencies doing and what are tribal social agencies doing?)</p> <p>Are tribal children /families receiving the same types and number of services that are available to American Indian children /families in care of the public agency? Are tribes able to access funding to support services? What are the barriers to that funding?</p>	<p>be Indian). Under ICWA, those non-kin relatives are not allowed the same rights as blood kin.</p> <p>The ‘Indian Family Doctrine’ has been used in several high profile ICWA cases where tribes have fought to get non-Indian adoptions overturned (<i>re Bridget R.</i>). States have successfully argued that Indian children a) from non-legal unions, b) with no or little cultural exposure, and c) or whose parent maintains little or no cultural ties are not eligible to rights under ICWA.</p>

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<p>Federal Law:</p> <p>The Indian Child Welfare Act (ICWA) of 1978</p>		<p>process for these children.</p> <p>Tribes have unlimited time to follow, implement, etc. an ICWA case; a tribal child may wait much longer for a permanent home.</p>	<p>What constitutes successful ICWA implementation? Where is ICWA being successfully implemented?</p> <p>Which provisions of ICWA are being implemented well? Which provisions are not being complied with? (Why?)</p>	
<p>Federal Law:</p> <p>The Adoption and Safe Families Act of 1997</p>	<p>In 1997, Congress passed ASFA to amend the Adoption Assistance and Child Welfare Act of 1980 (Child Welfare Act). The goal was to place greater emphasis on child safety and permanency. ASFA was a response to concern that caseworkers were interpreting the Child Welfare Act’s “reasonable efforts” requirement to sacrifice safety and permanency for the safe of preserving families, returning children from foster care to dangerous birth parents and by keeping children in foster care too long in hopes of family reunification.</p>			

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<p>Federal Law:</p> <p>The Adoption and Safe Families Act of 1997</p>	<p>Child health and safety are of “paramount concern” in state child welfare practice.</p> <p>Reliance on traditional practice of investigation and substantiation essentially defines child welfare services.</p>	<p>Placement as a service to deal with of neglect resulting in disproportionate impact for families of color, in particular African American families.</p> <p>In practice, has AFSA created a criminal class comprised on poor families? (could also be under Social Marketing and Education)</p> <p>Revenues and incentives are directed towards investigation and substantiation rather than preservation and supportive services</p> <p>How do States address issues of poverty related neglect?</p> <p>Devise radically different strategies for large numbers of neglect cases from abuse cases and design services accordingly.</p> <p>Understand child welfare services provided by States for neglect cases involving</p>	<p>How do states define health and safety? What approaches to improving health and safety of children in care are the most effective?</p> <p>Differentiate between neglect and maltreatment (abuse) so that we understand neglect in greater depth/detail.</p> <p>Research to examine the outcomes of this change in policy. Have reunification rates decreased?</p>	<p>Child well-being and protection in own family with appropriate supportive, rehabilitative services.</p> <p>Is a move towards permanency in homes other than that of biological parents without more diligent efforts to work with the family really in the best interest of children? Is this practice an attempt to move children of color from their heritage? The general public needs to be educated regarding the implications of these efforts.</p> <p>Public opinion about expenditures where intended results, that is safety, permanency, well-being as outcomes is not certain.</p>

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<p>Federal Law:</p> <p>The Adoption and Safe Families Act of 1997</p>	<p>Timelines, effectively placed the burden for permanency on families without regard to delays, length of stay in care etc, caused by overburden, fragmented child welfare system.</p> <p>Through financial incentives and expedited timetable for termination of parental rights, the permanency emphasis moves from family preservation to adoption.</p> <ul style="list-style-type: none"> • The time frame for achieving permanency moves from 18 months to 12 months. • States must file a petition to terminate rights of parents whose child has been in foster care 	<p>families of color.</p> <p>Financial incentives top States directed towards adoption assistance, rather than preservation and /or reunification.</p> <p>How do States defined reasonable efforts, active efforts?</p> <p>Is reasonable effort versus active effort and issue, given timelines and financial incentives?</p> <p>Another incentive encouraging adoption over reunification efforts in practice.</p> <p>Another incentive encouraging adoption over reunification efforts in</p>	<p>Effects of timelines on reunification.</p>	<p>Advocacy, who speaks for families.</p>

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<p>Federal Law:</p> <p>The Adoption and Safe Families Act of 1997</p>	<p>for 15 of the previous 22 months</p> <ul style="list-style-type: none"> • (states may exempt cases involving kinship care, where not in the child’s best interests, • and where the agency did not make reasonable reunification efforts). <p>The federal government pays states \$4000 for each foster child (\$6000 per special needs child) adopted above a baseline of the average annual number of children adopted in that state between 1995 and 1997, totaling \$20 million in federal adoption bonuses.</p> <p>Provides technical assistance to states to increase the number of adoptions, including help in developing guidelines for expediting termination of parental rights, specialized units for moving</p>	<p>practice.</p>		

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<p>Federal Law:</p> <p>The Adoption and Safe Families Act of 1997</p>	<p>children toward adoption as a permanency goal, and models to encourage “fast-tracking” of infants into pre-adoptive placements.</p> <p>Child permanency, well-being and safety.</p>	<p>Where is the money going, and how does it benefit child well-being, safety and permanency?</p> <p>Impact of AFSA as amended to Adoption Assistance, with respect to safety, permanency and reunification for families of color.</p> <p>What services provisions are provided to families to ensure well-being, safety of children?</p> <p>What are State’s Standards for relative-non-relative caregivers as potential factors in disparities?</p> <p>Role of the courts and police.</p>	<p>What is known, what do we know about where the money is going?</p>	<p>Public opinion about expenditures where intended results (that is, safety, permanency, well-being as outcomes) is not certain</p>

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<p>Federal Law:</p> <p>HR 3443: The Foster Care Independence Act of 1999</p>	<p>The history of federally funded independent living programs begins with the Independent Living Initiatives in public law 99-272 parent of the Comprehensive Omnibus Budget Reconciliation Act of 1985. These initiatives provided money for States to found and carry out programs to ease the transition to independent living for children 16 and older. PL 99-272 outlined specific program areas for states to consider including educational opportunities, job training living skills training, counseling, and development of individual independent living programs for participants. In addition to providing funding for programs to prepare adolescents for independent living, the law also requires changes in case plans for programs to prepare adolescents for independent living the law also requires changes in case plans and in case reviews for all children in state supervised foster care who are 16 years of age or older. Case plans for all children 16 and over must, where appropriate, describe programs and services to prepare the child for independent living. Since federally mandated semi-annual case review must address agency compliance with case plans, independent living services now must be considered at case reviews as well.</p> <p>In 1999, Congress passed the Foster Care Independence Act of 1999 to build on these foundations. This Act established the John H. Chafee Foster Care Independence Program (CFCIP).</p>			
<p>Federal Law:</p> <p>HR 3443: The Foster Care Independence Act of 1999</p>	<p>Doubled the funding provided by PL 99-272, increasing from \$70 million to \$140 million.</p> <p>States are allowed to spend up to 30 percent of their federal funds on room and board for 18 to 21 year olds who were leaving foster care or in foster care on their 18th birthday.</p> <p>Expanded eligibility for services to individuals who have left state guardianship.</p>	<p>If children aging out of foster care and thus eligible for Independent Living Services are disproportionately African American, then it would be useful to tailor such programs to address the needs of this population. The development of the assessment system under Chafee should incorporate measures for monitoring youth outcomes that guide states to implement services that meet the specific needs of all children being served.</p>	<p>Race is an issue in the implementation of this act given that adolescents aging out of the foster care system are often disproportionately African American. For example, in <u>Assessing the Context of Permanency and Reunification in the Foster Care System (2001)</u>, a Westat report prepared for the Department of Health and Human Services, while 34% of white children sampled were reunified with their families, only 9% of African</p>	

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<p>Federal Law:</p> <p>HR 3443: The Foster Care Independence Act of 1999</p>	<p>Allows states to offer Medicaid to 18 to 21 year olds.</p> <p>Increase in state accountability for outcomes for young people transitioning from foster care. Outcome measures specified include: Educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors.</p> <p>The Act acknowledges differences in the population it is intended to serve by requiring that state plans “use objective criteria to determine eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients” (section 477).</p>		<p>American children experiences this same outcome – white children were almost four times as likely as African American children to be reunited with their families.</p> <p>Looking at DHHS’ Adoption and Foster Care Analysis and Reporting System</p> <p>(AFCARS), April 2001 preliminary report shows that while African American non-Hispanic children made up 38% of the children in foster care on March 31, 2000, they made up only 33% of children leaving foster care between October 1, 1999 and March 31, 2000. This is in contrast to their White non-Hispanic counterparts, who made up 45% of the children leaving foster care during the same period despite representing a smaller percentage of children in foster care at a given time</p>	

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			935% on March 31, 2000. Thus, African American children seem likely to age out of foster care at a rate disproportionate to their representation in the foster care system.	