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## Falling Through the Cracks: The American Indian Foster Care to Sexual Exploitation Pipeline and the Need for Expanded American Indian Community Services in Minnesota

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**FALLING THROUGH THE CRACKS: THE AMERICAN INDIAN<sup>1</sup> FOSTER CARE TO  
SEXUAL EXPLOITATION PIPELINE AND THE NEED FOR EXPANDED AMERICAN  
INDIAN COMMUNITY SERVICES IN MINNESOTA<sup>2</sup>**

SADIE HART

INTRODUCTION

Following the discovery of hundreds of children's bodies at residential schools in Canada, United States Interior Secretary Deb Haaland called for an investigation into the federal government's oversight of American Indian boarding schools. This call highlights a growing awareness of the United States' legacy of violence against American Indians.<sup>3</sup> This history of colonization, intergenerational trauma, and the boarding school system are prominent factors of why violence and the child welfare system continue to disproportionately disrupt American Indian families, tribal communities, cultures, and traditions today.<sup>4</sup> In

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<sup>1</sup> The term "American Indian" is used throughout this article to refer to the Indigenous people of the United States, including Alaska. The term "Indian" refers to people who are members of, or eligible for membership in, a federally recognized tribe.

<sup>2</sup> Mni Sota Makoce (Land Where the Waters Reflect the Sky) has been, and continues to be, the homeland of the Dakota people since time immemorial. Bdote, the confluence of the Minnesota and Mississippi rivers, is central to multiple stories of creation. The Anishinaabe, or Ojibwe, also call Mni Sota Makoce home, after following the Megis Shell west to the food that grows on water (manoomin, or wild rice). The state of Minnesota was built on the genocide of American Indian people and much of these traditional homelands were ceded through unfair treaties or taken by force. Due to federal assimilation and relocation efforts American Indians from many other tribal nations also call this land home. I recognize and honor the traditional, ancestral, and contemporary lands of these people. I honor with gratitude the numerous contributions American Indians have made, and continue to make, to the state of Minnesota and the United States.

<sup>3</sup> Susan Montoya Bryan, *US to Review Native American Boarding Schools' Dark History*, ASSOCIATED PRESS (June 22, 2021), <https://apnews.com/article/canada-government-and-politics-education-e9440169fde104df6fad6e0ba7128b0e>.

<sup>4</sup> Sarah Deer, *Relocation Revisited: Sex Trafficking of Native Women in The United States*, 36 WM. MITCHELL L. REV. 621, 675 (2010).

Minnesota, American Indians make up two percent of the population, but nine percent of murdered women and girls from 2010 to 2019 were American Indian.<sup>5</sup> American Indian youth in Minnesota are 16.4 times more likely than white youth to be in an out-of-home placement<sup>6</sup> and are 5.8 times more likely to be reported as victims of sex trafficking or sexual exploitation<sup>7</sup> than white youth.<sup>8</sup> Yet even as awareness grows,<sup>9</sup> there are few meaningful ways to address these disparities.

This is particularly worrisome for American Indian youth in the foster care system who the State of Minnesota has assumed responsibility for. While these youth may already be at a higher risk of sexual exploitation for the same reasons they initially entered foster care, the foster care system itself can increase this risk. The historical interconnection of sexual exploitation, separation of American

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<sup>5</sup> NICOLE MARTINROGERS & VIRGINIA PENDLETON, MISSING AND MURDERED INDIGENOUS WOMEN TASK FORCE: A REPORT TO THE MINNESOTA LEGISLATURE 17 (2020), <https://dps.mn.gov/divisions/ojp/Documents/missing-murdered-indigenous-women-task-force-report.pdf>

<sup>6</sup> MINN. DEP'T OF HUMAN SERVS., MINNESOTA'S OUT-OF-HOME CARE AND PERMANENCY REPORT, 2020 (2021) at 5.

<sup>7</sup> In Minnesota, commercial sexual exploitation occurs when someone exchanges sex for something of value or the promise of something of value, such as money, drugs, food, or shelter. A third-party trafficker is not required to meet the definition of sexual exploitation (MINN. DEP'T OF HUMAN SERVS, FAMILY FIRST PREVENTION SERVICES ACT: YOUTH VICTIMS OR AT RISK OF SEX TRAFFICKING OR COMMERCIAL SEXUAL EXPLOITATION; AND SPECIALIZED PLACEMENTS 3 (Minn. Dep't of Human Servs. 2021).

<sup>8</sup> Interview with Sarah Ladd, Minn. Dep't of Human Servs. Human Trafficking Child Protection Program Coordinator, Child Safety and Permanency Div. (June 15, 2021).

<sup>9</sup> The Missing and Murdered Indigenous Women Movement raises awareness of the high rates of violence against American Indian women and the lack of response from government and law enforcement agencies. On July 1, 2021, Minnesota approved a Missing and Murdered Indigenous Relatives office as part of the state's COVID-19 Recovery Budget. Kalle Benallie, *Minnesota's First MMIW Office to Open*, INDIAN COUNTRY TODAY (July 15, 2021), <https://indiancountrytoday.com/news/minnesotas-first-mmiw-office-to-open>.

Indian families, and legacy of colonization demand a cultural response that non-American Indian services are unable to provide. The foster care system has failed to provide stable placements for American Indian youth due to higher rates of removal, placement mismatch, and a lack of American Indian foster families. The foster care experience creates the potential for loss of identity and disconnection from community and culture, both of which can be devastating for these youth and can increase their vulnerability to sexual exploitation. While American Indian programs exist to both prevent these youth from being sexually exploited and help them effectively exit sexual exploitation, their limited resources can help only a fraction of the American Indian foster care population. The State of Minnesota has an obligation to address and prevent the sexual exploitation of American Indian youth in its care but cannot adequately address this issue without first utilizing, expanding, and supporting American Indian programs to meet the youth's unique cultural needs.

This article proceeds in three parts. Part I introduces the intersection of involvement in the child welfare system and the increased risk of sexual exploitation among American Indian youth in Minnesota. Part II describes current federal and state laws regarding the response to sexual exploitation among American Indian youth involved with the child welfare system, as well as current initiatives to address the issue. Part III identifies opportunities to expand culturally based responses and discusses how these services provide holistic,

long-term healing to American Indian foster youth in Minnesota that non-cultural services cannot provide.

## I. THE LEGACY OF COLONIZATION

To understand the increased risk of sexual exploitation of American Indian youth in foster care, it is important to explore the history and impact of colonization, genocide, and the continuing oppression of American Indian communities, all of which demonstrate a pattern of victimization that continues today. As noted by lawyer and professor Sarah Deer,

Although warfare, boarding schools, and urban relocation are generally not identified as forms of human trafficking, they are an inextricable part of the destruction of tribal nations that weakened these nations to the point that they could not adequately protect women and children from abduction, removal, and sexual enslavement.<sup>10</sup>

### A. *Exploitation of American Indian Communities and Children*

The exploitation of American Indian women and children continues today, but it originated from their initial contact with the Europeans. European immigrants and colonizers utilized warfare and westward expansion to systematically decimate American Indian populations and their cultures, decreasing the American Indian population by 95% from 1492 to 1776.<sup>11</sup> The

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<sup>10</sup> Deer, *supra* note 4, at 631.

<sup>11</sup> Kathleen Brown-Rice, *Examining the Theory of Historical Trauma Among Native Americans*, 3 PROF. COUNS. 117, 118 (2013).

population continued to decline into the 1800s as American Indian communities were annihilated by diseases immigrants brought with them.<sup>12</sup> As demand for land grew in the mid-1800s, the United States began forcibly relocating American Indians to reservations and opening land for westward expansion.

From the 1880s to the 1930s, after the United States failed to exterminate American Indians, policy shifted from exilement to assimilation. To accelerate assimilation, Congress passed the Dawes Allotment Act in 1887, which allotted parcels of land to individual heads of families and broke up many tribes' communal ways of living by fracturing land American Indians considered sacred.<sup>13</sup> In another push towards assimilation, the government implemented a boarding school system to educate American Indian children. These schools were often administered by Christian organizations that devalued American Indian ways of life and forced the children to learn and practice Christianity.<sup>14</sup> American Indian parents who did not send their children to boarding school risked arrest and their children were forcibly taken.<sup>15</sup> Sending children to distant boarding schools<sup>16</sup> dissuaded them from returning home and by the early 1930s, half of all American Indian children attending boarding school were hundreds of miles from

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<sup>12</sup> *Id.* at 119.

<sup>13</sup> Deer, *supra* note 4, at 655.

<sup>14</sup> Barbara Perry, *From Ethnocide to Ethnoviolence: Layers of Native American Victimization*, 5 CONTEMP. JUST. REV. 231, 234 (2002).

<sup>15</sup> Heather Parker, *Truth and Reconciliation Commissions: A Needed Force in Alaska?*, 34 ALASKA L. REV. 27, 37 (2017).

<sup>16</sup> *Id.*

their homes.<sup>17</sup> Boarding school staff cut children's hair and forbade traditional clothing, cultural practices, and languages.<sup>18</sup>

One lesson taught in these boarding schools was that American Indian cultures, practices, and communities were inferior to those of white Americans.<sup>19</sup> To instill this education, boarding schools normalized severe discipline, and many children suffered physical, sexual, emotional, and spiritual abuse.<sup>20</sup> These experiences created a cultural divide between American Indian children educated in boarding schools and their families and communities.<sup>21</sup> Children not only lost their sense of belonging to their families, communities, and cultures, but they were also rejected by American society.<sup>22</sup> Growing up in an environment that lacked loving relationships and normalized violence ill-prepared these youth to raise families of their own, causing generational trauma.<sup>23</sup>

Even after many boarding schools closed, separation of American Indian families continued at high rates. From 1958 to 1967, the Bureau of Indian Affairs and Child Welfare League of America supported the adoption of American Indian children by non-American Indian families through the Indian Adoption Project

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<sup>17</sup> Teresa Evans-Campbell, et. al., *Indian Boarding School Experience, Substance Use, and Mental Health among Urban Two-Spirit American Indian/Alaska Natives*, 38 AM. J. DRUG & ALCOHOL ABUSE 1, 2 (2012).

<sup>18</sup> Deer, *supra* note 4, at 667.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 37.

<sup>22</sup> Deer, *supra* note 4, at 666.

<sup>23</sup> *Id.*

because of a misguided belief that American Indian children would have better futures if they were separated from their families.<sup>24</sup> By 1978, 25% to 35% of all American Indian children were removed from their homes, with 85% placed outside of their families and communities.<sup>25</sup> At the same time, in Minnesota, one of every four American Indian children under the age of one was removed from their home and adopted, usually by a non-American Indian family.<sup>26</sup> The removal of children was justified by a misunderstanding of traditional American Indian childrearing practices and role of extended family members in raising children; biased child welfare policies interpreted traditional child rearing as neglect.<sup>27</sup>

During the relocation era of the 1940s to 1970s, the United States government incentivized American Indians to leave their homes on reservations and move to urban areas by providing minimal social services, education, or vocational training to American Indians once they moved.<sup>28</sup> This resulted in many American Indians residing in culturally unfamiliar areas, often without extended family or friends. This lack of support increased their exposure to physical and sexual violence.<sup>29</sup> Many service providers in urban areas did not

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<sup>24</sup> Andrea L. Johnson, *A Perfect Storm: The U.S. Anti-Regime's Failure to Stop the Sex of American Indian Women and Girls*, 43 COLUM. HUM. RTS. L. REV. 617, 634 (2012).

<sup>25</sup> National Indian Child Welfare Association, *About ICWA*, NATIONAL INDIAN CHILD WELFARE ASS'N (June 20, 2021), <https://www.nicwa.org/about-icwa/>.

<sup>26</sup> U.S. CONGRESS, THE HOUSE REPORT, H.R. REP. NO. 1386, 95TH CONG., 2ND SESS., reprinted in 1978 U.S. Code Congressional and Administrative News 7530.

<sup>27</sup> *Id.*

<sup>28</sup> Deer, *supra* note 4, at 634.

<sup>29</sup> Suzanne Koepplinger, *Sex Trafficking of American Indian Women and Girls in Minnesota*, 6 U. ST. THOMAS L.J. 129, 130 (2009).

understand the unique needs of American Indians, which created barriers for American Indians to receive services, such as health care. During the 1960s and 1970s, holding a belief that American Indians were inferior, the Indian Health Service, the primary source of medical care for most American Indians at the time, targeted American Indians due to their high birth rate.<sup>30</sup> Sterilization was considered an acceptable intervention and doctors routinely performed tubal ligations on American Indian women and girls without their consent and, at times, even without their knowledge.<sup>31</sup> Many women unknowingly signed their consent or, having not been told, discovered years later that they were sterilized.<sup>32</sup> Sterilization abuse caused higher rates of marital issues, alcoholism, drug abuse, shame, and guilt, impacting entire American Indian communities.<sup>33</sup>

### *B. Violence in American Indian Communities*

The impact of colonization, extermination policies, boarding schools, and removal of children continues to ravage American Indian communities today. Repeated trauma obstructs the natural grieving process, allowing this pain to further plague future generations.<sup>34</sup> Historical trauma, a concept developed by Dr. Maria Yellow Horse Brave Heart, refers to a collective experience caused by a

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<sup>30</sup> Deer, *supra* note 4, at 635.

<sup>31</sup> *Id.* at 634.

<sup>32</sup> Johnson, *supra* note 22, at 634.

<sup>33</sup> *Id.* at 635.

<sup>34</sup> Brown-Rice, *supra* note 11, at 118.

traumatic experience or event, such as genocide.<sup>35</sup> This cumulative trauma across generations can be accompanied by unresolved grief and can contribute to symptoms of depression, self-destructive behavior, and identification with ancestral pain.<sup>36</sup> The reservation system, the continued oppression of spirituality, language, and culture, and the sheer scale of death and destruction in many American Indian communities caused the loss of communal ways of life, traditional knowledge for spiritual healing, and dealing with grief.

This trauma is directly connected to the violence against American Indians and the loss of cultural identity and traditions.<sup>37</sup> In particular, this systematic victimization, assimilation tactics, and internalized oppression contribute to increased violence against American Indian women and children. This violence is “so common in many American Indian families that many may not even recognize physical, emotional, or sexual abuse as abuse if it is happening to them or someone they love.”<sup>38</sup> American Indian women, girls, and Two-Spirit<sup>39</sup> people

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<sup>35</sup> Maggie Logan, *Human Trafficking Among Native Americans: How Jurisdictional and Statutory Complexities Present Barriers to Combating Modern-Day Slavery*, 40 AM. INDIAN L. REV. 293, 296 (2015).

<sup>36</sup> HUMAN & SEX TRAFFICKING: TRENDS AND RESPONSES ACROSS INDIAN COUNTRY, 3 NAT'L CONG. OF AM. INDIANS POLICY RESEARCH CTR. (2016).

<sup>37</sup> ALEXANDRA PIERCE & SUZANNE KOEPLINGER, NEW LANGUAGE, OLD PROBLEM: SEX TRAFFICKING OF AMERICAN INDIAN WOMEN AND CHILDREN, Nat'l Res. Ctr. on Domestic Violence (Oct 2011).

<sup>38</sup> MARTIN ROGERS & PENDLETON, *supra* note 5, at 44.

<sup>39</sup> “Two-Spirit” is an umbrella term used by some American Indian communities to refer to the various understandings of gender and sexuality. Many American Indian cultures recognize more than two genders, including those that have ceremonial and spiritual significance. Violence against Two-Spirit and American Indian LGBTQ+ people are related to the causes of violence against

are more likely to experience violence than any other racial group in Minnesota.<sup>40</sup>

Nationally, more than four in five American Indian women have experienced violence in their lifetime,<sup>41</sup> while six in ten have experienced sexual violence.<sup>42</sup>

The high rate of violence and susceptibility to sexual exploitation must be understood in terms of social inequality. The chronic economic stress from the lack of employment opportunities, services, and health care creates poverty on reservations and in American Indian communities.<sup>43</sup> Additional social harms include higher rates of homelessness-- along with mental health and substance abuse issues.<sup>44</sup> As American Indians search for ways to cope with historical trauma and cultural loss, many turn to self-medication, such as alcohol consumption, which causes problems with mental and physical health.<sup>45</sup> American Indian women suffer high rates of post-traumatic stress disorder.<sup>46</sup> In the broader context of generational poverty, American Indians also report

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women and children. The increased likelihood of homelessness also contributes to the risk of sexual exploitation. Data in this area are very limited and demand further research.

<sup>40</sup> MARTIN ROGERS & PENDLETON, *supra* note 5, at 1.

<sup>41</sup> *Id.* at 15.

<sup>42</sup> Glenna Stumblingbear-Riddle, et. al., *Standing with Our American Indian and Alaska Native Women, Girls, and Two-Spirit People: Exploring the Impact of and Resources for Survivors of Human Trafficking*, 7 J. INDIGENOUS RES. 1, 2 (2019).

<sup>43</sup> Lara Roetzel et. al., *Beyond the Cages: Sex Trafficking in South Dakota*, 64 S.D. L. REV. 346, 356-357 (2019).

<sup>44</sup> Melissa Farley et al., *The Prostitution and Trafficking of American Indian/Alaska Native Women in Minnesota*, 23 AM. INDIAN ALASKA NATIVE MENTAL HEALTH RES. 65, 65 (2016).

<sup>45</sup> HUMAN TRAFFICKING IN MINNESOTA: A REPORT TO THE MINNESOTA LEGISLATURE, 17 MINN. STATISTICAL ANALYSIS CTR., (2019)

<sup>46</sup> Ramsey Cnty. Att'y's Office, *Safe Harbor Protocol Guidelines*, SEXUAL VIOLENCE JUSTICE INST. AT THE MINN. COAL. AGAINST SEXUAL ASSAULT (2017), [https://www.mncasa.org/wp-content/uploads/2018/08/MNCASA\\_SHPG\\_JUN2020\\_Update\\_FINAL1.pdf](https://www.mncasa.org/wp-content/uploads/2018/08/MNCASA_SHPG_JUN2020_Update_FINAL1.pdf).

widespread normalization of violence in their communities. This creates more opportunities for exploitation<sup>47</sup> and may make it difficult for youth to recognize sexual exploitation as forced or abusive.<sup>48</sup>

*C. American Indian Youth in Foster Care and Sexual Exploitation*

*i. Foster Care Places Youth at an Increased Risk for Sexual Exploitation*

Regardless of racial identity all youth in foster care are targeted by sex traffickers due to the experiences that brought them to the attention of the child welfare system, as well as their experiences in foster care. The exposure to physical, emotional, and sexual abuse make youth more susceptible to sexual exploitation.<sup>49</sup> In a study of sexually exploited women from Oregon, many interviewees indicated that almost all the trafficking survivors they knew had spent time in foster care.<sup>50</sup> These youth may also show signs of low self-esteem, increased risk-taking, and sexualized behavior. Other risk factors for sexual exploitation include poverty, which is a common identifier for social services. Teenage girls aging out of the foster care system are also at an increased risk of

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<sup>47</sup> Lauren Martin et al., *Safe Harbor for All: Results from a Statewide Strategic Planning Process in Minnesota*, State of Minnesota Legislature (Oct. 2018), <https://uroc.umn.edu/sites/uroc.umn.edu/files/2019-11/SH4ALL-Findings-and-recommendations-1.13.19.pdf>.

<sup>48</sup> Carly Gillespie, *Columbus's Legacy: Trafficking of Native American Women in the 21<sup>st</sup> Century*, 71 S.C. L. REV. 685, 688 (2020); MARTIN ROGERS & PENDLETON, *supra* note 5, at 68.

<sup>49</sup> Margolin Cecka, *The Civil Rights of Sexually Exploited Youth in Foster Care*, 117 W. VA. L. REV. 1225, 1242-1243 (2015).

<sup>50</sup> Hayley Weedn, et. al., *Human Trafficking & Native Peoples in Oregon: A Human Rights Report*, 3 AM. INDIAN L.J. 40, 46 (2014).

sexual exploitation because of their susceptibility to emotional manipulation and lack of basic life skills.<sup>51</sup> In addition, between 11% and 37% of youth who age out of foster care experience unstable housing or homelessness.<sup>52</sup>

Many youth in foster care are isolated from their communities and families. Traffickers often target vulnerable youth from shelters or group homes because they are easier to control and exploit.<sup>53</sup> The impermanence of foster care also impacts youths' sense of stability and safety.<sup>54</sup> Due to these life experiences, youth who have experienced multiple foster home placements may normalize sex trafficking.<sup>55</sup>

Bonding opportunities for youth in foster care may be limited.<sup>56</sup> They may lack a safety network of healthy relationships, causing them to look outside of the system for emotional support.<sup>57</sup> The behavioral and cognitive challenges victims suffer as a result of their foster care experiences may encourage them to view sex traffickers as safe havens providing them support, given that many victims see

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<sup>51</sup> *Id.* at 94.

<sup>52</sup> Robin Dion et. al., *Housing for Youth Aging out of Foster Care*, U.S. DEP'T OF HOUS. & URBAN DEV. (May 2014), [https://www.huduser.gov/portal/publications/youth\\_hsg\\_main\\_report.pdf](https://www.huduser.gov/portal/publications/youth_hsg_main_report.pdf).

<sup>53</sup> MINN. OFFICE OF JUSTICE PROGRAMS & MINN. STATISTICAL ANALYSIS CTR., *supra* note 45, at 15; Jessica L. Moore, et. al, *Sex Trafficking of Minors*, 64 PEDIATR. CLIN. N. AM. 413, 415 (2017).

<sup>54</sup> *Missing Children, State Care, and Child Sex Trafficking: Engaging the Judiciary in Building a Collaborative Response*, NAT'L CTR. FOR MISSING & EXPLOITED CHILDREN & NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, 3 (2015).

<sup>55</sup> Jessica F. Speckman, *Trafficking and the Child Welfare System Link: An Analysis*, 36 J. AM. ACAD. MATRIM. LAW. 391, 413 (2016).

<sup>56</sup> Rowena Fong & Jodie Berger Cardoso, *Child Human Trafficking Victims: Challenges for the Child Welfare System*, 33 EVALUATION & PROGRAM PLAN. 311, 314 (2010).

<sup>57</sup> *Id.*

their sex traffickers as protectors; youths may also be trauma bonded with sex traffickers if they see their abusers as protectors.<sup>58</sup> An abuser or trafficker is typically a trusted adult who place themselves in the youth's life during a vulnerable time.<sup>59</sup>

Nationally, up to 80% of youth in foster care may be sexually exploited.<sup>60</sup> While all children are vulnerable to sexual exploitation, those involved with the child welfare system, including those who run away from foster placements, are more likely to be homeless, delinquent, or vulnerable.<sup>61</sup> Those who run away from their placements may think living on the streets is safer than staying in a dangerous foster home, but these youth are likely to be exposed to sexual exploitation within 48 hours.<sup>62</sup> Some traffickers may shower victims with gifts, which can be enticing for those who receive little attention from their foster

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<sup>58</sup> *Id.*

<sup>59</sup> Roetzel et. al., *supra* note 43, at 360.

<sup>60</sup> *What the Preventing Sex Trafficking and Strengthening Families Act Means for Your Practice*, AM. BAR ASS'N (2016), [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-35/november-2016/what-the-preventing-sex-trafficking-and-strengthening-families-a/#:~:text=The%20Act's%20requirements%20to%20provide,criminal%20or%20juvenile%20justice%20systems.](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/november-2016/what-the-preventing-sex-trafficking-and-strengthening-families-a/#:~:text=The%20Act's%20requirements%20to%20provide,criminal%20or%20juvenile%20justice%20systems.)

<sup>61</sup> Richard J. Estes & Neil A Weiner, *The Commercial Sexual Exploitation of Children in the U. S., Canada and Mexico*, U. PA. SCH. SOC. WORK CTR. FOR STUD. YOUTH POL'Y. 1, 38 (Sep. 18, 2001).

<sup>62</sup> Heather J. Clawson et al., *Human Trafficking into and Within the United States: A Review of the Literature*, US DEP'T HEALTH & HUM. SERVS. 1, 10 (2009); Natasha E. Latzmana et. al., *Human Trafficking Victimization Among Youth Who Run Away from Foster Care*, 98 CHILD. & YOUTH SERVS. REV. 113, 115 (2019).

families.<sup>63</sup> Children in foster care are also less likely to have someone looking for them, or may not want to be found.<sup>64</sup>

ii. *American Indian Youth in Foster Care at Even Greater Risk for Exploitation*

American Indian youth are five times more likely than other youth to be victims of sex trafficking.<sup>65</sup> In Minnesota, six percent of American Indian youth ran away at least once from their out-of-home care, compared to four percent of children from other races.<sup>66</sup> Between January 1, 2011 and March 31, 2017, the National Human Trafficking Hotline reported 116 cases of human trafficking involving American Indians, 37% of which involved children and youth victims.<sup>67</sup> In a report of women involved in prostitution in Minnesota, 75% were sexually abused as children by an average of four perpetrators.<sup>68</sup> 98% of these women reported a history of homelessness and a lack of alternative means to survive.<sup>69</sup>

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<sup>63</sup> LINDA M. WILLIAMS & MARY E. FREDERICK, *PATHWAYS INTO AND OUT OF COMMERCIAL SEXUAL VICTIMIZATION OF CHILDREN: UNDERSTANDING AND RESPONDING TO SEXUALLY EXPLOITED TEENS 49-50*, UNIV. OF MASS. LOWELL (2009).

<sup>64</sup> MINN. OFFICE OF JUSTICE PROGRAMS & MINN. STATISTICAL ANALYSIS CTR., *supra* note 45, at 16.

<sup>65</sup> ELLIOT GLUCK, ET. AL., *CHILD SEX TRAFFICKING AND THE CHILD WELFARE SYSTEM*, 4 (State Policy Advocacy & Reform Ctr. 2014).

<sup>66</sup> MARTIN ROGERS & PENDLETON, *supra* note 5, at 40-41.

<sup>67</sup> Katherine Chon, *Combating Trafficking: Native Youth Toolkit on Human Trafficking*, ADMIN. FOR CHILDREN & FAMILIES (June 20, 2021), <https://www.acf.hhs.gov/blog/2018/01/combating-trafficking-native-youth-toolkit-on-human-trafficking>; Stumblingbear-Riddle, et. al., *supra* note 40, at 3.

<sup>68</sup> Farley et. al., *supra* note 44, at 89.

<sup>69</sup> *Id.* at 87-89.

Many also reported extensive family history with boarding schools, forced removals, and sexual violence.<sup>70</sup>

Between May 2017 and June 2020, 1,683 reports of sex trafficking or sexual exploitation were made to child welfare agencies in Minnesota.<sup>71</sup> This represented more than 1,500 alleged child victims.<sup>72</sup> Ten percent of these alleged victims were members of, or eligible for membership in, federally recognized tribes.<sup>73</sup> American Indian youth are 5.8 times more likely to be reported as victims of sex trafficking or sexual exploitation than white youth, though it should be noted that in Minnesota's Social Service Information System, youth who are American Indian but identify as multiracial are often included under the "two or more races" category, so this number may be underreported.<sup>74</sup>

Given the overrepresentation of American Indian youth in the child welfare system, it is not surprising that they are at increased risk of sexual exploitation. Many of the reasons for an American Indian youth's placement in foster care are results of generational and historical trauma, which, when combined with the trauma of foster care, can intensify American Indian youths'

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<sup>70</sup> *Id.*

<sup>71</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 40-41.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Ladd Interview, *supra* note 8.

vulnerability to sex trafficking.<sup>75</sup> Without emotional and economic support systems, these youth may seek comfort from traffickers.<sup>76</sup>

While data relating to American Indian youths' experiences in foster care is limited, the report "Garden of Truth: The Prostitution and Trafficking of Native Women in Minnesota," written in collaboration with the Minnesota Indian Women's Resource Center, provides insight into the foster care experiences of trafficked American Indian women. Of the 105 women interviewed, 46% had been in foster care and resided in an average of five different foster homes.<sup>77</sup>

According to the report:

Almost half (46%) of the women in foster care had been abused, most often verbally or mentally abused (86%), spiritually abused (81%), culturally abused (76%), physically abused (67%), and sexually abused (38%). Most frequently the abuser was the foster mother (57%), foster brother (52%), or foster father (45%). Twenty-nine percent of the time, the abuser was a foster sister or others in the extended family.<sup>78</sup>

#### *D. Demand for Increased Research*

Minnesota leads the country in researching the sexual exploitation of American Indian women and youth, but while it is well-known that involvement

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<sup>75</sup> PIERCE & KOEPLINGER, *supra* note 37, at 2.

<sup>76</sup> Weedn, et. al., *supra* note 50, at 45.

<sup>77</sup> MELISSA FARLEY ET AL., GARDEN OF TRUTH: THE PROSTITUTION AND TRAFFICKING OF NATIVE WOMEN IN MINNESOTA 41 (2011).

<sup>78</sup> *Id.* at 42.

in the child welfare system increases a youth's vulnerability to sexual exploitation, little research is available to address this vulnerability — specifically, for American Indian foster youth.<sup>79</sup> Both the limited number of resources and the challenging nature of identifying survivors prevent accurate estimates of how many youth involved in child welfare have experienced sexual exploitation. While many research barriers exist in this field, the most prevalent is that American Indian youth are less likely to seek help or identify as victims of sexual exploitation.<sup>80</sup> Many researchers conducting surveys on sexual exploitation indicate that there is underreporting due to the stigmatization and normalization of violence in American Indian communities.<sup>81</sup>

In the 2019 Minnesota Student Survey, at least 5,000 young people had traded sex. This figure is considered low due to reluctance in answering survey questions accurately, either out of shame, fear, or the like.<sup>82</sup> Just over 8% of youth who reported trading sex had previous foster care experience, 12% had been in a juvenile detention facility, over 7% had previously experienced sexual assault, and over 6% had unstable housing in the past year.<sup>83</sup> Notably, youth in rural areas of Minnesota were more likely to trade sexual activity to receive money, food,

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<sup>79</sup> PIERCE & KOEPLINGER, *supra* note 37, at 3.

<sup>80</sup> MINN. OFFICE OF JUSTICE PROGRAMS & MINN. STATISTICAL ANALYSIS CTR., *supra* note 45, at 7; Moore, et. al, *supra* note 53, at 414.

<sup>81</sup> Jody M. Greene et. al., *Prevalence and Correlates of Survival Sex Among Runaway and Homeless Youth*, 89 AM. J. PUBLIC HEALTH 1406, 1408 (1999).

<sup>82</sup> LAUREN MARTIN, ET. AL., TRADING SEX AND SEXUAL EXPLOITATION AMONG HIGH SCHOOL STUDENTS: DATA FROM THE 2019 MINNESOTA STUDENT SURVEY 1 (2020).

<sup>83</sup> *Id.* at 2.

drugs, alcohol, or a place to stay than youth in urban areas.<sup>84</sup> Roughly 3% of youth who identified as American Indian reported trading sex, compared to 1.7% of youth who identified as African American and 1.2% of youth who identified as white.<sup>85</sup>

The available data indicates an intolerably high number of American Indian foster youth are sexually exploited. This intersection must be further researched; youth in the foster care system are the state's responsibility, and child welfare and sex trafficking laws have not been adequately enforced. Culturally specific programs that could prevent American Indian youth from being sexually exploited or help them effectively exit sexual exploitation should also be researched.<sup>86</sup>

### III. LEGAL LANDSCAPE AND CURRENT INITIATIVES

While the United States as a whole, and Minnesota specifically, have enacted legislation to protect victims of human trafficking and prosecute perpetrators, there has been little focus on the specific needs of tribal communities, American Indian communities, and American Indian youth who have experienced the dual trauma of foster care and sexual exploitation. However, these laws create a foundation on which to address the significant need for

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<sup>84</sup> *Id.* at 1.

<sup>85</sup> *Id.* at 2.

<sup>86</sup> PIERCE & KOEPLINGER, *supra* note 37, at 8.

targeted allocation of resources and partnership with American Indian organizations. This legal framework will be explained and tools for advocacy highlighted. This approach is vital for youth who are in the State of Minnesota's care and could benefit most from culturally responsive services.

#### A. American Indian Child Welfare Laws

In 1978, Congress enacted the Indian Child Welfare Act (ICWA) to address the high rate of family separations in the American Indian community, the placement of American Indian children with white families, and the continued bias against American Indians in the child welfare system. In cases of abuse or neglect, the ICWA requires that child welfare agencies work with the child's tribe regarding removal and placement decisions and provide active efforts to reunify families; this recognizes that children are vital to both the existence of tribes and tribal sovereignty.<sup>87</sup> In 1985, Minnesota enacted the Minnesota Indian Family Preservation Act (MIFPA), which supplements ICWA's requirements in several areas, including expanding efforts to work collaboratively with the tribe, offering cultural services to the family, and working with extended family members.<sup>88</sup> The Minnesota Tribal/State Agreement (TSA), an agreement between Minnesota's Department of Human Services and its federally recognized tribes, provides

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<sup>87</sup> Koeplinger, *supra* note 29, at 130.

<sup>88</sup> MINN. DEP'T OF HUMAN SERVS., MINNESOTA'S BEST PRACTICE RESPONSE TO TRAFFICKING AND EXPLOITATION OF CHILDREN AND YOUTH: A GUIDE FOR COUNTY AND TRIBAL CHILD WELFARE AGENCIES 6 (Minn. Dep't of Human Servs. 2020).

additional guidance to child welfare agencies implementing the ICWA and MIFPA.<sup>89</sup>

While these laws provide structure to address the high out-of-home placement rate of American Indian youth, a lack of understanding about the complex needs of American Indian families prevents compliance with these laws. These misunderstandings include historical trauma, traditional childrearing practices, and continued bias against American Indians. Today, American Indian communities continue to mistrust the government and child welfare system because the system perpetuates harm while doing little to protect. The government is, in effect, merely continuing colonization efforts.<sup>90</sup>

Issues resulting from poverty are often considered “neglect” in child welfare systems and are a rationalization for removing American Indian children from their parents, resulting in another barrier to compliance.<sup>91</sup> Parents’ internalized oppression and unresolved grief, evidenced by substance abuse and mental health issues, can be viewed as neglect or abuse towards children.<sup>92</sup> There is a shortage of culturally appropriate services for American Indian families to address the specific issues induced by historical trauma. Children may be sent

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<sup>89</sup> *Id.*

<sup>90</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 37, 43.

<sup>91</sup> *Id.* at 43.

<sup>92</sup> Weedn, et. al., *supra* note 50, at 99.

away from their communities and placed in available American Indian homes, overcrowded foster homes, or in non-American Indian homes.<sup>93</sup>

Despite the ICWA and MIFPA, American Indian youth are disproportionately represented in Minnesota's child welfare system. According to the Minnesota Department of Human Services, in 2019, 31% of the 15,289 youth in out-of-home care in Minnesota identified at least one of their races as American Indian.<sup>94</sup> This figure is staggering considering that only 2% of Minnesota's population under 18 years of age identify as only American Indian, while 4% identify as American Indian and another race.<sup>95</sup> In 2019, approximately 10% of all American Indian youth in Minnesota experienced an out-of-home placement.<sup>96</sup> In 2020 American Indian children in Minnesota were 5.2 times more likely to be involved in maltreatment assessments and investigations than white children<sup>97</sup> and 16.4 times more likely than white children to experience out-of-home placement.<sup>98</sup> American Indian youth are also more likely to stay in care for two years or longer when compared to other racial groups.<sup>99</sup> Non-compliance with the ICWA and MIFPA is a barrier to protecting American Indian families in

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<sup>93</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 46.

<sup>94</sup> *Id.* at 40-41.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 41.

<sup>97</sup> *Minnesota's Child Maltreatment Report*, MINN. DEP'T OF HUM SERVS., 2019 at 15 (2020).

<sup>98</sup> *Minnesota's Out-of-home Care and Permanency Report*, MINN. DEP'T OF HUMAN SERVS, 2020 at 6 (2021).

<sup>99</sup> *Id.* at 27.

Minnesota and further victimizes communities, contributing to the high rates of sexual exploitation among American Indian youth in foster care.<sup>100</sup>

*B. Federal Sex Trafficking Legislation and Responses*

*i. Trafficking Victims Protection Act of 2000*

The Trafficking Victims Protection Act (TVPA) was the first comprehensive federal approach to combating domestic and foreign trafficking, establishing avenues for prosecution, protection, and prevention. The TVPA defines sex trafficking as “control over another person by force, fraud, or coercion for the purpose of exploitation,” including when there is a transactional exchange, such as money, food, drugs, or shelter.<sup>101</sup> The Act does not require that the person be moved across state or tribal lines.<sup>102</sup> Under this statute, sex trafficking of children occurs when a person under 18 years of age engages in commercial sex.<sup>103</sup> A child who is sex trafficked is considered a victim in need of supervision and protected from criminal prosecution.<sup>104</sup> Force, fraud, or coercion is not required for the sexual exploitation of children because they cannot consent to sex.<sup>105</sup>

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<sup>100</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 7.

<sup>101</sup> Clawson et al., *supra* note 62, at 3.

<sup>102</sup> *Id.* at 1.

<sup>103</sup> *Id.* at 3.

<sup>104</sup> Courtney Bryan, *Representing and Defending Victims of Commercial Sexual Exploitation in Criminal Court*, LAWYER’S MANUAL ON HUMAN TRAFFICKING: PURSUING JUSTICE FOR VICTIMS 183, 185 (2013).

<sup>105</sup> Michelle Tomes, *A Child Is Not a Commodity: Stopping Domestic Child Sex Trafficking*, 24 U. FLA. J.L. & PUB. POL’Y 213, 216 (2013).

*ii. Preventing Sex Trafficking and Strengthening Families Act*

In 2014, the federal Preventing Sex Trafficking and Strengthening Families Act (PSTSFA) recognized the implication of the child welfare system in sex trafficking.<sup>106</sup> It acknowledged that foster care could create an environment that encouraged youth to leave their foster homes and place them in danger, such as seeking solace with a trafficker.<sup>107</sup> Removing youth from their families and communities through isolation contributed to these actions.<sup>108</sup> As a result, the PSTSFA amended the federal foster care program, authorized in Title IV-E of the Social Security Act, to require state child welfare agencies to identify and determine services for youth who are under state jurisdiction and at risk for sex trafficking.<sup>109</sup>

The PSTSFA provides structure to protect youth at risk of sex trafficking, create incentives for adoption, and improves the child support system.<sup>110</sup> Beginning in 2016, the statute required states to identify and report any youth under their jurisdiction who may be a victim of sex trafficking to law enforcement and the National Center for Missing and Exploited Children within 24 hours.

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<sup>106</sup> Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, 128 Stat. 1919-1950 (2014).

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980)*, CHILD. DEF. FUND 1, 1 (Oct. 2014).

<sup>110</sup> *Id.*

States are also required to compile data regarding youth and report annually the state's efforts to provide services and placement options to the youth.<sup>111</sup> The statute also mandates states develop plans to prevent youth from running away from foster care placements, determine what contributed to the youth running away, and understand what the youth experienced while away from their placements.<sup>112</sup> The PSTSFA requires states to support normalcy for children in foster care, prevent isolation from their communities, and help improve their sense of belonging.<sup>113</sup> Children 14 years of age or older are afforded a larger role in the development of their case plans, especially through constructing their independent living plans and expanding their networks of supportive adults.<sup>114</sup>

The PSTSFA provides additional incentives for states to facilitate adoptions, changing the structure for incentive payments to improve the rate of adoptions and guardianships.<sup>115</sup> It also incentivizes timely adoptions for youth who are in foster care for less than 24 months.<sup>116</sup> Relative placements are eligible for additional kinship guardianship assistance payments, providing greater incentive for youth to be placed with family.<sup>117</sup> The Act further improves child

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<sup>111</sup> *Id.* at 1-2.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 2.

<sup>114</sup> *Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980)*, *supra* note 109, at 2.

<sup>115</sup> *Id.* at 4-5.

<sup>116</sup> *Id.* at 4.

<sup>117</sup> *Id.* at 5.

support enforcement and recovery by authorizing child support officers from other countries and tribal governments to access the Federal Parent Locator Services,<sup>118</sup> which improves the chances of locating family members for relative placements. While the PSTSFA provides a framework to access resources and services and Minnesota has implemented the changes in statutes, a lack of culturally appropriate resources available for American Indian youth remains.<sup>119</sup>

*iii.. Justice for Victims of Trafficking Act of 2015*

The Justice for Victims of Trafficking Act of 2015 (JVTA) expanded the federal response to trafficking by improving victims' access to services and addressing domestic sex trafficking of children.<sup>120</sup> The JVTA directed the Department of Justice to provide trafficking victim with a database to receive counseling and connect with other victims as support. Additional financial penalties were established for traffickers, and the money from those penalties was deposited into a Domestic Trafficking Victims' Fund to enhance existing TVPA grants.<sup>121</sup> The JVTA also addressed response coordination and training, ensured that efforts are not duplicated, and facilitated sharing information between agencies.

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<sup>118</sup> *Id.*

<sup>119</sup> MINN. STAT. § 260C.212 Subd. 13 (2020).

<sup>120</sup> *What the Preventing Sex Trafficking and Strengthening Families Act Means for Your Practice*, *supra* note 60

<sup>121</sup> *Id.*

The JVTA targets minor sex trafficking through several policy changes for child welfare, juvenile justice, and missing, exploited, and runaway youth. The Missing and Exploited Children's program requires the Department of Justice to provide an annual grant to the National Center for Missing and Exploited Children (NCMEC), a clearinghouse to help law enforcement and other stakeholders respond to cases involving these children.<sup>122</sup> NCMEC houses a tip line for reporting online child sexual exploitation.<sup>123</sup> The JVTA also requires law enforcement agencies that information submitted to the federal National Crime Information Center (NCIC) Missing Person File both include a recent photo of the youth to assist in identification and notify the NCMEC of youth missing from foster care.<sup>124</sup>

The JVTA amended the Runaway and Homeless Youth Act, which authorized community-based runaway and homeless youth programs to provide temporary shelter and care to runaway or homeless youth.<sup>125</sup> The amendments expanded the Department of Health and Human Services' priorities to include conducting training to identify the behavioral and emotional effects of trafficking and creating strategies to work with runaway and homeless youth who have

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<sup>122</sup> *Id.*

<sup>123</sup> *What the Preventing Sex Trafficking and Strengthening Families Act Means for Your Practice*, *supra* note 60

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

experienced sex trafficking.<sup>126</sup> The JVTAs also amended the Victims of Child Abuse Act, which authorized appropriations for children's advocacy programs, grants for developing child abuse investigation and prosecution programs, and technical assistance for the criminal prosecution of child abuse cases in state or federal courts.<sup>127</sup> This expanded the definition of "child abuse" to include human trafficking, as well as expanding the response and training of Children's Advocacy Centers to include the coordination of a multidisciplinary response to child abuse.<sup>128</sup>

Some of the greatest changes of the JVTAs were to local child welfare response. For many states, the capacity to respond to youth sex trafficking victims had been limited, due in part to high caseloads and inadequate victim-centered training.<sup>129</sup> States did not have a process to "screen in" cases involving youth who were sex trafficked if the perpetrator was not the child's parent or caregiver.<sup>130</sup> As a result, the JVTAs now ensure that investigations and assessments of child trafficking occur through the child welfare system and utilize funds provided by the Child Abuse Prevention and Treatment Act (CAPTA) to improve child welfare responses in identifying and reacting to child sex trafficking.<sup>131</sup> This

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<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *What the Preventing Sex Trafficking and Strengthening Families Act Means for Your Practice*, *supra* note 60.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

provision also includes increased training of child welfare workers to identify, assess, and provide services to children who have experienced sex trafficking. The JVTAs require states receiving funding under CAPTA to define child sex trafficking victims as victims of “sexual abuse” and “child abuse and neglect,” consistent with the CAPTA definition.<sup>132</sup> The JVTAs also allow states to qualify individuals under the age of 24 who have experienced sex trafficking as “children” and provide incentives to states which enact safe harbor laws that would treat youth involved in commercial sexual activity as victims, therefore discouraging a criminal response. These increased resources could allow American Indian organizations partnering with child welfare agencies, such as the Ain Dah Yung Center and Minnesota Indian Women’s Resource Center, to provide safe harbor services.

iv. *Violence Against Women Act*

The federal Violence Against Women Act (VAWA), reauthorized in 2022 after partisan disagreements caused it to expire for almost three years,<sup>133</sup> expands special tribal criminal jurisdiction to include non-American Indian perpetrators of sexual assault, child abuse, stalking, sex trafficking, and assaults on tribal law

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<sup>132</sup> *Id.*

<sup>133</sup> A proposed gun-safety provision to close the “boyfriend loophole,” which allows people convicted of domestic violence against a current or former dating partner to purchase guns, had prevented the bill from moving forward and was ultimately removed.

enforcement officers on tribal lands.<sup>134</sup> The reauthorization also provides increased funding for grants to tribal governments for culturally appropriate services, community-based restorative practice services, and assistance for victims and their families.<sup>135</sup> These services include programs directed towards American Indian youth who were subjected to foster care and sexual exploitation.<sup>136</sup>

v. *Family First Prevention Services Act*

The federal Family First Prevention Services Act (FFPSA) was signed into law in 2018 and created new financial support, through Title IV-E of the Social Security Act, for placement prevention services targeting children at risk of out-of-home placement. The law helps keep children safely with their families, while avoiding foster care placement and the trauma of out-of-home placement.<sup>137</sup> When out-of-home placement is necessary, the law prioritizes placements that are the least-restrictive and most homelike.<sup>138</sup> Federal funding is available for placements in specialized residential programming for all youth who have been or are at risk of being sex trafficked or sexually exploited.<sup>139</sup> The law redirects

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<sup>134</sup> Violence Against Women Reauthorization Act of 2019, H.R. 1585, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/1585/text#toc-HE5E29CE928EA4669B2385C53C03E1C59>.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> MINN. DEP'T OF HUMAN SERVS., *supra* note 6, at 2.

<sup>138</sup> *The Family First Prevention Services Act: Historic Reforms to the Child Welfare System Will Improve Outcomes for Vulnerable Children*, CHILDREN'S DEFENSE FUND (2018), <https://www.childrendefense.org/wp-content/uploads/2018/08/family-first-detailed-summary.pdf>

<sup>139</sup> *Id.*

funding from foster care placements to evidence-based services that address parents' needs, including mental health, substance abuse, and parenting skills.<sup>140</sup> Many evidence-based services are generally not culturally relevant or effective for American Indian communities because they do not rely on traditional knowledge and healing practices.<sup>141</sup> To address this concern, the Minnesota Department of Human Services will issue grants to community based non-profit prevention programs using funds from the Family First Transition Act to prepare these programs for approval and secure Title IV-E reimbursements.<sup>142</sup> FFPSA's requirements become effective in Minnesota on September 30, 2021.<sup>143</sup>

### *C. Minnesota Sexual Exploitation Legislation and Response*

#### *i. Minnesota Safe Harbor Law and No Wrong Door Program*

In 2011, Minnesota enacted the Safe Harbor for Sexually Exploited Youth Law. The law decriminalizes youth who are trafficked or sexually exploited commercially and treats them as victims, meaning they cannot be charged with prostitution.<sup>144</sup> Minnesota law defines sex trafficking as:

“(1) receiving, recruiting, enticing, harboring, providing, or obtaining by any means an individual to aid in the prostitution of the

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<sup>140</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 39.

<sup>141</sup> Lisa Bayley, *Family First Prevention Services Act Overview and Update*, Children and Family Services, MINN. DEP'T OF HUMAN SERVS. 1, 9 (Feb. 2, 2021), [https://www.senate.mn/committees/2021-2022/3096\\_Committee\\_on\\_Human\\_Services\\_Reform\\_Finance\\_and\\_Policy/CFS\\_HSR\\_Abeler\\_FFPSA\\_2021.02.02\\_PPT.pdf](https://www.senate.mn/committees/2021-2022/3096_Committee_on_Human_Services_Reform_Finance_and_Policy/CFS_HSR_Abeler_FFPSA_2021.02.02_PPT.pdf)

<sup>142</sup> *Id.*

<sup>143</sup> MINN. DEP'T OF HUMAN SERVS., *supra* note 6, at 2.

<sup>144</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 59.

individual; or (2) receiving profit or anything of value, knowing or having reason to know it is derived from an act described in clause (1).”<sup>145</sup>

This definition expands the federal Trafficking Victims Protection Act by removing the “force, fraud or coercion” requirement and replacing it with “by any means necessary.”<sup>146</sup> When no third party is involved in the transaction, it is considered sexual exploitation, and youth are still considered victims of a crime.<sup>147</sup> In 2016, the law was further extended to those under the age of 24, although adults over 18 are only considered victims if their sexual exploitation involves a third party.<sup>148</sup>

The Safe Harbor “No Wrong Door” model, coordinated by the Minnesota Department of Health and funded by state and federal dollars, manages the organization of training and resources for government, law enforcement, social service agencies, and community organizations. Under this model, sexually exploited youth will be treated as victims and receive services, regardless of how they encounter a government or social services agency.<sup>149</sup> A system of regional navigators with in-depth understanding of the services available to sexually exploited youth in the region work cooperatively with government and social

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<sup>145</sup> MINN. STAT. § 609.321 Subd. 7a (2020).

<sup>146</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 58-59.

<sup>147</sup> MINN. DEP’T OF HUMAN SERVS., *supra* note 5, at 3.

<sup>148</sup> *No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota’s Sexually Exploited Youth*, MINN. DEP’T OF PUBLIC SAFETY, OFFICE OF JUSTICE PROGRAMS (2013), [https://dps.mn.gov/divisions/ojp/forms-documents/Documents/!2012%20Safe%20Harbor%20Report%20\(FINAL\).pdf](https://dps.mn.gov/divisions/ojp/forms-documents/Documents/!2012%20Safe%20Harbor%20Report%20(FINAL).pdf).

<sup>149</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 59.

services agencies to refer youth to services and provide trainings. The No Wrong Door model supports specialized housing and outreach services<sup>150</sup> as well as the use of community-based services for sexually exploited youth, since the child protection system is unable to satisfactorily address the youth's needs.<sup>151</sup>

Tribes continue to develop their own systems to protect sexually exploited American Indian youth and may work collaboratively with the state child welfare system to further their protection.<sup>152</sup> However, the exploited youth may suffer because trafficking across reservation boundaries creates complex jurisdictional issues for responding law enforcement.<sup>153</sup> In an effort to assist, Tribes United Against Sex Trafficking (TRUST) was formed in 2018 to increase coordination among tribes responding to sex trafficking cases in Minnesota.<sup>154</sup> TRUST has received Safe Harbor grants to fund its work.<sup>155</sup> As a result, tribes have increased tribal law enforcements' ability to protect sex trafficking victims on tribal lands.<sup>156</sup>

ii. *Minnesota Child Welfare Response to Sexual Exploitation*

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<sup>150</sup> LAUREN MARTIN, ET. AL., *supra* note 82, at 1.

<sup>151</sup> *No Wrong Door: A Comprehensive Approach to Safe Harbor for Minnesota's Sexually Exploited Youth*, *supra* note 148, at 9.

<sup>152</sup> RAMSEY CNTY. ATTORNEY'S OFFICE & SEXUAL VIOLENCE JUSTICE INST. AT THE MINN. COAL. AGAINST SEXUAL ASSAULT, *supra* note 46, at 94.

<sup>153</sup> *Id.*

<sup>154</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 79.

<sup>155</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 79.

<sup>156</sup> *Id.*

The Minnesota Department of Human Services (DHS) is implementing numerous changes to its response to sexually exploited youth, including development of improved screening, intake, and service protocols, and training.<sup>157</sup> Caregivers suspected of sex trafficking or sexually exploiting a child are mandatorily reported, while reports of sexual exploitation by non-caregivers are referred to child welfare services.<sup>158</sup> Minnesota's county and tribal child welfare agencies also respond to reports of suspected sex trafficking victims and youth who are missing or have run away from placements.<sup>159</sup>

In response to reports of suspected sex trafficking of a child or sexual exploitation involving caregivers, the Minnesota DHS employs two Human Trafficking Child Protection Program Coordinators. The federal Office for Victims of Crimes funds one position, while the state funds the other. A one-year, half-time Human Trafficking Tribal Child Welfare Liaison position has also been approved, with the goal to secure additional funding to continue this position in the future.<sup>160</sup> The Liaison will focus on providing more specialized services and child welfare responses for American Indian youth involved with the child welfare system. It will also collaborate with the Minnesota Department of Health and DHS to improve general policy guidance and the Safe Harbor response for

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<sup>157</sup> MARTIN ET AL., *supra* note 45, at 93-94.

<sup>158</sup> *Id.*

<sup>159</sup> MARTIN ROGERS & PENDLETON, *supra* note 5, at 39.

<sup>160</sup> Ladd Interview, *supra* note 6.

American Indian youth and work with tribal and county child welfare agencies to provide support and ongoing training.<sup>161</sup> The Liaison will support all tribes in Minnesota and work closely with American Indian Child Welfare Initiative tribes,<sup>162</sup> which currently include the White Earth Nation and Leech Lake Band of Ojibwe, and Red Lake Nation.<sup>163</sup> The Mille Lacs Band of Ojibwe has started the process to participate in the initiative.<sup>164</sup> Liaison-supported tribes are subject to state child welfare laws and will also receive state child welfare funding.<sup>165</sup>

While the Minnesota state government has worked hard to collaborate with Minnesota's American Indian tribes and communities to secure funding for American Indian services, resources are still limited.<sup>166</sup> Child welfare agencies are responsible for providing services to youth in their care to address their needs, but the system's ability to respond to the sexual exploitation of American Indian youth who experience foster care is hindered by the limited community services

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<sup>161</sup> *Id.*

<sup>162</sup> The American Indian Child Welfare Initiative, created with commitment by tribal, county, and state governments, has the shared goal of improving child welfare outcomes for American Indian children. The Minnesota Department of Human Services transferred the roles and responsibilities for child welfare from counties to participating tribes. Participating tribes receive state funds and federal reimbursements for eligible costs. Services include family preservation, child protection, foster care, foster care licensing, and other services related to child welfare; Minn. Dep't of Human Servs., *Indian Child Welfare: Program Overviews*, MINN. DEP'T OF HUMAN SERVS. (July 24, 2021), <https://mn.gov/dhs/partners-and-providers/program-overviews/indian-child-welfare/>.

<sup>163</sup> Ladd Interview, *supra* note 6.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

available.<sup>167</sup> While the child protection system has an obligation to address the sexual exploitation of Minnesota's youth in its care, it must also partner with culturally based community organizations to provide the supports.

#### IV. CULTURALLY BASED COMMUNITY ORGANIZATIONS AND PREVENTION

For American Indian youth who have experienced foster care and sexual exploitation, cultural programs are key to reestablishing connections to their communities. These programs provide a service that non-cultural programs cannot: an opportunity for youth to connect with traditional cultures and strengthen their personal and community identities, which provides emotional and psychological protective factors against future victimization.<sup>168</sup>

While some approaches to trauma treat only the symptoms, American Indian programs address the intergenerational and historical trauma that cause higher rates of child welfare involvement and sexual exploitation.<sup>169</sup> Youth who experience intergenerational trauma may emotionally and mentally detach from their surroundings and remain vulnerable to sexual exploitation.<sup>170</sup> Without acknowledging and understanding the root problem, youth will not have the foundation to successfully exit or heal from the dual trauma of sexual exploitation and foster care. Interventions that are not aligned with participants' worldviews

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<sup>167</sup> See generally MINN. DEP'T OF HUMAN SERVS., *supra* note 88.

<sup>168</sup> Farley et. al., *supra* note 44, at 89.

<sup>169</sup> *Id.* at 85.

<sup>170</sup> Deer, *supra* note 4, at 625.

and experiences are only minimally effective; non-American Indian services may cause more harm than good by unintentionally reinforcing standards of colonization and perpetuating the cycle of trauma.<sup>171</sup>

There are several tribal and community organizations that provide Safe Harbor services to American Indian youth in Minnesota,<sup>172</sup> but this article specifically focuses on the programs at the Minnesota Indian Women's Resource Center in Minneapolis and the Ain Dah Yung ("Our Home" in Ojibwe) Center in St. Paul. While these programs may not be directed specifically towards youth in foster care, many of these youth still utilize their services. By expanding resources to these programs, more American Indian youth can benefit from the multidisciplinary responses provided to victims of sexual exploitation that focus on outreach, housing, economic stability and vocational training, and stability through culture.

#### *A. Minnesota Indian Women's Resource Center*

The Minnesota Indian Women's Resource Center (MIWRC) was founded in 1984 as a non-profit social and mental health resource to provide a range of programs empowering American Indian women and families through cultural

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<sup>171</sup> Some American Indian youth are not familiar with their traditional culture due to the forced assimilation of their ancestors and may not be interested in cultural services. Mark Standing Eagle Baez et. al., *H.O.P.E. for Indigenous People Battling Intergenerational Trauma: The Sweetgrass Method*, 5 J. INDIGENOUS RES. 2 1, 8-9 (2016).

<sup>172</sup> Minn. Dep't of Human Servs., *supra* note 88, at 6.

values.<sup>173</sup> It is located in the Phillips neighborhood of Minneapolis, which is home to the third largest urban American Indian population in the United States.<sup>174</sup>

MIWRC's programs target cultural healing, family services, and other obstacles that impact well-being, including affordable housing and physical health.<sup>175</sup>

Previous research regarding MIWRC's Oshkiniigikwe ("Young Woman" in Ojibwe) Program (which was expanded in 2008 to address youth's growing admittance that they traded sex) has a long history of providing services to sexually exploited youth.<sup>176</sup> Its trauma-centered approach emphasizes meeting youth "where they are" and focuses on building relationships that support their decision-making abilities.<sup>177</sup> Staff provide intensive case management, access to health care, and cultural teachings, including space and supplies for youth to learn traditional skills such as beading and sewing.<sup>178</sup>

MIWRC implemented the Phoenix Partnership with the Greater Minneapolis Council of Churches' Division of Indian Work to provide outreach and crisis assistance to youth at risk of sexual exploitation.<sup>179</sup> Youth who participated in the Oshkiniigikwe Program reported that it helped them build

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<sup>173</sup> Minnesota Indian Women's Resource Center, *Who We Are*, MINNESOTA INDIAN WOMEN'S RES. CTR. (June 21, 2021), <https://www.miwrc.org/whoweare>.

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> See Alexandra Pierce, *American Indian Adolescent Girls: Vulnerability to Sex Trafficking, Intervention Strategies*, 19 AM. INDIAN & ALASKA NATIVE MENTAL HEALTH RESEARCH: THE J. OF THE NAT'L CENTER 37 (2012).

<sup>177</sup> *Id.* at 40.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.* at 40-41.

healthier relationships with their families and significant others and experience an improvement in their physical, mental, emotional, and spiritual health.<sup>180</sup>

Involvement in traditional arts, cultural events, and social events provided an expanded network for these youth to reduce their risk of sexual exploitation and increase their overall stability.<sup>181</sup>

Building on these foundations, MIWRC currently employs a Safe Harbor Case Manager and a Youth Outreach Specialist to address sexual exploitation of American Indian youth in the community. These advocates provide culturally informed prevention and intervention services to youth aged 24 and younger who are at risk for, or are currently experiencing, sexual exploitation to help them build stability and create personal goals that rely on their cultural strengths. Services include drop-in programs for healthy-relationship education, support groups, and case management.<sup>182</sup> In addition to providing services with a cultural lens, the programs provide internal and external service referrals, youth groups, and street outreach for unsheltered youth by offering hygiene kits and promoting harm reduction strategies.<sup>183</sup>

MIWRC found that sexually trafficked American Indian youth rarely disclose their exploitation until they have been participating actively for 12 to 24

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<sup>180</sup> *Id.* at 49.

<sup>181</sup> Alexandra Pierce, *supra* note 176 at 49, 51.

<sup>182</sup> Interview with Ombaazhi Guernsey, Youth Outreach Specialist, Minn. Indian Women's Res. Ctr. (June 14, 2021).

<sup>183</sup> *Id.*

months, so support is offered long-term.<sup>184</sup> The harm reduction approach allows youth to build lasting connections with the MIWRC community and find safety while being sexually exploited, especially while they are unable to leave their abusers.<sup>185</sup>

### *B. Ain Dah Yung Center*

The Ain Dah Yung (“Our Home” in Ojibwe) Center (ADYC), whose mission is to provide “a healing place within the community for American Indian youth and families to thrive in safety and wholeness,”<sup>186</sup> opened its emergency shelter in 1983 in response to the high rate of homelessness among youth in St. Paul. Today, ADYC provides a range of services that rely on cultural values as a starting point for personal and community growth, such as family advocacy, cultural programming for youth, and housing. The emergency shelter for youth aged 5-17 provides culturally specific short-term shelter, crisis intervention, and case management for youth who are homeless or involved in the child welfare system.<sup>187</sup> The Ain Dah Yung Center’s Beverley A. Benjamin Youth Lodge is a transitional living program for youth ages 16 to 21, which provides stable and culturally supportive housing.<sup>188</sup> Mino Oski Ain Dah Yung (“Good New Home”

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<sup>184</sup> PIERCE & KOEPLINGER, *supra* note 37, at 8.

<sup>185</sup> *Id.*

<sup>186</sup> Ain Dah Yung Center, *About Us*, AIN DAH YUNG CTR. (June 21, 2021), <https://adycenter.org/about>.

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

in Ojibwe) is a 42-unit permanent supportive housing project providing on-site culturally responsive services for American Indian youth aged 18-24 who have experienced homelessness.<sup>189</sup>

In response to the high rate of sexual exploitation among American Indian youth, ADYC launched its Zhawenimaa (“They are Loved Unconditionally” in Ojibwe) program in 2020 to provide Safe Harbor services to victims of sexual exploitation, including culturally specific, trauma informed care for American Indian youth before, during, and after exploitation. Two case managers work with ADYC residents and community members to provide cultural support, set goals, and provide referrals.<sup>190</sup>

### *C. Significance of American Indian Organizations*

While these programs provide Safe Harbor services and referrals, these programs provide services that non-cultural organizations cannot. Western approaches often address individual attributes, while these programs provide a holistic approach that addresses body, mind, spirit, and emotion collectively.<sup>191</sup> These issues cannot be compartmentalized, but instead must be addressed together. Part of the uniqueness of what MIWRC and ADYC provide is that the staff help the youth

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<sup>189</sup> *Id.*

<sup>190</sup> Interview with Minwaanimad Gokee, Zhawenimaa Safe Harbor Mobile Case Manager, and Holly Henning, Residential Dir., Ain Dah Yung Ctr. (July 1, 2021).

<sup>191</sup> Jessica R. Goodkind et al., *Reconsidering Culturally Competent Approaches to American Indian Healing and Well-Being*, 25 QUALITATIVE HEALTH RESEARCH 4 486, 496 (2015).

establish a cultural connection and a sense of cultural identity, community, and belonging.<sup>192</sup>

*i. Cultural Identity*

A strong sense of American Indian identity and connection to culture can be a source of resilience for American Indian youth, which can contribute to their well-being.<sup>193</sup> This is especially important for American Indian youth involved in foster care or sexual exploitation to navigate two cultures without losing their cultural identity or choosing one culture over the other.<sup>194</sup> Learning about traditions and culture may negate some of the harms of historical trauma and provide protective factors and healing.<sup>195</sup>

For urban American Indian youth, the disruptive nature of relocation created difficulties with establishing intertribal American Indian communities in urban areas and caused some American Indians to feel culturally disconnected.<sup>196</sup> Many urban American Indian organizations rely on cultural knowledge from different traditions to reflect the diverse tribal background of the American Indian communities they serve.<sup>197</sup>

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<sup>192</sup> Guernsey Interview, *supra* note 182.

<sup>193</sup> Stephen Kulis et al., *Exploring Indigenous Identities of Urban American Indian Youth of the Southwest*, 38 J. ADOLESCENT RES. 3, 271, 272 (2013).

<sup>194</sup> *Id.*

<sup>195</sup> *Id.* at 273.

<sup>196</sup> Ryan A. Brown et. al., *Cultural Identity among Urban American Indian/Native Alaskan Youth: Implications for Alcohol and Drug Use*, 17 PREV. SCI. 7 1, 11 (2016).

<sup>197</sup> Kulis et al., *supra* note 193, at 274.

Key factors associated with American Indian youth successfully transitioning out of foster care include spirituality, learning traditional practices and ceremonies, and storytelling.<sup>198</sup> Immersion in traditional spirituality and traditional cultural practices has been closely associated with development of a strong sense of identity.<sup>199</sup> For example, activities can include berry-picking, which provides an opportunity for relationship-building between the staff and the youth while educating them about their American Indian identity and ancestral connections to the land which was lost through colonization.<sup>200</sup>

In addition to providing cultural services that impact mental health, the Ain Dah Yung Center provides an emergency shelter and youth lodge with a full-time therapist on site at each location one day a week.<sup>201</sup> Zhawenimaa staff also refer youth to therapists at the Native American Community Clinic. These therapists have a background in working with sexually exploited youth and specialize in working with historical and complex trauma and post-traumatic stress disorder.<sup>202</sup> Referrals are also made to the Indian Health Board and other community services, such as American Indian-specific horse therapy that incorporates traditional teachings.<sup>203</sup>

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<sup>198</sup> *Id.* at 276.

<sup>199</sup> *Id.* at 294.

<sup>200</sup> Gokee & Henning Interview, *supra* note 190.

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

At MIWRC, culture is always first.<sup>204</sup> Creating a cultural foundation for youth who experience vulnerability throughout their lives highlights the need for expanded long-term services and community connections.<sup>205</sup> As noted by Youth Outreach Specialist at MIWRC Ombaazhi Guernsey,

Healing is a continuous process that is not going to be linear. That's what five hundred years of colonization and trauma does to you. Even if we were more healed than we are, we are still going to have hard times, but it's what we rely on in those hard times, those teachings, that will get us through.<sup>206</sup>

However, many cultural programs do not have the capacity to meet this ongoing demand and are unable to connect with all youth who would benefit from engaging with their cultures. Youth who participate in cultural events and services can experience therapeutic and health benefits that decrease self-destructive behaviors.<sup>207</sup> Youth may feel trapped by negative stereotypes or the normalization of violence in American Indian communities but reframing American Indian history and providing opportunities for engagement with traditions and practices can help youth build a resistance against these beliefs.<sup>208</sup> American Indian community organizations are critical for establishing culturally rooted resilience

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<sup>204</sup> Guernsey Interview, *supra* note 182.

<sup>205</sup> *Id.*

<sup>206</sup> *Id.*

<sup>207</sup> Brown et. al., *supra* note 196, at 11.

<sup>208</sup> *Id.* at 12.

among American Indian youth. In urban areas, these organizations are often the only place for youth to meet and learn about their cultural practices.

ii. *Healing Through Relationships*

It is vital to understand American Indian culture within the network of relationships it creates, both for individuals and communities.<sup>209</sup> Strengthening the social connections through building community and peer support promotes a sense of belonging and self-value that can either protect youth from re-entering sexual exploitation or help them leave.<sup>210</sup> Youth who have few connections or relationships are more vulnerable to sexual exploitation; involving them in community activities and helping them build their networks helps build their resiliency.<sup>211</sup> It can take repeated attempts for a youth to leave sexual exploitation, but having a supportive community is vital to help them leave for good.<sup>212</sup> At MIWRC, initial interactions are quickly followed by establishing connections in the community and inviting youth to community events.<sup>213</sup> Many American Indian women involved in sex trafficking credited their connections with their own cultural identities and connections with other American Indian people as instrumental to surviving trafficking.<sup>214</sup>

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<sup>209</sup> Gayle Broad et al., *We Are Still the Anishnaabe Nation: Embracing Culture and Identity in Batchewana First Nation*, 31 CANADIAN J. COMM. 1 35, 42 (2006).

<sup>210</sup> MINN. DEP'T OF HUMAN SERVS., *supra* note 87, at 38-39.

<sup>211</sup> *Id.* at 35.

<sup>212</sup> *Id.* at 35.

<sup>213</sup> Guernsey Interview, *supra* note 182.

<sup>214</sup> Farley et. al., *supra* note 44, at 85.

Well-developed cultural identity provides both individual and community empowerment; building trusting relationships is a key component to growth.<sup>215</sup> Youth with a clear sense of who they are have higher self-esteem, which is intrinsically tied to their community and their sense of belonging.<sup>216</sup> In a study among urban American Indian youth, results showed strong cultural identity performed a critical role in determining whether youth engaged in risk behaviors, such as alcohol and drug use.<sup>217</sup> Stressors that triggered alcohol and drug usage included struggles related to historical trauma in the American Indian community.<sup>218</sup>

One of the most healing aspects of American Indian community-based services is that service provision is viewed differently than mainstream services, and youth are treated as relatives, not as clients.<sup>219</sup> This approach is necessary for youth to form relationships with others who have histories of complex trauma and may be more resistant to trusting adults.<sup>220</sup> Building relationships is always on the youth's terms, and those kinship bonds outweigh the need for strict boundaries, while also demonstrating the interconnectedness of the American Indian

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<sup>215</sup> Broad et al., *supra* note 209, at 51.

<sup>216</sup> Esther Osborne & Donald M. Taylor, *The Role of Cultural Identity Clarity for Self-Concept Clarity, Self-Esteem, and Subjective Well-Being*, 36 PERSONALITY & SOC. PSYCHOL. BULL. 7 884 (2010).

<sup>217</sup> Brown et. al., *supra* note 196, at 11.

<sup>218</sup> *Id.*

<sup>219</sup> Gokee & Henning Interview, *supra* note 190.

<sup>220</sup> *Id.*

community.<sup>221</sup> According to Holly Henning, now Associate Director at the Ain Dah Yung Center, “these are our relatives, this is our younger generation, and whether or not we are blood bound, we are still responsible, still showing up to help guide those young people.”<sup>222</sup>

iii. *Sense of Belonging and Purpose*

Community organizations also provide American Indian youth with healthy social environments and communities that value their worth and provide them with a sense of belonging.<sup>223</sup> While other agencies may focus on barriers, such as a disruptive behavior at a shelter leading to discharge and exploitative situations, MIWRC focuses on the reasons that youth *do* belong.<sup>224</sup> If American Indian youth do not feel supported or worth the services that are provided, they will not utilize them.<sup>225</sup> Many American Indian youth who have experienced foster care and sexual exploitation have difficulty realizing they deserve services to improve their lives or that they deserve to live a life free from exploitation.<sup>226</sup>

At MIWRC, American Indian youths’ desire to find their place and purpose within society is a typical goal, and staff assist these youth by

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<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> HENNEPIN COUNTY NO WRONG DOOR INITIATIVE ET. AL., VOICES OF SAFE HARBOR: SURVIVOR & YOUTH INPUT FOR MINNESOTA’S MODEL PROTOCOL ON SEXUAL EXPLOITATION AND SEX TRAFFICKING OF YOUTH 15 (2015).

<sup>224</sup> Guernsey Interview, *supra* note 182.

<sup>225</sup> *Id.*

<sup>226</sup> *Id.*

strengthening their cultural identity and community ties.<sup>227</sup> These programs focus on their worth in the community and help nurture youth to understand traditional prophecies and teachings that the youth will lead the community in the future.<sup>228</sup> For example, an ADYC Zhawenimaa case manager helped youth get their spirit names or connect with their tribe's traditional clan system. By learning about this aspect of their identities, youth can better learn how to navigate the world and contribute to their communities with purpose.<sup>229</sup>

iv. *Prevention Programs*

Early intervention with families at risk of involvement in the child welfare system is an overwhelming task but vital for these youth to avoid future harms.<sup>230</sup> Initiatives to address the harm that the child welfare has done to these families and communities, including increased risk of sexual exploitation, must recognize that cultural respect is a basic need. Both MIWRC and ADYC reported that due to the overwhelming need for sexual exploitation services among American Indian youth, there are only enough resources to address issues reactively instead of proactively.<sup>231</sup> Without recognizing the causes of many sexual exploitation cases, treatment and healing efforts are targeted at individuals rather than

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<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

<sup>229</sup> Gokee & Henning Interview, *supra* note 190.

<sup>230</sup> Koeplinger, *supra* note 29, at 136-137.

<sup>231</sup> Guernsey Interview, *supra* note 182; Gokee & Henning Interview, *supra* note 190.

communities.<sup>232</sup> Prevention efforts must be fostered at the community level to address systemic issues caused by the shared experiences and history in American Indian communities.<sup>233</sup> As Ombaazhi Guernsey noted, “since our pain is collective, our healing must be collective as well.”<sup>234</sup> Acknowledging the damage of colonization that disconnected American Indian people from their histories, lands, and cultures and creating opportunities to reclaim and revitalize cultural knowledge, are important components of promoting well-being and healing from these losses.<sup>235</sup> However, without the infrastructure to support the community's cultural growth and development, these issues will never be resolved, and the community's well-being will not be fixed.<sup>236</sup>

As a form of prevention, American Indian organizations can expand awareness by educating youth on how to recognize sexual exploitation and healthy relationships, creating a safe space for healthy youth development, and forming safe relationships with American Indian adults.<sup>237</sup> These organizations can also facilitate fundamental joint community and survivor participation in the creation and expansion of services that target specific lived experiences. Recognizing the causes of American Indian foster care and sexual exploitation in

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<sup>232</sup> Goodkind et al., *supra* note 191, at 487.

<sup>233</sup> Osborne & Taylor, *supra* note 216, at 883.

<sup>234</sup> Guernsey Interview, *supra* note 182.

<sup>235</sup> Goodkind et al., *supra* note 191, at 488.

<sup>236</sup> Broad et al., *supra* note 209, at 37.

<sup>237</sup> MARTINROGERS & PENDLETON, *supra* note 5, at 75.

the context of colonization and historical trauma, and the importance of healing at both the individual and community levels, is necessary for American Indian youth to reach overall well-being.<sup>238</sup>

## V. CONCLUSION

The State of Minnesota has a responsibility to American Indian youth to address the dual traumas of foster care and sexual exploitation that have been perpetuated by the federal government's legacy of violence against American Indians. American Indian organizations such as the Minnesota Indian Women's Resource Center and the Ain Dah Yung Center provide the foundation to prevent or address these traumas by offering cultural services that meet American Indian youth's tailored needs, which can help them exit sexual exploitation and limit future revictimization. While the current legal landscape presents opportunities to address this issue, these organizations cannot provide services to all who need them without adequate funding and support, and American Indian youth, who are already less likely to seek help, may be deterred from accessing life-changing services and assistance.<sup>239</sup> Expansion of programs like these and investment in American Indian communities and ways of healing are essential to decrease the vulnerability of American Indian youth in foster care to sexual exploitation. With additional resources, these programs could expand to provide all American Indian

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<sup>238</sup> Goodkind et al., *supra* note 191, at 496.

<sup>239</sup> Guernsey Interview, *supra* note 182.

youth with access to prevention programs that are key to ending the perpetuation of future trauma while encouraging healing within their communities.