



SECOND EDITION

# COLOR OF JUSTICE

Culturally Sensitive  
Treatment of Minority  
Crime Victims

BRIAN K. OGAWA

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**Culturally Sensitive Treatment  
of Minority Crime Victims**

**Brian K. Ogawa**

*Director, Crime Victims' Institute  
Office of the Attorney General  
State of Texas*

**Allyn and Bacon**

Boston • London • Toronto • Sydney • Tokyo • Singapore

*This book is dedicated to my children,  
Brent Kalani Masanobu and Brooke Noelani Akemi,  
and to  
Masanobu Frank, Bessie Emiko, and Tsutako Alice Ogawa,  
who endured much in America for the sake of their children*

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A Viacom Company  
160 Gould Street  
Needham Heights, MA 02194

Internet: [www.abacon.com](http://www.abacon.com)  
America Online: Keyword: College Online

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#### **Library of Congress Cataloging-in-Publication Data**

Ogawa, Brian K.

Color of justice : culturally sensitive treatment of minority  
crime victims / Brian Kenji Ogawa.

p. cm.

Includes bibliographical references (p. ) and index.

ISBN 0-205-28061-7

1. Minorities—Crimes against—California. 2. Victims of crimes—  
Services for—California. 3. Pluralism (Social sciences)—  
California. I. Title.

HV6250.4.E75034 1999

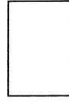
362.88'089'009794—dc21

98-5359

CIP

Printed in the United States of America  
10 9 8 7 6 5 4 3 2 1 03 02 01 00 99 98

Published in cooperation with and by permission of: Office of the Governor, State of California, Office of Criminal Justice Planning, 1130 K Street, Suite 300, Sacramento, California, 95814.



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## PREFACE

The criminal justice system in the United States is designed for the fair administration of legal protections and the equal provision of public safety. There is little doubt that the present system embodies both prevailing strengths and lingering deficiencies. Law enforcement policies, penal codes, and prosecutorial and judicial procedures have been continuously revised, including efforts toward more timely and compassionate treatment for victims of crime. There were in 1997, for example, approximately 30,000 pieces of legislation at the federal, state, and local levels addressing crime victims' rights and services. Regrettably, the particular needs and concerns of racial and ethnic minority crime victims have hardly been represented in these reforms.

Mental health and social service delivery systems have primarily mirrored the ideas and promulgated the interests of the majority. The pluralistic character of our country, however, requires the honest reappraisal and refashioning of how *all* victims are best counseled, assisted, and supported. Bold brush strokes of colors must infuse the overall pale canvas of justice in the U.S. and its indiscernible texture of crime victim treatment.

*Color of Justice* is the first major book to present the significant challenges facing the criminal justice system as it seeks to serve victims of crime within the increasing racial pluralism and ethnic diversity in present-day society. Through an overview of current problems and major issues, the personal accounts of victims and survivors, and descriptions of innovative and promising programs, this book introduces the premises for and requisites of culturally sensitive treatment.

*Color of Justice* is intended for anyone, either student or professional, who desires a greater awareness and appreciation of the impact of violent crime on minorities and a more inclusive understanding of recovery from the traumatic effects of victimization. It is a comprehensive planning resource; a guide to program development and practice; and an indispensable handbook for criminal justice policymakers, law enforcement and legal professionals, judges and court

personnel, victim advocates, sexual assault and family violence counselors, and social service and mental health providers.

The original edition of *Color of Justice* was the culmination of a major focus on the needs of racial and ethnic minority crime victims sponsored by the Office of Criminal Justice Planning (OCJP), Office of the Governor, State of California. I served as the consultant to OCJP's Minority Victims Project during a 1990 sabbatical year from my position as Director of the Victim/Witness Assistance Division at the Department of the Prosecuting Attorney, County of Maui, Hawaii. During the course of the project, graduate intern Karen McGagin was invaluable in conducting research, providing perceptive comments, and offering unfailing enthusiasm. I also benefited from working closely with the Minority Victims Advisory Committee, which met periodically to ensure that the purposes of the project were met and the contents of the book were representative and accurate. The members of this state-wide committee reflected a variety of university faculty members, criminal justice professionals, and victim service specialists, as well as diverse minority groups.

Since the original edition of *Color of Justice* was published, the crime victims' field has changed in significant ways. Crime victims' bills of rights have become a part of the constitutions in the majority of the states, and an amendment to the U.S. Constitution has recently been introduced. Certification of victim service programs and providers has been instituted in several states along with national programs to help convey and ensure professionalism. Continuing education conferences and seminars have been held to train those in criminal justice and human services who work with minority crime victims. Colleges and universities have begun to include instruction on victim issues, supplementing more traditional criminology and victimology courses. Law enforcement officials have adopted the philosophy and practice of community-oriented policing in many jurisdictions, including those serving minority communities. The Office for Victims of Crime, U.S. Department of Justice, has also included multiculturalism in its national agenda for crime victims for the next millennium. The need for an updated and revised edition of *Color of Justice* was apparent.

In preparing the second edition of *Color of Justice*, the following were most helpful: Gary Howard and Donald Currier, Office of Criminal Justice Planning, State of California; Commander Sadie Darnell, Gainesville, Florida Police Department; Dr. Karen Huggins Lashley, Oklahoma City; Helen M. Thueson, Victim Services, Waco, Texas Police Department; Dr. Michelle Batchelder, University of Texas; Regina Sobieski, MADD National Victim Services; Joseph Myers, Executive Director of the National Indian Justice Center; Beth Binstock, U.S. Attorney's Office, District of Montana; Dr. Katharine Lawson, Abundant Grace Fellowship, Memphis, Tennessee; Nahela Hadi, National Multicultural Institute, Washington, D.C.; Karen Parker, Department of Human Services, Austin, Texas; Drew T. Durham, Deputy Attorney General for Criminal Justice; Laurel Kelly, Director Victims' Services and Special Projects; and Sally Griffiths, Administrative Assistant of the Crime Victims' Institute, Office of the Attorney General, State of Texas.

Finally, to the crime victims and survivors whose stories are shared in this book, those who serve them well, and the many colleagues who befriend and teach me everyday, I extend my warmest gratitude.



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# 1

## INTRODUCTION



Circle of the Eagle

## Circle of the Eagle

Sam English is a Chippewa Indian now living in Albuquerque, New Mexico. This painting was originally commissioned by the National Indian Justice Center. It formed the centerpiece of a conference on Promoting Child Protection In Indian Country, held in Green Bay, Wisconsin, in 1988.

For most Native Americans, the eagle is an important symbol of protection and spirituality. It forms a circle of life and harmony embracing the Indian family. To stand outside this circle means to lose one's pride and one's proper relationship with others. The family therefore stands together in the center of the circle with their feet and the father's hair ties firmly rooted in the mother earth.

Within the shoulders of the eagle are portrayed ancestors and elders who pass on language, culture, and spiritual truths. Eagle feathers have a highly spiritual significance. The feathers of the eagle are given only at significant passages of life, such as birth and coming of age. In this painting they represent emerging love, protection of children, and the journey of healing.

## LA FAMOSA JESSICA

Jessica Morales was an exceptional child. She was born premature and barely two hours later, overcome by an intense high fever, lapsed into a coma. For weeks, Jessica lay without movement as doctors desperately searched for an explanation. Then one day, Jessica unexpectedly regained consciousness. The doctors were baffled by the course of events but shortly thereafter allowed her parents, Francisco and Claudia, to take their infant daughter home.

Within weeks, however, Jessica returned to the hospital. A cranial shunt had to be inserted to drain fluids that were exerting pressure on her brain. Although the procedure was successful, the doctors expected Jessica to suffer severe and permanent brain injury. Instead, she miraculously recovered without any real impairment. Among the hospital staff, she became known as "*la famosa Jessica*" (the famous Jessica) because of what she had overcome so early in life.

Jessica grew to be a happy and bright child. Her father said, "She liked music, to dance. She smiled all the time." She wanted to be *numero uno*, the best in whatever she did. By the time she reached the third grade at Victory Boulevard Elementary School, Jessica was also eager to assist her teacher by translating for the other Spanish-speaking children. Her dream was to become a nurse because she wanted to keep people from dying.

On July 25, 1989, at 2:25 P.M. Jessica was in front of her home on the way to visit a friend. Suddenly a car veered across the boulevard, leaped a curb, grazed a tree, and then struck her. The impact hurled her 60 feet through the air. Jessica died almost immediately of massive internal and head injuries. A neighbor who heard the horrible sounds of the crash came running to the scene. He saw the young girl's

lifeless body on the ground and covered her with his jacket, protecting her from the hot afternoon sun. Other neighbors, most of them Hispanic, began to gather. Jessica's parents were summoned from work.

A police officer arrived. He asked if anyone had seen what had occurred. No one responded—they had not actually been witnesses. The officer, in apparent disgust and derision, then remarked, "Why don't any of you speak English?" The man who had provided his jacket for Jessica, an African American, looked up angrily from where he was kneeling beside her. He softly but firmly answered that if he, the officer, was to serve this community, *he* had the responsibility to be bilingual.

The crowd that assembled became increasingly mixed in racial composition. At one point, forming a circle around Jessica, they bowed their heads and offered prayers. The death of this child had stunned each one of them. Differences in language and ethnicity did not preclude the common experience of grief.

Before they were married, Francisco had emigrated to Los Angeles from Mexico and Claudia from Guatemala. Their most meaningful encounters with non-Hispanic people prior to their daughter's death were with the customers of the fast-food Mexican restaurant where they both worked. July 25 changed all that. Their tragedy touched many people's hearts. That even strangers showed concern was a source of strength for Jessica's parents. One couple offered one of their own cemetery plots for Jessica's burial. Others visited and donated money to offset funeral expenses. Claudia was overwhelmed that her boss shed tears at the funeral service for her daughter. Over the many years that she had worked for him, he had expressed little emotion toward his employees. Jessica's classmates also dedicated two books for their school library in her memory, and composed a gentle and thoughtful letter in Spanish for her parents. Francisco and Claudia have kept the letter in a frame, displayed in their home, as a remembrance of their special child.

Claudia cries each day for her daughter. Not being there to caress and comfort Jessica as she lay dying has brought her unbearable anguish. Francisco and Claudia have been sustained by concern for their younger daughter, April, and *la fe* (faith in God). April is seeing a child therapist at a community clinic for Latinos. For one week after her sister's death, April refused to be alone in her bedroom. She was fearful that she would fall into a "sleep" as Jessica had in her casket. But three months later, April said she wanted to die so that she could see her sister again.

Jessica's parents now feel little animosity toward the drunk driver who killed their daughter. He was convicted of vehicular manslaughter and sentenced to two years in prison. Just months before their daughter's death, the Morales family had returned to the Catholic religion. At the sentencing hearing, Francisco and Claudia gave the defendant a Bible, inscribed with the words of a *cancion* (a song) written to honor Jessica by the man who had first rushed to her aid. The Morales now feel a sense of new life, more love, and unity among them. God, they believe, had been preparing them for what was to happen.

A few friends and acquaintances have criticized Francisco and Claudia for feeling forgiveness rather than hatred toward the defendant. They have, in fact, experienced an array of emotions over time. Initially, they were puzzled and angry at the defendant, who after his arrest had been released from custody almost

immediately on bail of only \$2,500. Francisco's brother-in-law, on the other hand, had been arrested for riding a bicycle on a sidewalk while intoxicated and was incarcerated for one week! Francisco and Claudia also wondered why they were never kept informed of the criminal proceedings but had to depend on the newspapers. They had met the assistant district attorney handling the case only once—for a brief 15 minutes before the sentencing hearing. They were, moreover, slighted by a support group for those grieving over lost loved ones at the hands of drunk drivers. The group has yet to invite them to a meeting. Francisco and Claudia believe that they must have been largely ignored because they are Latinos, speak little English, and live modestly in an old rented house in a nondescript neighborhood.

Jessica's parents requested that I use their true names so that their story could be told without fabrication. Their child, fragile at birth, had become a little girl with effulgent energy and contagious hopes. It was as if she had undergone a rebirth. And now the Morales' believe Jessica has been reborn again, not only into heaven but also in their lives. Life in Claudia's homeland of Guatemala had been difficult, and she had fiercely mistrusted people prior to Jessica's death. But Claudia has since changed. Before, she had vowed that if anyone hurt her daughter Jessica, she would kill that person. Now she realizes that her precious child has given her a *corazon* (a heart) of compassion and understanding.

When I came to visit, Francisco and Claudia welcomed me to their home because they wanted to help others who have experienced a similar misfortune. Near the end of our visit, they smiled and asked what I would actually write on behalf of minority victims. I promised to convey, as best I could, what they and other survivors had shared. Carefully selecting a treasured photo of Jessica from her purse, Claudia presented it to me. Her eyes were brilliant with tears of sorrow and thankfulness. I kept Jessica's photo beside me as a constant companion during the first writing of this book. It was my anchor in the flood of information and storm of opinions around any discourse on minority issues. Jessica Morales is *everyone's* child, for she is a symbol of all that we hold dear in life.

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## MULTICOLOR HOLOGRAM

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All victims of crime are susceptible to being mistreated by uncaring, misinformed, or antagonistic individuals and/or an overburdened, ponderous, and jaded criminal justice system. These are insensitivities and injustices that victims of every race and ethnicity have endured. The events that befell Jessica Morales' family in the aftermath of her death, nevertheless, form a composite of the *distinct* experience of many minority crime victims. There are psychological responses to crime, community resources, cultural practices and beliefs, and matters of social acceptance, racism, and discrimination that characterize and set apart minority populations in the United States.

This book is a compendium of general principles, practical approaches, and key points for defining culturally sensitive treatment of crime victims. The needs of all minority groups, however, were not able to be addressed within the constraints of

a single volume. The focus is, therefore, on the four largest categories of racial minorities—African Americans, Asian/Pacific Island Americans, Hispanic Americans, and Native Americans. Immigrants and refugees from Latin America and Southeast Asia are included, and a discussion of the Pacific Island population is limited primarily to Hawaiians, in deference to their status as native peoples in the United States and their relative numbers here in comparison to other Pacific Islanders. Asian Indians are also not discussed because of their somewhat unique cultural and religious experience.

This book is a primer of how violent crime affects victims in our multiracial and multicultural society. All segments of the criminal justice system and the full complement of victim services are responsible for discerning and implementing approaches that acknowledge diversity. However, it takes genuine openness to cross color lines with skill and grace rather than refuse, through habitual disinterest or intense scorn, to engage others in this manner. Awareness of color lines form the vanguard of our philosophies and approaches regarding criminal behavior and victimization.

The thematic chord of *Color of Justice* is not a blanket indictment of the criminal justice system or a sweeping polemic of discrimination in U.S. society. All of us, from every race and ethnicity, must present incisive questions and remedy obvious errors. The most direct path to accomplish this is to heed what minority victims themselves tell us concerning how they have been treated. Doing so may elicit discomfort, disagreement, and controversy. But the concerns of these victims should not be expediently dismissed or continue to be unmet. Their accounts are compelling and real. *Color of Justice* is in essence a forum for their stories of pain and frustration, and of survival and recovery. Hopefully, this book can be described as a type of multicolor hologram, wherein images of culturally *insensitive* treatment recede and are replaced with a deepening respect for others different than ourselves.

# 2

## INCREASING CULTURAL SENSITIVITY



Hawaiian Blessing

*Water, Ti Leaf, Salt*

## Hawaiian Blessing

From ancient to modern times ceremonial blessings have been an important part of the Hawaiian culture. Each element used has special significance and conveys the interrelationship of human beings, nature, and spirits. *Wai* (water) comes from the heavens. It is not only a reminder of the life bestowed by the gods but also the purest means to literally touch, taste, and immerse in the divine. The Hawaiian word for wealth is accordingly *waiwai*, for one is enriched by an abundance of fresh water and through reverence for its creative source.

*Wai* is contained in a *pola* (bowl) of koa or milo wood. As a sign of respect, *lai* (*ti* leaves), rather than one's hands, have direct contact with the water to be sprinkled on the place or object to be blessed. *Ti* leaves symbolize the generosity of the gods to provide for human needs. In ancient times they were used to make protective capes, to bundle and transport personal property and goods, to cool one's body from fevers, and to cook and store food. *Ti* leaves were also symbols of peace. Warriors would hold up *ti* plants to indicate they were approaching without hostility. *Pa'a'kai* (salt), representing "to preserve" or "to restore," may be either sprinkled upon the ground to be blessed or added to the water.

By waving *ti* leaves laden with *wai* over an area the *kahu* (priest) cleanses it of any unseen negative forces or purifies it from any misfortune already experienced. A place where death, injury, or violence has occurred, for example, is often blessed so that recovery can begin.

### Chapter Overview

- Racial and Ethnic Demographics
- Cultural Keys
- Historical Perspectives
- Minority Family Patterns
- "False Culture"

The United States is in the midst of sweeping social transformation; for the first time in U.S. history, racial and ethnic minorities are reaching numerical parity with the white majority. As this multicultural society unfolds, we are discovering what has always been the gift and vibrancy of the United States. Experiencing contact with other cultures, nevertheless, is filled both with the possibility of acquiring new values and perspectives but also with the added caution of misperceiving unfamiliar traditions and practices. This chapter presents some of the central issues surrounding cultural pluralism and provides a series of topics to enhance appreciation for specific ethnic belief systems and traditions.



## RACIAL AND ETHNIC DEMOGRAPHICS

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### *Color Lines*

A century ago, W. E. B. Du Bois, the distinguished black writer and teacher, wrote these words:

Herein lie buried many things which if read with patience may show the strange meaning of being black here at the dawning of the Twentieth Century. The meaning is not without interest to you, Gentle Reader; for the problem of the Twentieth Century is the problem of the color line. (Du Bois, 1903, p. xi)

Du Bois did not state that *a* problem of this century is the problem of the color line. He intentionally emphasized that it is *the* problem. In analyzing the prophetic aspects of this statement, Ben Reist, a modern liberation theologian, agrees with Du Bois:

He [Du Bois] was, in fact, right in far more convoluted ways than he could have known, for the problem of the Twentieth Century is the problem of the color *lines*.... What is centrally involved here is a question of *perspective*.... For the white liberal is profoundly persuaded that whereas ethnic oppression is terrible, painful, destructive, and thus urgently awaits solution, it is nevertheless only one of a series of problems.

Precisely this condition is what Du Bois sought to unmask. For the ethnically oppressed, all of the so-called people of color, oppression is real, permanent, and unavoidable. It cannot be dislodged from the psyche by any maneuver, simple or complex. It is constant as the breath of life itself.... And in the light of this exposure one can at least get a handle on that highly emotional term "racism." A racist is one for whom ethnic oppression is one of a series of problems. (Reist, 1975, pp. 18–19)

This, of course, does not mean that the problem of the color lines is the *only* problem we face today. Environmental protection, world peace, gender discrimination, and economic stability are some of the other pressing issues we can no longer afford to ignore. But, as Du Bois and Reist argue, the problem of the color lines is the problem that informs and is interrelated with all other problems. If we fail to meet this problem, we may well set the stage for catastrophe in all others.

Color lines across the United States are indeed rapidly being redrawn and reshaded. There are now multiple lines alongside the predictable and persistent barrier between black and white. One wonders whether our uneven successes, fractured attempts, and tiresome ineptitude to mend black and white divisions in the past foretells our ability and wisdom to handle what is imminently before us. States such as California, New York, New Jersey, Illinois, Massachusetts, Texas, and Florida with large minority populations must, without hesitation, take effective measures to prepare for the inevitable.



Leobardo Estrada, one of the nation's foremost demographers, notes that the many changes people in the United States are encountering today precipitate feelings of *powerlessness* and *incompetence*. This country, he states, is in transition. There is economic restructuring in the world, the polarization of income (the decline of the middle class), a glut of complex information processing systems, bewildering pressures on family life and personal identity as well as eye-opening demographic trends. To resist these changes is unrealistic and fruitless. And so we vent our frustrations and soothe our uneasiness by targeting those whom it is convenient to blame, namely minorities, especially immigrants (Estrada, personal communication, August 22, 1990).

Psychiatrist Robert Jay Lifton also argues that the "boil of prejudice" seems to explode during periods of social and political upheaval. When prevailing systems begin to disintegrate or break down, people experience loss of meaning and a "death anxiety" (Bass 1990, p. E16). To counteract this fear and to reassert their "cultural immortality," they feel compelled to persecute those who do not share their values and beliefs. Dominant groups, according to Lifton, constantly attempt to exert their dominance by victimizing others. This disturbing pattern of human behavior, in other words, has psychological underpinnings.

Racial tensions, however, are not just between whites and non-whites. William Henry, for example, writes:

Blacks, who feel they waited longest and endured most in the fight for equal opportunity, are uneasy about being supplanted by Hispanics or, in some areas, by Asians as the numerically largest and most influential minority—and even more, about being outstripped in wealth and status by these newer groups. Because Hispanics are so numerous and Asians such a fast-growing group, they have become the "hot" minorities, and blacks feel their needs are getting lower priority. (1990, p. 30)

It is ill advised and ultimately self-defeating to view the emerging color lines as a threat or negative occurrence. "Once America was a microcosm of European nationalities," states Molefi Asante, chairman of African American Studies at Temple University. "Today America is a microcosm of the world" (as cited in Henry, 1990, p. 29). Manuel Perry, a futurist with the Lawrence Livermore Laboratory, enthusiastically endorses this fact and argues that these differences of race, culture, and language should be looked upon as opportunities to "go global." Ethnic diversity allows a state, region, or nation to operate successfully in the world community. The front lines of international politics and economics, in other words, will be where diversity is accepted and fostered (Perry, 1990). The idea of color lines *blending* for a common purpose should obviously be more appealing than having these same color lines bitterly clash.

The problem of the color lines is certainly not something from which we can shield ourselves. U.S. society is becoming increasingly and irreversibly pluralistic in its racial and cultural composition. The white majority population is proportionately *decreasing* at the same time that there are dramatic percentage *increases* among minorities, particularly Hispanics and Asians.