

## What is different about representing an Indian Child?



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## INDIAN CHILD WELFARE ACT What is it and why does it exist?



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### Federal Indian Policy

- CONFEDERATION PERIOD 1774-1789
- TRADE & INTERCOURSE ERA 1789-1825
- REMOVAL ERA 1825-1850
- RESERVATION ERA 1850-1887
- ALLOTMENT AND ASSIMILATION ERA 1887-1934
- INDIAN REORGANIZATION ERA 1934-1940
- TERMINATION ERA 1940-1961
- SELF-DETERMINATION ERA 1961-CURRENT.

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## ICWA



➤ Federal Law passed in 1978. 25 USC 1901-1963

➤ Congressional Findings: 25 USC 1901

1. Congress has plenary power over Indian Affairs

2. Congress had responsibility for protection and preservation of Indian tribes and their resources

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### Congressional Findings Cont.

3. "There is no resource more vital to the continued existence and integrity of Indian tribes than their children...."

4. "...an alarmingly high percentage of Indian families are broken up by removal and high percentage of children were placed in non-Indian homes.

5. The states have often failed to recognize the essential tribal relations of Indian people and the culture and social standards of Indian communities and families.

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### Congressional Declaration Of Policy 25 USC 1902

"Congress declares that it is the policy of this Nation to protect the best interests of Indian Children and promote stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive home which will reflect the unique values of Indian culture, and be providing for assistance to Indian tribes in the operation of child and family services programs."

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**Nutshell:**

- **establish minimum Federal Standard for removal of Indian Children**
- **Placement preference to reflect Indian culture and values**
- **Assist Tribes in operating children and family services programs**

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- **Law applies to states not Tribes.**
- **Law is based on political status not race.**



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**PRE-ICWA**

- Indian Adoption Project: Child Welfare league Indian Adoption Project 1959 peaked in 1970s
- 25% to 35% of Indian Children were being removed.
- 90% of children removed were placed in Non-Native homes.

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**What can CASAs do to increase the state's compliance with ICWA?**



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**❖ INVESTIGATION**

- Ask whether the child is of Native heritage. Ask whether the child is enrolled or eligible for enrollment in a Federally recognized tribe.
- Ask whether the requirements of ICWA are being followed.
- Ask whether potential foster placements will support the cultural well-being of the child.
- Ask whether the child feels connected to their tribal community.

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**❖ ADVOCACY**

- There is no time but the present to root a child in their culture.
- Speak up for the child's needs
- As a CASA volunteer, you are an advocate for the child's rights as a Tribal citizen.

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❖ FACILITATION

- Work with the Tribal nations to explore options for services.
- Facilitating services for the child will be much easier when you build trust with the tribal community. To do this, remember you serve the Tribal Nation’s interest by **SERVING THE BEST INTEREST OF THE CHILD.**

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❖ MONITORING

- Was there follow up on your questions and concerns?
- Did the child attend the event, class, celebration or function?
- How can we improve access to the Tribal community?
- Does the child have a sense of cultural belonging?
- What other resources could we engage?

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*“WE SHALL REMAIN”*

<http://www.usshallremain.org/>

WE SHALL REMAIN was created to address the effects of historical trauma in our tribal communities. Many times, these untended wounds are at the core of much of the self-inflicted pain experienced in Native America. Much like fire, this pain can either be devastatingly destructive or wisely harnessed to become fuel that helps us to rise up and move forward in life with joy, purpose and dignity.

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