

The background of the slide is a photograph of the aurora borealis (Northern Lights) in a dark, starry night sky. The aurora displays vibrant green and purple hues. Below the sky, a dark, snow-covered landscape is visible. The bottom half of the slide is overlaid with a teal-colored semi-transparent shape that contains the text.

ICWA for CASA

Angi Cavaliere, JD, MJ

Agenda

History – Why was the ICWA made law?
Ongoing need for the ICWA
How to appropriately advocate for Native
American Youth in dependency matters
Questions?





Introduction

Angi Cavaliere, JD, MJ

Stockbridge Munsee Community Citizen

Supervising Staff Attorney, Yurok Tribal Court

Prior experience in representing foster youth in LA County's ICWA court.

Currently assisting in implementing Title IV-E for the Yurok Tribe (among many other duties)

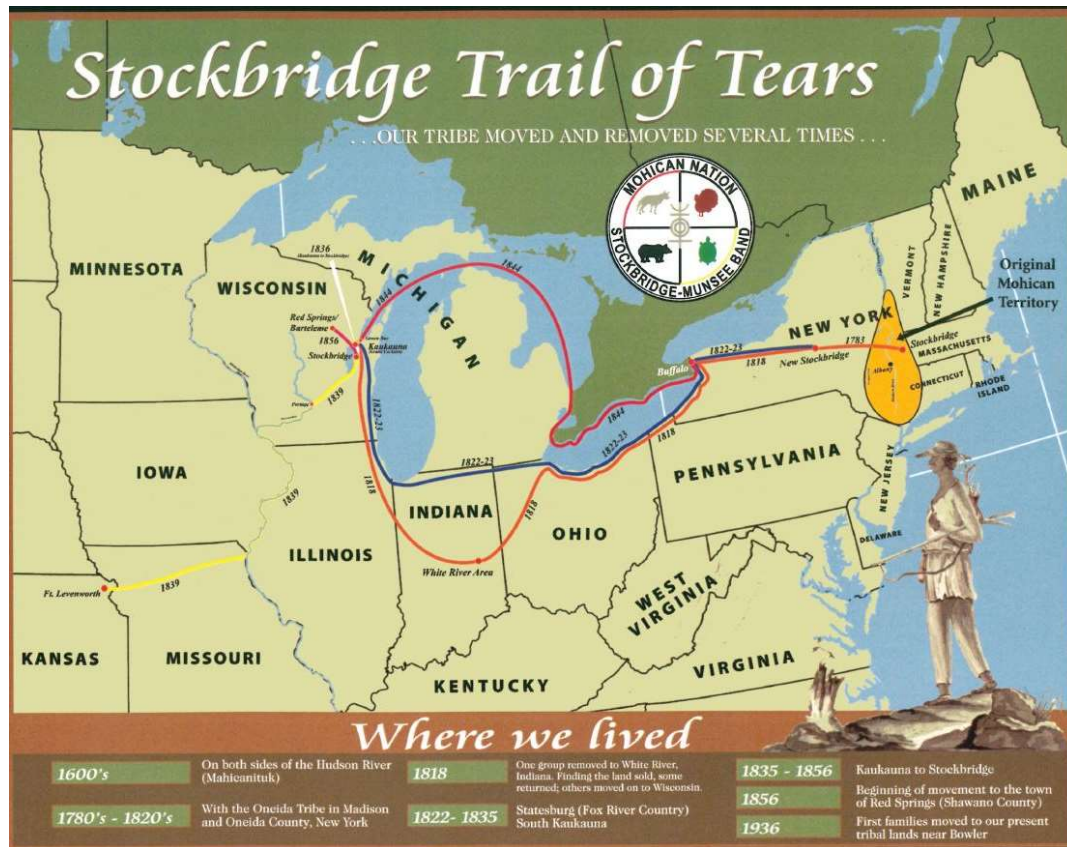
History – Why was the ICWA made law?

This part of the presentation covers discussion of historical trauma that has been shown to continue to have an impact on generations as well as individuals.

- 1. Colonization**
- 2. Relocation**
- 3. Allotment/Assimilation**
- 4. Termination**
- 5. Self-determination**



ERAS OF FEDERAL INDIAN POLICY IN THE UNITED STATES



Unique Histories



Should Indian children be treated differently than other children? Given the history of Indian children in the United States and the trust relationship promised to them by the United States government, the answer is ‘Yes’.

Hon. Leonard Edwards (Ret.)



ICWA – PL 95-608

- ICWA was passed on October 15, 1978
- Its mission is to protect Indian children from arbitrary removal from Indian families by establishing minimum federal standards for state courts and agencies to follow in state court proceedings involving an Indian child.
- Prior to the passage of ICWA, approximately 25-35% of all Indian children were separated from their families and placed in foster, adoptive homes or institutions.
- Congress found “that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe.”

Generally speaking..

SYMBIOTIC RELATIONSHIP BETWEEN TRIBES AND CHILDREN

- Children perpetuate our traditions, identity, and culture.
- Child rearing is often practiced as an extended family structure which can include relatives, friends, elders, and community leaders.
- Who passes down your traditions, identity, and culture?
- How many cousins do you have?

The Heart of ICWA - Becky

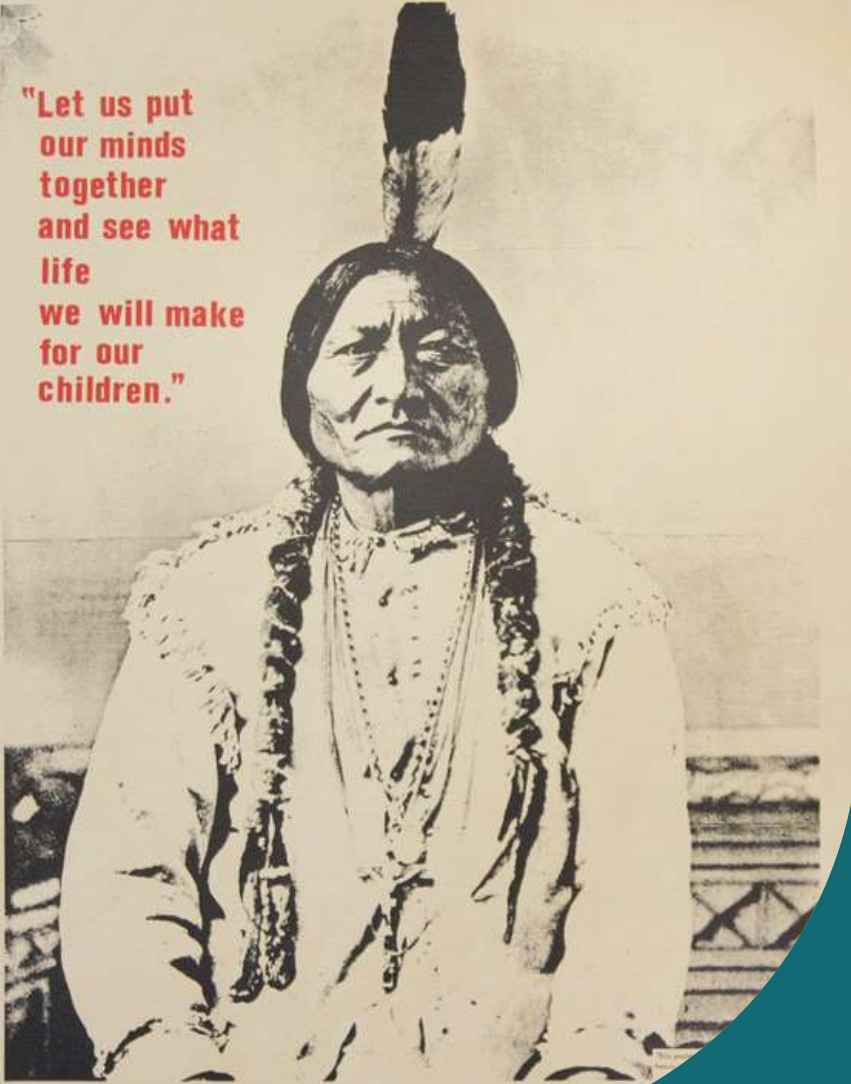
The Indian Child Welfare Act was borne out of the forced removal of one out of every three children from their homes in the late 1970's. This issue is far from ancient history, as we continue to see the devastating effects of non-compliance with ICWA.

- <https://www.youtube.com/watch?v=tYMG13pKq4Y>

ICWA in a nutshell

- Consultation with tribes early & throughout the case.
- Follow the SPIRIT of ICWA
- Inquire if the family is American Indian/Alaska Native
- Notice to all tribes that the child may be a member or eligible for membership.
- Provide Active Efforts (before, during, and after)
- Place within the family or extended family as defined by tribal law or custom
- Work with tribe to define and locate placements
- Concurrent planning (TCA)
- Qualified Expert Witness that speaks with the parents AND the tribe to determine the specifics for that child.

"Let us put
our minds
together
and see what
life
we will make
for our
children."



Sample Footer Text

Ongoing Need for ICWA

Continued Disparity

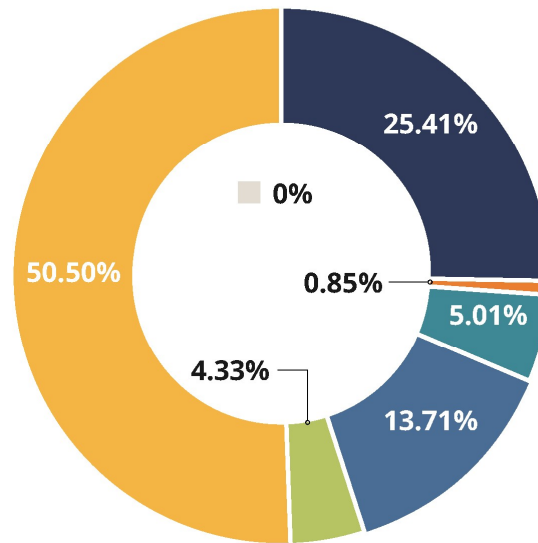
Ongoing challenges to ICWA (and tribal sovereignty in general)

Implementation concerns

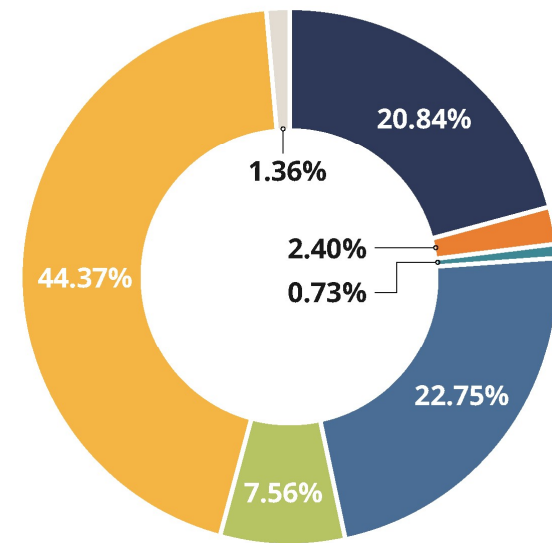
Dispelling existing myths about ICWA and Tribes

Continued Disparity

Child Population by Race



Children in Foster Care by Race



- Hispanic or Latino
- Non-Hispanic American Indian
- Non-Hispanic Asian, Non-Hispanic Native Hawaiian and other Pacific Islanders
- Non-Hispanic Black
- Non-Hispanic multiple race groups
- Non-Hispanic White
- Race unknown

Source: Annie E. Casey Foundation's Kids Count Data Center, 2018

Challenges to ICWA

- Brackeen v. Haaland – allegations that ICWA is unconstitutional, partially argues that it is based on race. ICWA is based on the political status of Native Americans as citizens of sovereign nations.
- Currently pending dates for argument before the Supreme Court of the United States.
- Also – not currently applicable to the State of California (limited to Louisiana, Mississippi, and Texas at this time).
- Viewed by many Native Americans as the first step in eroding, and potentially destroying tribal sovereignty.



DON'T LET ICWA BE THE FIRST DOMINO



[f CarrizoComecrudoTribeofTexas](#)
[@estok_gna_somisek](#)



ICWA is under attack, this is the ongoing legacy of boarding school kidnappings & the governments aim to have us disappear to take over our lands & destroy the water.

Sign the petition & stay tuned for updates.

#CHANGETHENARRATIVE

#PROTECTICWA

#PROTECTTHESACRED

Views of Challenges to ICWA

Implementation Concerns

Due to inconsistent implementation across the United States, the BIA issued guidelines meant to provide clearer direction of the law to states.

States still have continued disparity as mentioned before (13 states are near pre-ICWA levels of 25-35% of the population of Native children in care).

56% of adopted AI/AN children are by non-native adoptive parents.

Myths about ICWA persist

MYTH

- ICWA is race based
- ICWA applies to all children who identify as Native American.
- ICWA ignores the best interests of children
- ICWA favors Native relatives over non-Native relatives

FACT

- Based on the unique political status of tribes and Indian people
- ICWA applies to children that are members of federally recognized tribes or eligible for enrollment
- ICWA is the 'Gold Standard' of child welfare practices
- ICWA does not have a preference between relatives.

Advocacy for Native Youth under ICWA

Start Simple: Pick up your phone or sign into your email

Reach out to the Tribe

Reach out to extended family members

Learn about the tribe's culture and family building relationships

Ensure ICWA compliance

Collaborate with the tribe and children's counsel

Discuss with your youth what makes THEM feel complete and a part of their community

Reaching out

TRIBES

- Google is your friend
- Most Tribes (not all) have a website or at a minimum mailing and phone contact information
- BIA List for ICWA Designated Agent Notice
- <https://www.bia.gov/bia/ois/dhs/icwa>

FAMILY MEMBERS

- Ask the parents
- Ask the state and tribal social workers
- Ask the child who is their family

Learn about the Tribe

TRIBAL CULTURE

- Tribal Libraries
- Tribal Elders Groups
- Tribal Social Worker or Social Services Department
- Tribal Culture Committee
- Tribal Oral histories
- A tribal member



FAMILY REARING PRACTICES

- Family and child rearing practices are often entangled in the tribal culture
- Family-making communities



ICWA Compliance

COLLABORATION

- Reach out to the parties in the dependency case: parents, social workers, child
- Reach out to their attorneys
- Advocate for ICWA Compliance
- SPIRIT OF ICWA

The Child

Your client – the Child (not Grogu) – is the most knowledgeable about what they define as their family, their community, their “people”.

Talk to them, ask them to tell you about their family and people.

Ask them what activities they do with family and people.

Have they lived on their tribe’s land?

Ask about certain clothing, music, dances, events, ceremonies.



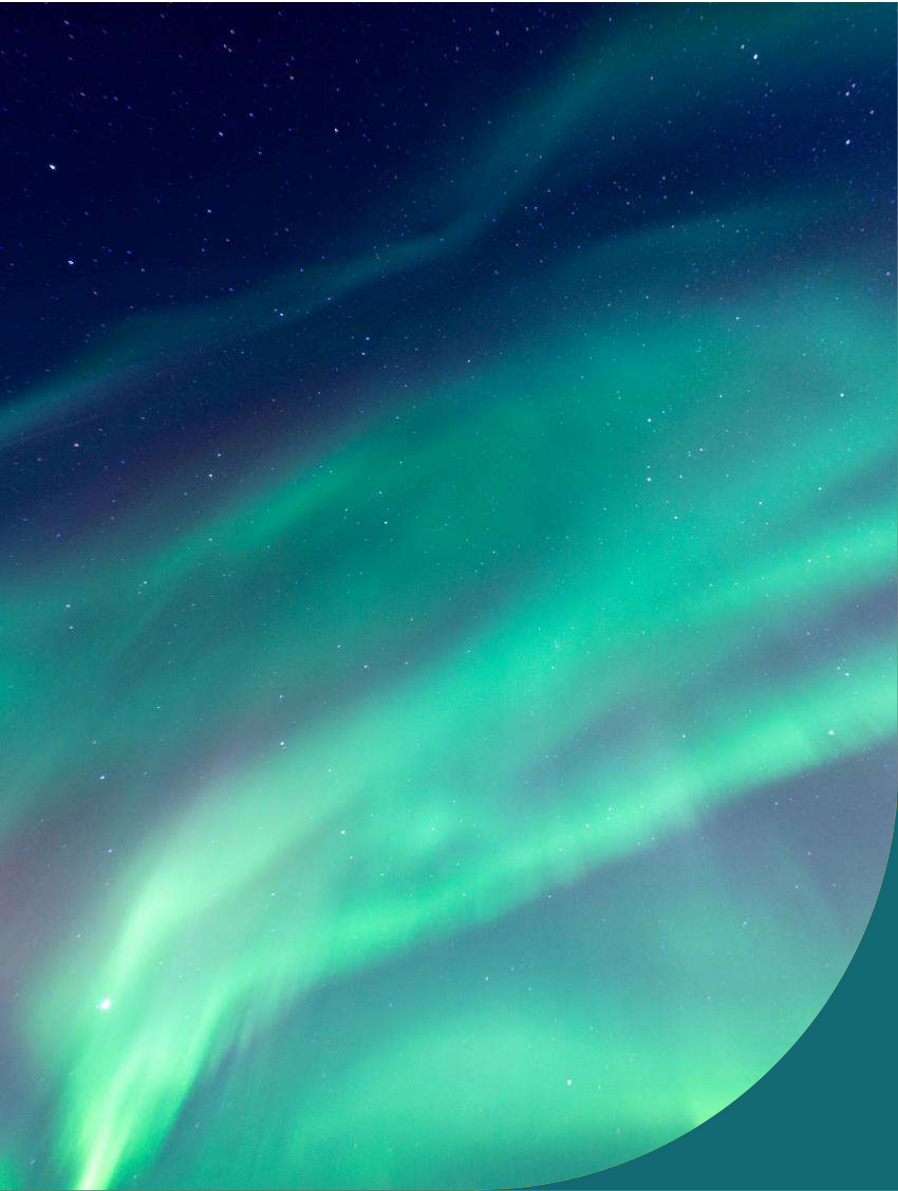
Summary

Remember the history

Preserve the Future

Protect ICWA

Every Native born into this world is a victory against colonialism & attempted genocide. You are the resistance. You are hope made flesh.



Thank You

Angi Cavaliere