Indian Child Welfare Act & Title IV-E at a Glance
Including Information on Northern Minnesota & Wisconsin
Tribal Welfare Programs

Meghan Brun, Social Work
Ms. Bret Evered, First Nations Studies
University of Wisconsin Superior

Introduction: The Evolution of the Indian Child Welfare Act

There is no doubt that the rate of Native American children being removed from their homes has significantly decreased, and things are getting better for Native American children, compared to the treatment received prior to the Indian Child Welfare Act (ICWA) of 1978. The article Intergenerational Trauma: Understanding Natives’ Inheritance by Mary Annette Pember the section Trauma May Be Woven Into DNA of Native Americans (paragraph 7) states; “According to researchers, high rates of addiction, suicide, mental illness, sexual violence and other ills among Native peoples might be, at least in part, influenced by historical trauma.” In the same article and section (paragraph 2) it also states; “The science of epigenetics, literally “above the gene,” proposes that we pass along more DNA in our genes; it suggests that our genes can carry memories of trauma experienced by our ancestors and can influence how we react to trauma and stress.” The historical trauma is very well alive within Native American communities and drug abuse and alcoholism is used as a coping mechanism that can be passed down to children as young as middle school and there is not enough programs or support systems to help stop the abuse in its tracks. The struggle scientifically comes from historical trauma, having that trauma of our Native American ancestors being mutilated passed down intergenerationally, and then being told to get over it puts Native American people in a position that is vulnerable to addictions of many sorts. This trauma began with the first settlers, but the beginning of assimilation really torpedoed our existence into oblivion. Now many generations and tribes across Turtle Island (North America) are fighting to keep their cultures, traditions and languages alive.

Boarding School Era

Native American history has not always been portrayed in an accurate manner and there exists many negative myths about Native American people. For example, one implies that Native American children thrived at boarding schools and away from their families. In an article titled History and Culture Boarding Schools states; “The boarding school experience for Indian children began in 1860 when the Bureau of Indian Affairs established the first Indian Boarding School on the Yakima Indian reservation in the state of Washington.” (www.nativepartnership.org) The original plans regarding boarding schools came from Herbert Welsh, and Henry Pancoast, these individuals also helped in creating organizations including the Board of Indian Commissioners and the Women’s National Indian Association. In the article History and Culture Boarding Schools states that; “The goal of these reformers was to use education as a tool to “assimilate” Indian tribes into the mainstream of the “American way of life,” a Protestant ideology of the mid-19th century.” (www.nativepartnership.org) In just 20
years from the first boarding school opening in 1860, 59 more schools were made, and approximately 6,200 Native students were in the assimilation process. “Boarding schools were the ideal instrument for absorbing people and ideologies that stood in the way of manifest destiny” (www.nativepartnership.org)

The day schools and on-reservation boarding schools, however, did not meet expectations into fully assimilating Native students into American society. These tactics at day schools were not good enough for some assimilationists. “It was felt that reservation schools were not sufficiently removed from the influences of tribal life. In the eyes of assimilationists, off-reservation boarding schools would be the best hope of changing Indian children into members of white society. For Col. Richard Henry Pratt, the goal was complete assimilation. In 1897, he established the most well-known of the off-reservation boarding schools, the Carlisle Indian school in Carlisle, Pennsylvania.” (www.nativepartnerships.org) He believed that for “Indians” to be fully assimilated they needed to be away from the home and their culture. Col. Pratt’s philosophy was “kill the Indian, save the man,” meaning he cared about the man, but not who that man was spiritually and culturally.

Native American culture was severely affected by boarding schools, the children who went off reservation were forced into going to these off-reservation boarding schools. Many Native American children were unable to return home. “The transition to boarding-school life seldom came smoothly for Indian children. The experience was punctuated by the trauma of separation from family and community, sever bouts of homesickness, and a difficult adjustment to a new environment.” (www.snowwowl.com/histboardingschools) Upon arriving at these boarding schools, children were not allowed to speak their Native language. “Off-reservation boarding schools instituted their assault on Native cultural identity by first doing away with outward signs of tribal life that the children brought with them. The long braids worn by Indian boys were cut off. The children were made to wear standard uniforms. The children were given new “white” names, including surnames, as it was felt this would help when they inherited property.” (www.nativepartnerships.org)

When any sign of tribal or cultural recognition was done punishment was to follow after they practiced who they were inside. These schools were not kind to the Native children at all, and when punishment came, it was always cruel and unusual. Punishment ranged from starvation and being hand cuffed in a basement for days to being whipped and hit with various objects. “Discipline within the Indian boarding schools was severe and generally consisted of confinement, deprivation of privileges, threat of corporal punishment or restriction of diet. In addition to coping with the severe discipline, Indian students were ravaged by disease at boarding schools.” (www.nativepartnership.org) Native American families attempted to band together to get their children back, in the article History and Culture Boarding Schools it said that, “Indian parents also banded together to withdraw their children en masse, encouraging runaways and undermining the schools’ influence during summer and school breaks. An 1893 court ruling increased pressure to keep Indian children in boarding schools. It was not until 1978 with the passing of the Indian Child Welfare Act that Native American parents gained the legal right to deny their children’s placement in off-reservation schools.”

Indian Child Welfare Act of 1978

It was not until the Indian Child Welfare Act (ICWA) of 1978 that Native American’s finally received parental rights to their children and were able to refuse them being sent to off-
reservation boarding schools. According to the National Indian Child Welfare Association; “The Indian Child Welfare Act (ICWA) was enacted in 1978 in response to a crisis affecting Native American and Alaskan Native children, families, and tribes. Studies revealed that large numbers of Native children were being separated from their parents, extended families, and communities by state child welfare and private adoption agencies.” The idea of ICWA is to keep Native American children at home or within the community they were brought up in. Prior to ICWA, “In fact, research found that 25%–35% of all Native children were being removed; of these, 85% were placed outside of their families and communities—even when fit and willing relatives were available.” (NICWA) The Indian Child Welfare Act allowed for Native children to keep their cultural identity; ICWA is unique in that way because they consider the child’s cultural background when they choose a placement. Keeping the child within the family, whether an aunt or grandparent, is capable is an important aspect for cultural reasons and is one of the central goals of ICWA. The policy of keeping the child with a relative has been incorporated into the wider field of the child welfare system and not just kept exclusively to ICWA.

As a Native American, being able to say that this program really helped pioneer the child welfare system is a win for Native Americans. “ICWA has been labeled “the gold standard” of child welfare policy by experts and national leading child advocacy organizations far beyond Indian country.” (NICWA) Another positive aspect of keeping Native children with family or within the Native community is that they will not have to struggle through cultural identity, they will be able to grow up knowing who they are and where their ancestors came from. Although ICWA attempts to keep Native children in Native homes, these children are still being taken from their homes four times faster than any other race. “Although progress has been made as a result of ICWA, out-of-home placement still occurs more frequently for Native children than it does for the general population.” (NICWA)

**Indian Child Welfare Act Requirements**

Indian Child Welfare Act is running under Congress, and one of the reasons it was created was because they see how much of an impact removing the children from their homes and communities has on the Native American families and that the impact held a very negative space within the reservations. The base for children in ICWA is good, but there is still a lot of growth that needs to be done in order to reduce the number of children being taken from the reservations.

Congress has intended to “protect the best interests of Indian children and to promote the stability and security of Indian tribes and families.” In the federal law, ICWA made a rule stating that the courts must notify ICWA workers and the tribe in a custody case involving a Native American child. To determine which tribe was called in an ICWA case was dependent on whether the child was already enrolled in a federally recognized tribe or if the child was eligible to be enrolled in one of the parents’ tribes. Congress claims that ICWA came at a vital time for Indian nations, based on collected documents it seems like it was the turning point for Native American communities and the child welfare system in general. Indian Child Welfare Act strived for a positive outlook, so they presented rules and policies for their workers, and if a person were looking to be that social worker under ICWA the rules that were made were to be followed and were made to keep in the best interests of the child and family.

These requirements included:
Provide active efforts to the family;
- Identifying a placement that fits under the ICWA requirements;
- Notify the child’s family, and tribe when a proceeding is going to take place; and
- Work actively to involve the family and tribe in a court proceeding.

Regarding an ICWA case, the tribe decides if they want to be a main participant in the proceeding. If this is the route they choose then a transfer of jurisdiction must take place, and what happens is a transfer between the state courts and tribal courts as well as a transfer within case workers also happens. In some cases, it happens where the tribes decide not to proceed on with ICWA which normally happens when the current case manager has the best intention of reuniting the child with the parents. The tribe steps in if the case happens to be one where the parents have no way of getting their child back. Under ICWA policy they then proceed to make sure that the child is placed back in the community where they are able to learn about their cultural identity. Indian Child Welfare Act applies in both voluntary settings (meaning the courts have to make it an ICWA case), and involuntary setting (meaning the courts request for an ICWA case) within the proceeding, meaning that whether the people advocating and working with the Native child agree or disagree an ICWA case would be filed for, and a case worker will be notified of the proceeding, then at this time the tribe has to make the decision of if they want to be involved or not in the case. Indian Child Welfare Act cases can happen between relatives, non-relatives, and unwed parents; ICWA however, does not, proceed with custody cases if the parents are divorced. Indian Child Welfare Act is here to support the best interests of the child, and they work to reunite parents with their children, granted the parents show improvement in their actions that were negative and put them in the position to be in a court room in the first place. Tribes follow ICWA’s two common terms in whether or not they get involved in a case.

- The custody battle is surrounding a Native American child, or
- A child custody proceeding is the question at hand

In the beginning stages of ICWA the court system deemed it difficult to know who should first be notified first in a case regarding a Native American child in a court proceeding. Under ICWA policy the delay of notifications has been marked as an issue. All parties involved in a case should work to ensure that all proceedings that surround a Native American child must be determined as soon as possible. Whether it is an ICWA case or not the state must notify the employees who are working under the Indian Child Welfare Act, then the parents, and finally all other persons involved in the case should be notified. In a situation where the tribe is not notified immediately of a case involving one of their enrolled members or potential members until after the proceeding has been declared (the decision of wanting an ICWA proceeding halfway through), from there the court system must then notify the tribal welfare system with anymore additional information surrounding the child’s case and anything else from there on out about the proceeding.

Once the tribe decides to be involved there is no going back in the proceeding and that means the tribe will see the proceeding through till the end. In cases involving Native American children case managers must first look at the tribal enrollment of the child, or if the child is not enrolled the case manager would look to see if the child is eligible to be enrolled, and if the child is eligible the case manager assigned to the case will start the enrollment paperwork. The social workers and case managers will then proceed with a path that will lead to a positive and healthy lifestyle for the child at hand this also contributes to their personal welfare. In some cases, the tribe can choose
whether or not to intervene in a proceeding; if they choose to stay out of it, their decision will stand throughout the proceeding, and they will not be allowed to get involved at a later time. In some cases, involving custody issues where the parents are un-wed and are able to come up with a likeminded conclusion that results in the child’s best interest there will then be no need for an ICWA proceeding.

Tribal Child Welfare Programs

“With the intent to clarify the law and improve compliance in Wisconsin, ICWA was signed into state law on December 9, 2007.” (dcf.wisconsin) Up until then ICWA was nonexistent in the state of Wisconsin, but since it is a federal act and federally funded, Native American children were still covered under ICWA in Wisconsin. Studies found that in Wisconsin, Native American children were 1,600 times more likely to be removed from their home and their community rather than any other race of children. (dcf.wisconsin) In the state of Wisconsin, there was a trend that Native American children that were put into homes of a different race suffered from cultural identity issues, and other things regarding their culture. People in the social work field who were advocating for Native American children wanted to put a stop to the identity crisis that was at hand and has affected so many young Native American children. Wisconsin has adapted to all the rules that surround ICWA by honoring the tribal wishes of keeping children in the community or with family if possible or until the parents are able make a positive growing environment that fits the child’s needs.

The tribe from Lac Du Flambeau, Wisconsin was not allocated any Title IV-E funds until 2014, so their tribe did not have a fully federal funded ICWA child welfare building or program until more a recent time. With having the better funding, the tribal child welfare program was able to help their youth within the foster care system and reservation a little more than usual. In the beginning, the state was only giving proper funding to the counties and bypassed the need for funding on tribal land. There are not enough case managers to work with all the children on reservations, and that is due to the lack of funding. Now that the state is opening Title IV-E to these tribes that are in need, they will be able to hire more people and start getting their tribal child welfare programs up to date for the betterment of the enrolled members. State officials have said that this improvement may help Lac Du Flambeau and lower their need for more foster houses on the reservation and that maybe the next hurdle they surpass is the drug problem on reservations and that will eventually help prevent children being taken from their homes.

The Oneida Nation, near Green Bay, Wisconsin, also follows the guidelines of ICWA in order to help preserve the culture of the Native American children within the tribe. They work on preventing child abuse and neglect, they view it as their responsibility to protect their children’s safety and to help revitalize the next generation, so the seven generation teachings can continue to thrive. The Oneida Nation fosters children up until the age of eighteen and that is when their eligibility under ICWA ends.

Wisconsin requires their county social workers to work closely with the Native American children’s tribes in order to maintain an ICWA relationship. They make sure the staff is fully equipped to work with Native children and what to do if they live off the reservation. They make sure to keep Native child's cultural background in mind during the placement process, in order to prevent an identity crisis situation that could potentially lead to suicide in the future. Wisconsin Indian Child Welfare Act is really working to prevent suicide of these young Native children, in
the state, and the tribes are slowly, but surely, revitalizing the cultural identity for the next generations to come.

In Minnesota there are many Native American children within the foster care system, and in Hennepin County’s case there are not enough social workers to provide the services needed to work with the Native American children. On the county’s website one can see that there is a need for help regarding Native American children in the foster care system. Hennepin county still wishes to follow the ways of ICWA law, sometimes that is not enough as there are very few Native American foster homes in the county. Causing the placement of Native American children in the houses of non-Native American people. The hope is that the non-Native American foster families would respect the child’s wish in continuing to follow the Native American cultural lifestyle.

Various tribes in Minnesota have sets of rules to follow on the Red Lake Reservation they allow ICWA to:

- Determine eligibility,
- Monitor and plan the cases,
- Monitor out of home placements, and
- Represent the Red Lake tribe in all ICWA proceedings off the reservation.

On the Leech Lake Reservation, they allow ICWA to:

- Make permanent recommendations and
- Provide guidance.

On the White Earth Reservation, they allow ICWA to:

- Provide child protection,
- Work for family preservation and child welfare, and
- Do intake assessments and processing.

Many of these reservations have an independent living and life skills program that is offered to Native American foster children ages 16-21. In the program the foster children would learn to live on their own and in some cases, the tribe may even help provide some of the living expenses. Occasionally the tribe would help an older child get their own place within the reservation, to help them prepare for adulthood. Also, many of these tribes strive to keep their Native American children at home or with a family, within the community, adhering to ICWA guidelines.

**Title IV-E**

In order to make ICWA run there must be a way to compensate the workers. That is where Title IV-E comes in, this grant is how this country trains, educates and funds the social workers that work in the child welfare departments around the country. Title IV-E comes from the Social Security Act, and acts under the code of federal regulations, this program is renewed annually, and has a set of eligibility requirements and allowed usage of funds. The funds are awarded through a grant, and then the Title IV-E representative through that child welfare program then sees how the funds must be allocated, and then throughout the year they must file reports on how the money is being used for the program. In order to get new funding, these reports must be clear, concise, and accurate upon being handed in for review. Jawnie Hough, who works for the Leech Lake Band of Chippewa Indians, is in the child welfare department. Hough serves as the Title IV-E representative, which puts her in charge of overseeing how the funds are used on the Leech Lake
reservation. Hough must make sure the reports are filed and turned in on time or else this risks the program’s funding. For every report turned in, the tribe gets a certain percentage reimbursed. Hough is dedicated to making sure the tribe is getting the most use out of all the money they are receiving. Getting the money back allows for the case managers to put more into the foster homes and help these children that are in need. Under this Title they also wanted to make it easier to place children in safer homes, and they put more money into it ensuring that these children are exposed to a better life, from what they were brought out of. What Title IV-E improved was the foster care system and it also improved the management and eligibility side that is overseen in many of the foster care programs.
Works Cited


“Title IV-E Program Funding.” Tribal Title IV-E Funding | National Child Welfare Resource Center for Tribes, www.nrc4tribes.org/Direct-Tribal-Title-IV-E-Funding.cfm
