Indian Child Welfare Act

Everyone wants what is best for the child!

“Why are Indian children and families treated differently?”
PERCEPTION

- Is often influenced by your where you are standing when observing

Further research?

Adoption and Ethics: The Role of Race, Culture and National Origin in Adoption

By Freundlich [CWLA]
The historical context …

for child welfare efforts and Indians

Why trust is not automatic when confronted with:

“I am from the government - I am here to help”
or

“Trust us, we know what is best for your children”

Indian Child Welfare Efforts

130 years ago
BIA boarding schools

BIA started as part of the War Department
Education as a part of the “civilizing” function

Education was supposed to be the Solution to the “Indian Problem”
1878 the Hampton Institute, a school for freed slaves, accepted Indian prisoners in an assimilation experiment.

In 1879 Carlisle Indian School, patterned after the military model, opened.
By 1890 attendance was enforced through threats of cessation of rations and supplies.

Early “approved” curricula prohibited teaching of reading & writing.
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Many died of disease and broken hearts.

...in the museum at Haskell
Succeeded in breaking intergenerational teaching in Indian communities. Language, religious practices, cultural knowledge were targeted.

Generations learned to parent from BIA dorms
View from another continent

- Same impact…
- “Rabbit Proof Fence”
  - Movie about the Australian Aborigine experience with education
Indian Child Welfare Efforts
50 years ago

1958 Indian Adoption Project
Joint project of the BIA &
the Child Welfare League of America [CWLA]
1958 Indian Adoption Project

- **Goal**: to provide adoptive placement for American Indian children whose parents were deemed unable to provide a ‘suitable’ home
- States were paid by the BIA to remove Indian children from their homes alleging “neglect”
- Transracial placements were encouraged and most were separated from their communities
- 25 – 35% of all Indian children were removed from their homes

Indian Child Welfare Efforts

30 years ago
American Indian Policy Review Commission of the United States Congress

May 17, 1977

Comparative Rates for Indian Children

Arizona

St 100%
Adoption
Foster Care

100
420
270
0
50
100
150
200
250
300
350
400
450

450
400
350
300
250
200
150
100
50
0

Arizona
Comparative Rates for Indian Children

California

Michigan

St 100%
Adoption
Foster Care
Comparative Rates for Indian Children

**Minnesota**
- St 100%: 100
- Adoption: 390
- Foster Care: 1,650

**Montana**
- St 100%: 100
- Adoption: 480
- Foster Care: 1,280
Comparative Rates for Indian Children

North Dakota

- St 100%
- Adoption
- Foster Care

Utah

- St 100%
- Adoption
- Foster Care
Comparative Rates for Indian Children

INDIAN CHILD WELFARE ACT
P.L. 95-608 (11/8/78)
## Indian Child Welfare Efforts

### 2007

<table>
<thead>
<tr>
<th>State</th>
<th>Score</th>
<th>Standard Deviation</th>
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<tbody>
<tr>
<td>Colorado</td>
<td>1.94</td>
<td>.78</td>
</tr>
<tr>
<td>North Dakota</td>
<td>3.09</td>
<td>.69</td>
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<tr>
<td>Utah</td>
<td>3.97</td>
<td>.82</td>
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<tr>
<td>Washington</td>
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<td>Iowa</td>
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<tr>
<td>Nebraska</td>
<td>6.54</td>
<td>.80</td>
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<tr>
<td>Minnesota</td>
<td>7.31</td>
<td>.63</td>
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<tr>
<td>Oregon</td>
<td>8.68</td>
<td>.75</td>
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### Disproportionality Rates: NCJFCJs

<table>
<thead>
<tr>
<th>State</th>
<th>2004</th>
<th>2009</th>
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<tbody>
<tr>
<td>South Dakota</td>
<td>3.7</td>
<td>3.9</td>
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<tr>
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<td>1.2</td>
</tr>
<tr>
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<td>6.6</td>
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<tr>
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<td>2.5</td>
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### Disproportionality Rates: NCJFCJs

**UNDERSTATED** – Census & AFCARS

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Sec. 2
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Sec. 2

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(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children… by nontribal public and private agencies…. 
ICWA is designed to remedy cultural mistakes that result in Indian children being placed out of home more often than necessary.
INDIAN CHILD WELFARE ACT
P.L. 95-608 (11/8/78)

DEFINITIONS
Indian

(3) “...member of an Indian tribe [federally recognized], or who is an Alaska Native and a member of a Regional Corp....”

Political, not racial, identification

Government to government relationship

Indian Child

(4) “Indian child” unmarried under 18...either

(a) a member of an Indian tribe or

(b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;
Indian Child

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  - (a) a member of an Indian tribe or
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Parent

- (9) “parent” means the biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;
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TITLE I, SECTION 102
25 U.S.C. 1911

Notice
NOTICE
(a) In any involuntary proceeding in a State court...

party seeking the foster care ...
...or termination ...
NOTICE
(a) In any *involuntary* proceeding in a State court... party seeking the foster care ...or termination ...shall notify the parent or Indian custodian and the Indian child’s tribe,

...by registered mail with return receipt requested ....
Section 103
25 U.S.C. 1913

- Voluntary Consent

Voluntary consent to TPR

At least 10 days after birth

In writing

Before a judge

Competent Jurisdiction
Section 103
25 U.S.C. 1913

- Voluntary Consent
- Withdrawal of Consent
How does this happen?

- An exercise …

MIND THE LITTLE THINGS

Springs are little things, but they are sources of large streams; nails and pegs are little things, but they hold the parts of a large building together; a word, a look, a smile, a frown, are all little things, but powerful for good or evil. Think of this and mind the little things. - Hillis
Find the number of Fs
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Zero to Three

Four
Five

Six
MIND THE LITTLE THINGS

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