

The Role Children's Advocacy Professionals Play in Supporting Compliance with The Indian Child Welfare Act

**NATIVE
CHILD
ADVOCACY
RESOURCE
CENTER**



UNIVERSITY OF MONTANA



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Native Child Advocacy Resource Center

NATIVE CHILD ADVOCACY RESOURCE CENTER



UNIVERSITY OF MONTANA



The Native Child Advocacy Resource Center, a division of the National Native Children's Trauma Center at the University of Montana, provides training and technical assistance to promote the expansion of the child advocacy center model in tribal communities.

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Vision

Every Native Nation has a coordinated response to child maltreatment that honors their cultural values, empowers healing, and contributes to a healthy community.



Kara Pasqua, MLS

Citizen of the Cherokee Nation, with Pit River-Paiute descendancey

Served Tribal Children & Family Programs for 25 + years

Provides Training and Technical assistance to Tribal CAC's, Tribes interested in developing CAC/MDT, and Non-Tribal partners working with Tribal MDT/CAC.



Kimee Wind-Hummingbird, MSW

Citizen of the Muscogee Nation, with Cherokee descendancey

Served Tribal Children & Family Programs for 20 plus years

Trainer and Consultant with Tribal and Non-Tribal community partners, extensive expertise in Indian Child Welfare

Focus on keeping Indigenous families connected to their Tribe, Culture and Community



Presentation Roadmap

- Recognize the impact of historical and intergenerational trauma when providing victim services with American Indians
- Understand why professionals who work within Children's Advocacy Centers need to have a working understanding of the Indian Child Welfare Act (ICWA)
- Identify strategies to support the implementation of ICWA within the context of Child Advocacy Center work
- Realize the importance of and how to practice with cultural humility in the context of ICWA cases.



Disclaimers



Power, privilege and race will be our companions:

This may mean feeling uncomfortable

This may challenge our paradigms

This may mean helping one another create safety to engage in the process

Everyone is on a spectrum of knowledge about American Indians



Why talk about Historical Trauma?



Historical Trauma



“The cumulative psychological wounding across generations, including the lifespan, which emanates from massive group trauma.”

Primary Elements

- ✓ Trauma or wounding (“soul wound” Duran & Duran, 1995, Duran, 2006, Mohatt, et al, 2014)) or set of trauma’s
- ✓ Shared by a group of people who share a specific group identity (Walters, et al. 2011)
- ✓ Genocidal or ethnocidal intent (Walters, et al. 2011)
- ✓ Spans multiple generations (Mohatt, et al, 2014)

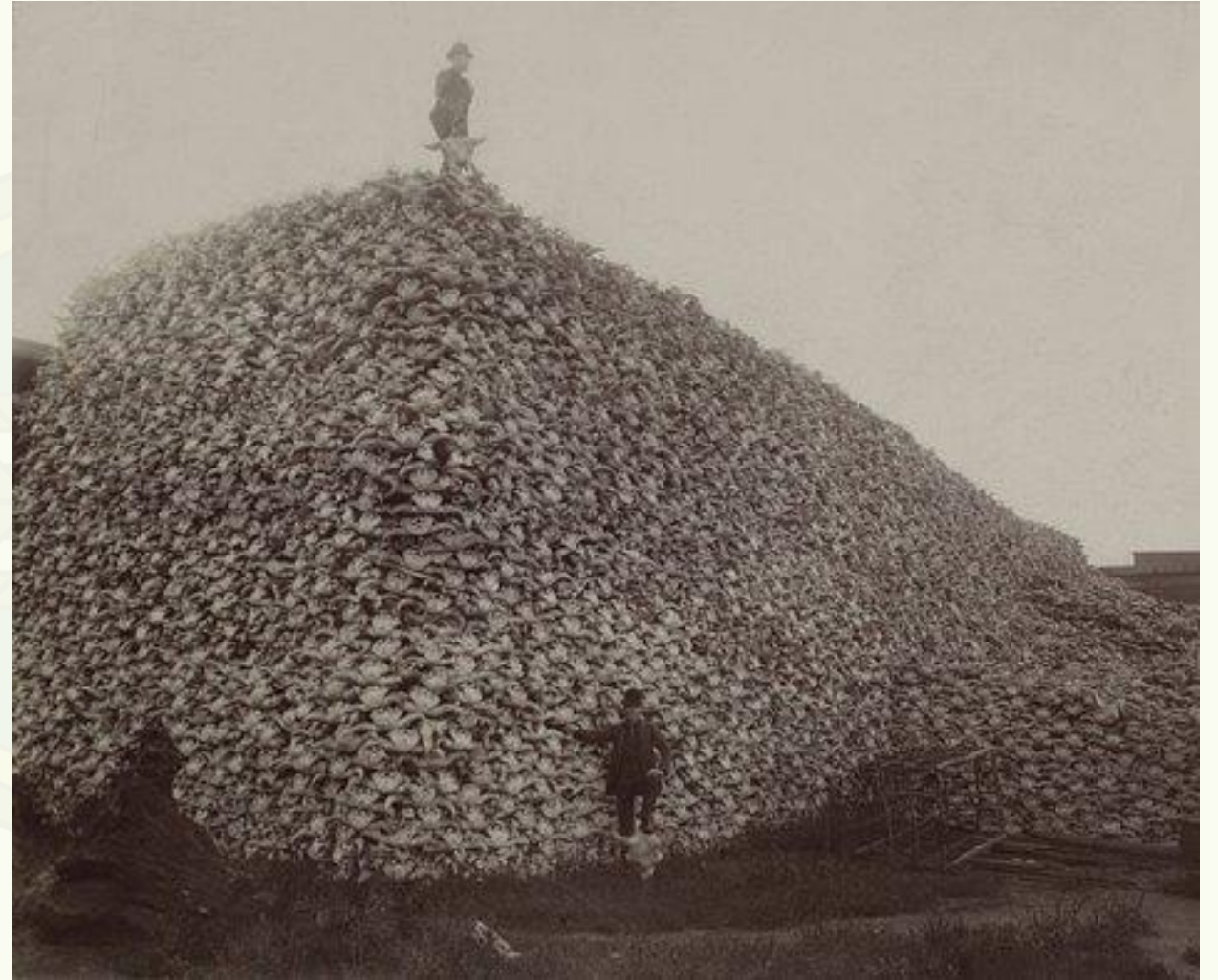


► **“The historical losses experienced by North American Indigenous people are not ‘historical’ in the sense that they happened long ago and a new life has begun. Rather, they are ‘historical’ in that they originated long ago and have persisted.”**



“I feel like I have been carrying a weight around that I’ve inherited. I have this theory that grief is passed on genetically because it’s there and I never knew where it came from. I feel a sense of responsibility to undo the pain of the past. I can’t separate myself from the past, the history and the trauma. It has been paralyzing to us as a group.”

A Lakota/Dakota Woman
(Brave Heart & DeBruyn, 1998)



Examples of Historical Traumas for AI/AN



Disease

Starvation

Colonization

Forced migration/relocation

Genocide

Broken treaties

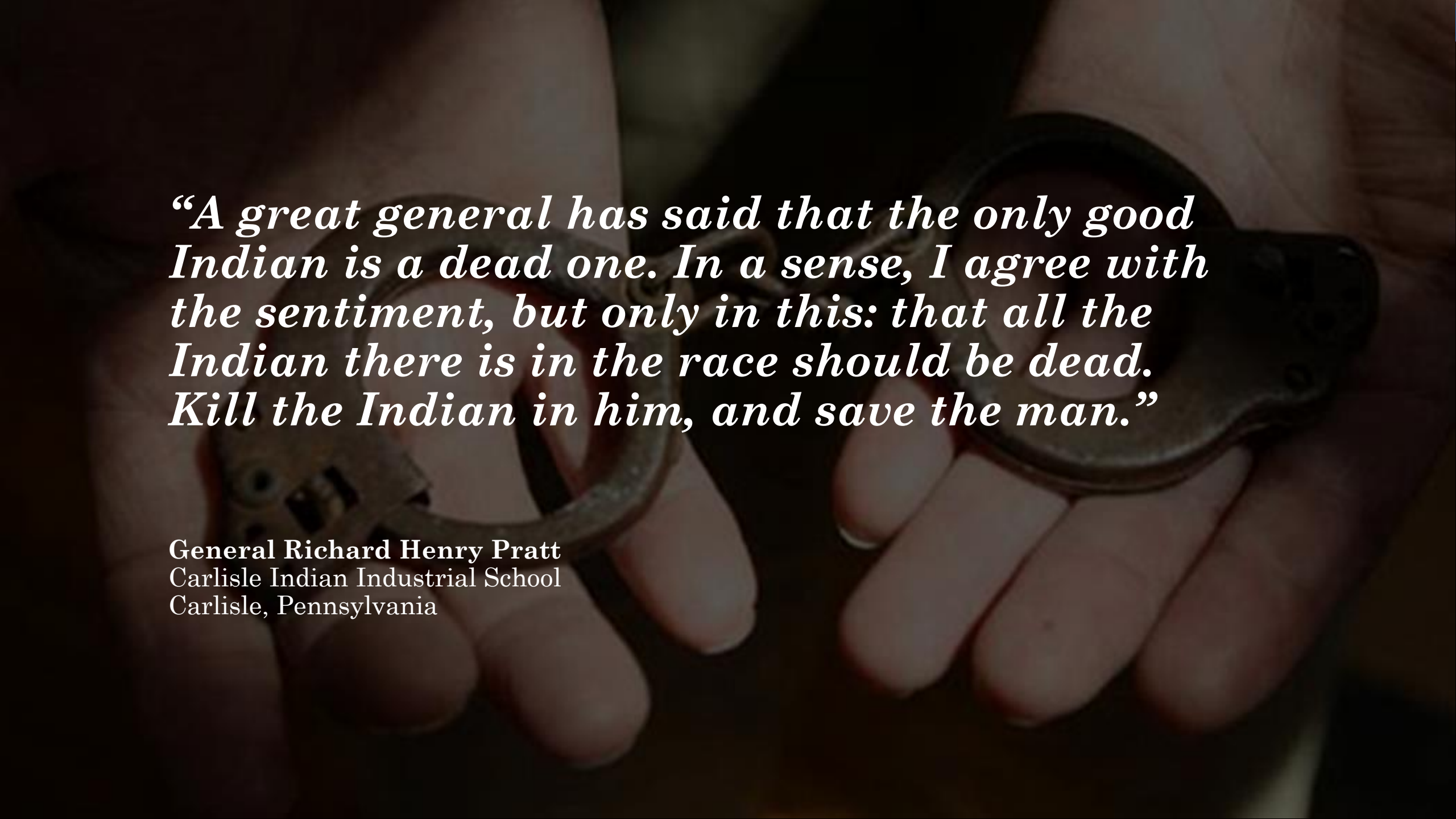
Criminalization of spirituality

Reservations

Boarding schools

Loss of children



A pair of hands is shown holding a pair of metal handcuffs. The hands are positioned as if they are about to put the handcuffs on or have just taken them off. The background is dark and out of focus.

“A great general has said that the only good Indian is a dead one. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.”

General Richard Henry Pratt
Carlisle Indian Industrial School
Carlisle, Pennsylvania



Before Entering School
Sioux, 1917.





“...By the late 1870s, its goals turned toward destroying tribal identity and assimilating Indians into broader society. See L. Lacey, The White Man’s Law and the American Indian Family in the Assimilation Era, 40 Ark. L. Rev. 327, 356– 357 (1986). Achieving those goals, officials reasoned, required the “complete isolation of the Indian child from his savage antecedents.” ARCIA 1886, at LXI. And because “the warm reciprocal affection existing between parents and children” was “among the strongest characteristics of the Indian nature,” officials set out to eliminate it by dissolving Indian families. Annual Report of the Commissioner of Indian Affairs to the Secretary of Interior 392 (1904).”

Justice Gorsuch concurring opinion,
Haaland v Brackeen, 599 U.S. ____ (2023)









PARENT-CHILD RELATIONSHIP

Shame, guilt & remorse for past behaviors

Traumatic memories may be stimulated for parents who were abused as children

Lack of exposure to good parenting models, engage in coercive/punitive parenting

Parental trauma histories impact their:

- Ability to regulate their emotions
- Soothe their child
- Judgements on safety for self/children



Community or Cultural Resilience

The “capacity of a distinct community or cultural system to absorb disturbance and reorganize while undergoing change so as to retain key elements of structure that preserve its distinctness”

(Healy, 2006)



What does ICWA mean to Native Nations?



The Indian Child Welfare Act (ICWA)

- Enacted in 1978

25 U.S. Code § 1901 - Congressional findings

....(3) 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;...



Anna Townsend, 9, of Fallon, Nevada, testifying on April 8, 1974 at the Subcommittee on Indian Affairs of the U.S. Senate. Photo courtesy: NBCUniversal



SPIRIT OF ICWA

Gold standard practice across the board
for families involved in the child welfare system

Keep families connected to each other,
their community and culture

Provide active efforts to prevent the break-up
of Indian families

If imminent danger exists, placement should
be with family



ICWA IS NOT RACE BASED

Political affiliation

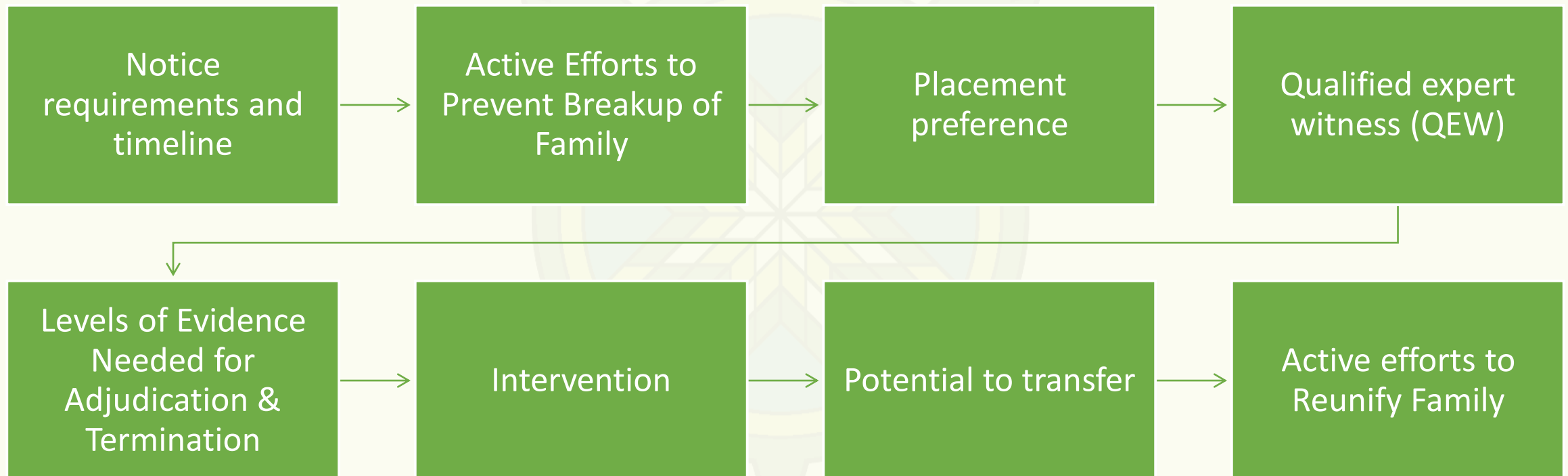
Citizenry

Protections for citizens of sovereigns

Can choose to be citizen or choose not to be



Vital Aspects of ICWA



Comprehensive State ICWAs

Individual states have enacted their own laws to protect Indian children & their families. As of early 2023, those states are:

- **California, Iowa, Maine, Michigan, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, Washington, Wisconsin and Wyoming**
 - **Connecticut**

Proposed state laws in 2023

- **Arizona, South Dakota and Utah**



IV

Often, Native American Tribes have come to this Court seeking justice only to leave with bowed heads and empty hands. But that is not because this Court has no justice to offer them. Our Constitution reserves for the Tribes a place—an enduring place—in the structure of American life. It promises them sovereignty for as long as they wish to keep it. And it secures that promise by divesting States of authority over Indian affairs and by giving the federal government certain significant (but limited and enumerated) powers aimed at building a lasting peace. In adopting the Indian Child Welfare Act, Congress exercised that lawful authority to secure the right of Indian parents to raise their families as they please; the right of Indian children to grow in their culture; and the right of Indian communities to resist fading into the twilight of history. All of that is in keeping with the Constitution’s original design.

Haaland v. Brackeen, 599 U.S. ____ (2023), J. Gorsuch, concurring

Challenges

Brackeen v. Haaland

Adoptive Couple v. Baby Girl



Why Does ICWA Matter to Me, as a Service Provider?

The professional and practice implications for ancillary child welfare professionals



Professional Implications- Law

Chief Justice Montoya-Lewis finding in the State of Washington

- The Department failed to achieve active efforts;
 - Additionally, Chief Justice Montoya- Lewis states that there was no evidence the providers working with the family had training or experience supporting AI/AN families



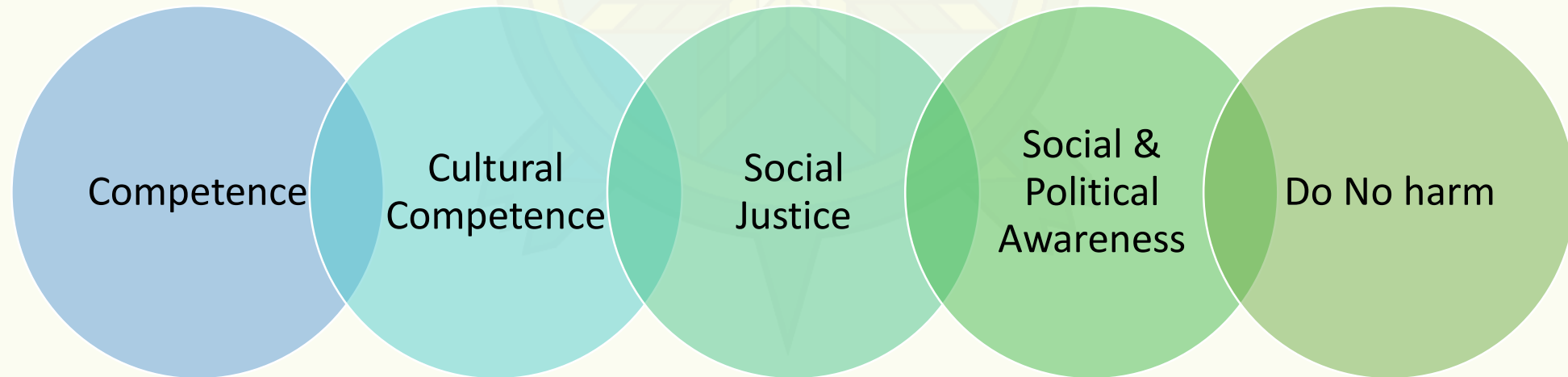
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Professional Implications- Professional Ethics

Commonly shared ethical standards for human service professionals

- Values, principles, and standards to guide conduct and decision-making
- Standards the public can expect and hold providers accountable to



Practice Implications: Permanency



Permanency is more than a home, it is connection to:

- Relatives
- Tribe
- Culture & shared values
- Language
- Land
- Ceremony & traditional teachings



Practice Implications: Well-being



Common well-being outcomes include:

- Economic well-being
- Education
- Health (physical, social and emotional)
- Community



Practice Implications: Safety

Work to understand what was taken
Learn the assimilation policies and
practices that impacted:

- Traditional familial roles and parenting practices
- Loss of language necessary to guide and instruct children



Implementation Strategies to Support ICWA

- Practice with cultural humility
- Prioritize learning the history of colonialism and the policies and practices that shape present circumstances
- Assess program operations for congruence with the Spirit of ICWA



Strategy: Engage in Cultural Humility

- Commit to an ongoing process of learning and increasing self-awareness
- Seek knowledge and understanding of diversity across cultures and build skills to work across cultures
- Versed with policy and practices that impact minority populations impacted by systemic racism and oppression



Strategy: Learn & View History with a Trauma Lens

Policies and practices that impacted Indigenous people and tribes

Removal Policies

Prosecution for traditional and ceremonial practices

Boarding School Era

60's Scoop & Adoption of Indian Children practices

Impacts of historical and intergenerational trauma on individuals, families, communities and tribes

Strategy: Assess Program Policy and Practice

Build relationships

- Tribal child welfare programs
- Tribal enrollment offices, BIA regional offices
- Cultural preservation departments



Strategy: Assess Program Policy and Practice

Child-Friendly Setting;

- When walking in, do Indigenous families see themselves reflected back?
 - How do you know?



Strategy: Assess Program Policy and Practice

Case Tracking

- Consider the process for ICWA cases
- Additional layer of review:
 - Evidentiary standards by disposition
 - Placement preference alignment
 - Services congruent with active effort standards



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Strategy: Assess Program Policy and Practice

Multidisciplinary Teams

- Tribal, state and federal representation as applicable on multidisciplinary teams, child protection teams, and other relevant working groups
- Reflect: Diversity of the MDT
- Consider: Professional development requirements and opportunities



Final Considerations

Every tribe is different, every Indigenous person is unique, no two ICWA cases will be the same


Remember your influence, use your voice



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Thank You
The Native Child Advocacy Resource
Center