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## An empirical examination of the Indian Child Welfare Act and its impact on cultural and familial preservation for American Indian children<sup>☆</sup>

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### Abstract

**Objective:** Cultural and familial ties are crucial for the overall well-being of children. Extant research and permanency planning practices support the reunification of children with their families when possible. In 1978, the Indian Child Welfare Act (ICWA) was enacted to promote cultural and familial preservation for Indian children, but sparse empirical research has examined the implementation and outcomes associated with this landmark legislation. This article examines the relationship between compliance with ICWA in one Southwestern state and the rate of reunification of Indian children with family or tribal members following out-of-home placement.

**Method:** Public child protection records were reviewed for 49 ICWA-eligible children who were placed in alternate care. Data were collected on compliance with placement type, use of qualified expert witnesses, and incorporation of Indian culture and resources. Additionally, 78 state caseworkers and 16 tribal workers were surveyed regarding knowledge and attitudes about three areas of compliance.

**Results:** Case record reviews indicated that the majority (83%) of Indian children were placed according to preferences outlined by ICWA. Almost all cases included a court finding that active efforts were applied to prevent family breakup. While state workers reported limited understanding of many ICWA's requirements, both state and tribal workers reported a high level of state-tribal cooperation in working with Indian families and children.

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**Conclusions:** Results of this study point to two major patterns of findings: (1) individual case record reviews suggest compliance with ICWA; and (2) differences exist in knowledge and perceptions of ICWA by state and tribal workers. Furthermore, state child protection systems should follow the American Indian lead in further emphasizing cultural and familial ties for children. Highlighting such ties acknowledges the importance of reunification and cultural and familial preservation to enable children to have a clear sense of tradition and belonging. Evidence indicates that compliance with ICWA promotes better outcomes through reunification.

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*Keywords:* American Indian; Child welfare; Family preservation; Cultural preservation

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## Introduction

In order to understand and define the needs of children in Indian Country, the National Indian Children's Alliance (NICA) was formed in 2000 through collaboration between Casey Family Programs and the National Indian Child Welfare Association (NICWA). A major goal of NICA is to conduct ongoing national research in the area of American Indian child welfare. Through a contract between Casey Family Programs and the Buder Center for American Indian Studies at Washington University's George Warren Brown School of Social Work, this NICA funded study was undertaken to analyze state compliance with the Indian Child Welfare Act and recommend needed improvements. Therefore, the purpose of this article is to examine state compliance with the Indian Child Welfare Act (ICWA) to promote familial and cultural preservation through culturally appropriate services to American Indian families and children. This was accomplished through case record reviews and interviews with state and tribal child welfare workers.

Recent research in family and child welfare draws particular attention to the importance of cultural and familial ties regarding the overall well-being of children in substitute care. Currently in the United States, 556,000 children are placed in foster and/or pre-adoptive care (Children's Bureau, 2002). The reasons placements in substitute care are numerous, but children are primarily removed due to abuse and/or neglect by those responsible for their care. Children of color are most at risk of remaining in substitute care for extended periods (Roberts, 2002). Of particular concern are American Indian children, who are still being removed at a disproportionate rate. The proportion of American Indian children in foster care (2%; Children's Bureau, 2002) is more than twice as large as that of American Indians in the total population (.9%; Census Bureau, US Department of Commerce, 2002).

Despite the existence of federal policy targeted to reduce placements in substitute care, 10,994 American Indian children remain in foster and adoptive care (Children's Bureau, 2002). On November 8, 1978, Congress passed the Indian Child Welfare Act (ICWA) in response to the "rising concern . . . over the consequences to Indian children, Indian families, and Indian tribes of abusive child welfare practices that resulted in the separation of large numbers of Indian children from their families and tribes through adoption or foster care placement" (Mississippi Band of Choctaws v. Holyfield, 1989). For the first time in US legislative history, ICWA, by limiting states' powers over Indian children, established a legal framework to support Indian families, specifically by maintaining Indian children with Indian caregivers in order to honor tribal sovereignty and preserve cultural and familial ties. ICWA is important because it not only clarifies jurisdictional authority, but it also mandates that "American Indian definitions of family be used as guide for child welfare matters" (Red Horse et al., 2000, p. 18). Therefore, American Indians, through passage of ICWA, began setting the stage for an updated orientation toward family preservation

in national child welfare matters. Regarding passage of ICWA and the subsequent effect on child welfare generally, Red Horse et al. (2000) suggest:

The functional elements of traditional Indian family systems, including their dependence on extended family, community networks, and cross-generational relationships, were being reassessed by mainstream observers and gaining value as the “new” way to address family and community issues. . . . Thus, in an ironic twist of fate, as ICWA set the stage for a model of family preservation for Indian children, it also paved the way for preservation legislation for non-Indian children (pp. 19–20).

Shortly after the passage of ICWA, Congress passed the Adoption Assistance and Child Welfare Act (AACWA) in 1980, which required states to provide programs for prevention of foster care placement and allotted funding for family preservation services. Following ICWA’s lead, AACWA instituted, for the first time in legislative history, a national program for family preservation (Red Horse, Martinez, & Day, 2001). More recently, passage of the Family Preservation and Support Services Act (FPSSA) in 1993 authorized funding for states to develop programs for family preservation services and community-based family support services (Denby, Curtis, & Alford, 1998). “In simplest terms, family preservation philosophy emphasizes the inherent strengths of virtually all families . . . and gives priority to preserving the permanence of children’s intimate relationships with family members when at all possible” (Courtney, 1997, p. 68).

Together, ICWA, AACWA, and FPSSA have promoted a major overhaul in the theoretical approach to child welfare, emphasizing family support and preservation. Although these laws continue to be underfunded, they represent a conceptual shift in child welfare policy from deficit models to focusing more on strength-based models. Further, these legislative mandates have provided state child welfare systems the opportunity “to shift from remedial and reactive systems of removal to systems that actually supported families and helped them learn skills and acquire resources in a solution-focused way” (Kelly & Blythe, 2000, p. 31). For American Indians, this idea is nothing new because the relational dynamics that characterize Native family systems have been traditionally reinforced by cultural norms. American Indian children’s sense of belonging is rooted in an understanding of their place and responsibility within the broader context of kinship networks. Therefore, the value of familial relationships to American Indians is that they emphasize “belonging” and are critical to an Indian child’s identity (Red Horse et al., 2000).

While similar, two important distinctions should be made between ICWA and AACWA with respect to efforts to prevent removal of a child from his or her family. First, ICWA requires states to make “active efforts” to provide remedial services and rehabilitative programs while AACWA guidelines call for “reasonable” efforts. Differentiating between active and reasonable efforts has been difficult because federal law does not provide definitions or guidelines for states; therefore, states are expected to determine the legal standard of proof that is necessary to demonstrate the appropriate effort. The second distinction involves ICWA’s use of a qualified expert witness [ICWA 25 U.S.C. § 1912(e) & (f), 2000]. No such provision is found in AACWA. ICWA states that the placement of an Indian child in substitute care or the termination of parental rights of an Indian parent cannot occur unless supported by the testimony of a qualified expert witness. Regarding who should serve as qualified expert witnesses, ICWA does not specify, but the Bureau of Indian Affairs (BIA) Guidelines establish a rank order for expert witnesses and suggest that such expert witnesses be “knowledgeable concerning the customs and cultures of the tribes they serve” (Bureau of Indian Affairs, Department of the Interior, 1979, D.4).

More recently, the federal government enacted the Adoption and Safe Families Act of 1997 (ASFA). This legislation emphasized child safety for at-risk children and was aimed at reducing the time to permanency for children in foster care. Like AACWA, ASFA made no direct reference to ICWA and, thus, changed none of the requirements for implementing ICWA in state court custody proceedings involving Indian children. However, Simmons and Trope (1999, p. 2) point out “ASFA did not specifically address how its provisions would interface with the Indian Child Welfare Act, principles of tribal sovereignty, jurisdictional or service delivery issues unique to Indian children.” This oversight presents challenges to ensuring culturally competent practice with Indian families as mandated by ICWA within the framework of ASFA mandates as required for non-Indian families.

While compliance to all of ICWA’s mandates are mandatory, failure on the part of the federal government to make ICWA compliance a funding issue until recent amendments to the Social Security Act (specifically Title IV-B requiring state reporting on ICWA compliance) have made it difficult to enforce compliance. Additionally, lack of ongoing ICWA training, on behalf of states to their workers has been problematic (see Brown, Limb, Chance, & Munoz, 2002). Further, Plantz, Hubbell, Barrett, and Dobrec (1989) have suggested that six factors continue to deter or undermine the implementation of ICWA: (1) state ignorance of or resistance to the requirements of the Act; (2) lack of experience within state agencies in working with tribes; (3) high staff turnover; (4) lack of resources; (5) concern for tribal accountability in providing services and caring for children; and (6) the absence of tribal courts to assume jurisdiction over proceedings involving tribal members (p. 26).

Although ICWA has been lauded as one of the most significant pieces of federal legislation affecting American Indian families, research regarding state implementation of ICWA in practice has been limited. Further, little is known about the ways in which state caseworkers apply ICWA’s mandates in an attempt to reduce substitute care placements. Therefore, the purpose of this study is to examine state compliance with ICWA, specifically relating to its impact on cultural and familial preservation for American Indian children.

## Method

This article is a component of a larger study (see Brown et al., 2002) that reviewed public child protection records of American Indian children in state custody in one Southwestern state in the United States. This larger study examined all of ICWA’s legal requirements and surveyed six participant groups (state child welfare case workers, tribal child welfare workers, state attorneys, tribal attorneys, state judges, and tribal judges) involved with and/or responsible for state ICWA compliance. For purposes of this article, additional analyses (involving placement type, use of qualified expert witness, and incorporation of Indian culture) of the public child protection records of American Indian children were conducted. Further, quantitative and qualitative interviews with state and tribal child welfare workers are reported to supplement the case record review.

### *Case record review*

*Measures.* The research team developed a data collection instrument to be used for case record reviews. Human subjects approval was sought and received from the Human Subjects Committee at Washington University and the Casey Family Programs Human Subjects Review Committee. Analyses of case records

have been organized into three major areas, which are required mandates under ICWA. First, placement type—ICWA mandates foster care placement with (1) a member of a child’s extended family, (2) a foster home licensed or approved by the Indian child’s tribe, (3) an Indian foster home licensed by a non-Indian licensing authority, or (4) an institution approved by an Indian tribe or an institution operated by an Indian organization which has a program suitable to meet the child’s needs ([Indian Child Welfare Act of 1978, 2000](#)).

Second, the use of qualified expert witnesses—[Bureau of Indian Affairs, Department of Interior \(1979\)](#) rank orders witnesses in the following manner: (1) a member of the Indian child’s tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child rearing practices, (2) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child’s tribe, or (3) a professional person having substantial education/experience in his/her specialty area ([Bureau of Indian Affairs, Department of Interior, 1979, D.4](#)).

Finally, incorporation of Indian culture and resources—ICWA requires states to make “active efforts” to provide remedial services and rehabilitative programs to prevent breakup of the family in all foster care and termination of parental rights (TPR) proceedings. Although there is some debate surrounding what active efforts actually involves, there is consensus that it involves a higher level of service than “reasonable efforts.” In cases that involved removal of an Indian child, an additional question was asked regarding “best practices” that solicited information as to whether “active efforts” were made to improve the family’s circumstances so that the Indian child could be returned home.

The case record review instrument was pretested using a de-identified case record of an Indian child in state custody. Thereafter, four national experts on ICWA, along with members of the tribal/state workgroup, reviewed the instrument’s content and face validity. The instrument was revised following their input. In order to improve inter-rater reliability among the different data collectors, a member of the research team (who has extensive public child welfare experience and is familiar with the state’s automated case management information system) examined each of the reviewer’s findings, prior to completion, to check for inconsistencies and different interpretations. Where questions existed, another member of the research team went back the original files, after the initial data collection, to do validity checks on the selected variables.

*Sample and procedures.* Existing state case records were the primary source of data for the case reviews. Supplementary data were abstracted from legal case files maintained by the Attorney general’s office. As of October 2001, there were 131 open cases involving American Indian children that met the selection criteria. Stratified random sampling methods were used to select 61 child protection case records of American Indian children in state custody statewide. The number of cases selected were based on three criteria: (1) a desire to examine a similar number of cases that were selected for the ongoing Child and Family Services Review conducted by the federal government, (2) to have a large enough sample size to be representative and give enough statistical power to conduct advanced statistical tests, and (3) to complete a review of a single case, it was estimated that it would take 4 hours (allotted funding dollars were set aside to allow the research team 1 week to collect this data).

Additional requirements were also used to select cases for the review: (1) the child must be identified by the state as having American Indian or Alaska Native heritage/ancestry, (2) the case status must be open as of 10/31/01, (3) the case is open for 6 months or longer as of 10/31/01, and (4) the child is in

out-of-home placement by court order or a voluntary foster care placement agreement, or the child has been returned home on an in-home dependency petition. In cases involving more than one Indian child in a family, data were collected for ICWA compliance based on the oldest identified Indian child. Of the 61 cases, 49 met ICWA eligibility requirements. The 12 cases that were excluded were determined by their potential tribe(s) to be ineligible for ICWA since they were not children of tribal members or eligible for tribal membership.

### *State and tribal child welfare workers*

*Measures.* In addition to the case record review instrument, the research team developed a second instrument to collect information from state and tribal child welfare workers. The instrument incorporated a mixture of five query types: dichotomous, continuous, multiple choice, qualitative and 5-point Likert-type scales (0 = never; 1 = occasionally; 2 = about half of the time; 3 = most of the time; and 4 = all of the time). Questions focused on state and tribal worker knowledge and perceptions of ICWA compliance and how often certain ICWA-related events or provisions occurred. To examine and establish the accuracy of the conclusions drawn, a pilot study was undertaken to determine both instruments' validity and reliability. Prior to data collection, four national experts on ICWA, along with members of the tribal/state workgroup, reviewed each of the instrument's contents and design for clarity and tested the instruments for face validity and reliability.

Bivariate analyses were also conducted on a number of survey respondent items to compare state and tribal worker responses. For survey items generating percentages for participant responses, chi-square tests were used to test differences between survey respondent groups and a  $p$  value of  $\leq .05$  (two-tailed) was used as the level of significance. For survey items generating mean scores,  $t$  tests were used to compare group means.

*Sample and procedures.* A stratified random sample among the state's administrative districts of 100 state child welfare caseworkers was selected from the population of workers employed by the state for at least 1 year. The 1-year employment criterion was established to increase the likelihood that a caseworker would have had an American Indian child on his/her caseload. Paper surveys of the quantitative and qualitative structured interview were distributed to state caseworkers who were asked to complete the surveys and mail or fax them back to the research team. Follow-up telephone calls were made to workers who did not initially return a completed survey. The response rate was 78%.

With regard to tribal child welfare workers, a snowball sampling strategy provided names of 17 tribal workers or tribal administrators employed by their respective tribes and involved in Indian child welfare matters. Paper surveys were faxed to tribal workers and follow-up telephone calls were made to those who did not initially return a completed survey. The response rate was 94%.

## **Results**

Data were examined in three major areas of ICWA compliance: placement type, use of qualified expert witnesses, and incorporation of Indian culture and resources. Each of these areas is reported separately for the case record review and state/tribal child welfare workers.



### *Case record review*

*Placement type.* Forty-eight of the 49 child protection case records reviewed (98%) involved children who were placed in foster and/or pre-adoptive homes. Of these 48, 83% were placed within the preferences outlined by ICWA. Among these children, 55% were placed with extended family members, 33% were in a placement established by resolution with the child's tribe, and 13% were placed in Indian foster homes licensed, approved, or specified by the child's tribe.

### *Qualified expert witnesses*

ICWA requires that qualified expert witness testimony be used to support a finding of “clear and convincing evidence that the continued custody of the child by the parent or Indian custodian is likely to result in serious physical and emotional harm to the child” ([Indian Child Welfare Act of 1978, 2000](#)). This occurred in 71% of the 48 cases involving foster care placement (see [Table 1](#)). These expert witnesses included a member of the child's tribe (56%), a professional person with substantial education and experience in his area of specialty (26%), or some other person deemed by the court as a qualified expert witness (18%).

Among the 19 cases involving involuntary termination of parental rights (TPR), 89% included qualified expert witness testimony to support the finding of “beyond a reasonable doubt that the continued custody of the child by the parent or Indian custodian is likely to result in serious physical and emotional harm to the child” ([Indian Child Welfare Act of 1978, 2000](#)). In these cases, the expert witnesses included a member of the child's tribe (59%), a professional person with substantial education and experience in his/her area of specialty (29%), a lay expert with substantial experience in delivering child and family services to Indians and extensive knowledge of prevailing cultural and child rearing traditions (18%), or some other person deemed by the court as a qualified expert witness (18%).

### *Incorporation of Indian culture and resources*

Forty-one (84%) case files included evidence, based on a court ruling, that the state child protection agency took into account the prevailing culture and tribal way of life. Of the 48 cases involving foster care placement, the court made a finding in 94% cases that the state demonstrated active efforts to provide remedial and rehabilitative programs designed to prevent the breakup of the family prior to removal and in 27 (56%) cases that the state applied active efforts to reunify the family. To ensure active efforts in these foster care cases, the state used extended family members (80%), the child's tribe (93%), Indian social service agencies (39%), and individual Indian caregivers (2%).

Similarly, the court found in 95% of the 19 cases involving involuntary TPR that the state applied active efforts prior to removal to provide remedial and rehabilitative programs designed to prevent breakup of the family and in 12 (63%) cases that the state applied active efforts to reunify the family. To ensure active efforts in these TPR cases, the state used extended family members (44%), the child's tribe (78%), and Indian social service agencies (28%).

Table 1  
State and tribal child welfare workers

	State worker ( <i>n</i> = 78)		Tribal worker ( <i>n</i> = 16)	
	$\bar{x}^a$ ( <i>SD</i> )	Percent	$\bar{x}^a$ ( <i>SD</i> )	Percent
Familiar with the preference for Indian caregivers in out-of-home placement		68		_b
Familiar with procedures for Indian caregivers to meet child protection standards		50		_b
State court uses qualified expert witness testimony	1.96 (1.53)		1.91 (1.56)	
If the state has reason to believe that a child is Indian, the state	3.62 (.69)		_b	
Consults with extended family members				
Contacts the tribe	3.75 (.47)		_b	
Contacts Indian social service agencies	3.39 (1.00)		_b	
Contacts the BIA	2.67 (1.56)		_b	
State maintains regular contact with tribe regarding membership of children in state custody		77		80
Tribe is invited to participate in staffings and case planning	3.30 (1.15)		2.67 (1.18)	
How often the parent is invited to participate in developing the case plan	3.78 (.42)		2.00 (1.22)	
Familiar with the ICWA requirement for active efforts in placements		55		_b
State applies active efforts to prevent breakup of the Indian family		77		75
To ensure active efforts, the state uses	3.43 (.76)		_b	
Extended family				
Child's tribe	3.36 (.82)		_b	
Indian social service agencies	3.21 (1.04)		_b	
Individual Indian caregivers	2.44 (1.46)		_b	
Active efforts are different from reasonable efforts		49		23

<sup>a</sup> Where 0 = never, 1 = occasionally, 2 = about half of the time, 3 = most of the time, and 4 = all of the time.

<sup>b</sup> Question not asked.

### *State and tribal child welfare workers*

*Placement type.* Of state workers, 68% reported being familiar with the preference for Indian caregivers when placing Indian children out-of-home (see Table 1); 50% also reported being familiar with procedures for Indian caregivers to meet child protection standards.

*Qualified expert witnesses.* When asked how often the state uses a qualified expert witness when determining out-of-home placements of Indian children, state and tribal workers agreed that the state court uses qualified expert witness testimony about *half* of the time ( $\bar{x}$  = 1.96 and  $\bar{x}$  = 1.91, respectively; see Table 1).

*Incorporation of Indian culture and resources.* If the state has reason to believe a child in state custody is Indian, state and tribal workers reported that the state consults with extended family ( $\bar{x}$  = 3.62) contact



the tribe ( $\bar{x} = 3.75$ ), and contact Indian social service agencies ( $\bar{x} = 3.39$ ) *most to all* of the time, and contacts the BIA about *half to most* of the time ( $\bar{x} = 2.67$ , see Table 1). Most state (77%) and tribal (80%) workers agreed that the state maintains regular contact with the tribe regarding tribal membership of children in state custody. State workers reported that the tribe is invited to participate in staffings and case planning *most to all* of the time ( $\bar{x} = 3.30$ ), and tribal workers reported that the tribe is invited to participate about *half to most* of the time ( $\bar{x} = 2.67$ ). Compared to state workers, tribal workers reported that parents were invited less often. This finding was statistically significant ( $\bar{x} = 3.78$  and 2.00, respectively,  $p \leq .01$ ,  $t = 5.51$ ).

About half (55%) of state workers reported being familiar with the ICWA requirement for active efforts in placements. Three-fourths of both state (77%) and tribal workers (75%) reported that the state applies active efforts to prevent breakup of the Indian family. To ensure active efforts, state workers reported that the state uses extended family members ( $\bar{x} = 3.43$ ), the child's tribe ( $\bar{x} = 3.36$ ), and Indian social service agencies ( $\bar{x} = 3.21$ ) *most to all* of the time and that the state uses individual Indian caregivers about *half to most* of the time ( $\bar{x} = 2.44$ ). While half (49%) of state workers reported that active efforts are different from reasonable efforts, significantly fewer tribal workers (23%,  $p \leq .001$ ,  $\chi^2 = 7.70$ ) believed that the state applied a different standard for active efforts as compared to reasonable efforts. For example, a tribal worker stated, "I don't believe the state has any definition of active efforts at this time to delineate it from reasonable efforts . . . decision often seems subjective."

## Discussion

The purpose of this study was to build upon literature regarding the relationship between compliance with ICWA and the rate of reunification of Indian children with family or tribal members following out-of-home placement. Results of this study point to two major patterns of findings. First, individual case record reviews suggest compliance with ICWA. For example, findings on placement type showed the majority of children in state custody were placed within the preferences outlined by ICWA, with more than half being reunified with family members. Further, in almost 3 out of 4 foster care placements and 9 out of 10 involuntary TPR cases, qualified expert witness testimony was documented. In over half of these cases, a member of the child's tribe was called upon as a qualified expert witness.

The second major pattern of findings revealed that differences exist in knowledge and perceptions of ICWA by state and tribal workers. Here, despite limited understanding among state workers of several ICWA mandates, the state was overall compliant with most ICWA requirements and BIA Guidelines for incorporating Indian culture and resources. For example, only one-fourth of tribal workers, compared to half of state workers, reported that the state applies a different standard for active versus reasonable efforts. Therefore, there appears to be a discrepancy between efforts made by state workers and the perception of those efforts by tribal workers.

One possible conclusion to this finding may be that compliance of workers, even though they may have been unaware of ICWA mandates, may be a reflection of awareness among administrators who developed agency policies based on ICWA mandates. Therefore, the workers, under the direction of supervisors and following agency policy, may not have completely understood but still complied with ICWA mandates. Concerning "best practices" variables, the state applied or demonstrated these less often. Most children were placed within the preferences outlined by ICWA, largely within the extended family. Integrating Indian traditions in service delivery for the families of Indian children who are in out-of-home placements

is key to maintaining cultural and familial preservation. Finally, a limitation of this study was that the case record review was not designed to assess whether the state was properly determining what types of proceedings involve the application of ICWA. As a result, no attempt was made to conduct record reviews of cases not identified by state personnel as potential ICWA cases.

As previously discussed, American Indian familial emphasis and the passage of ICWA have played an important role in shaping family preservation services. To advance this effort, state child protection systems should follow the American Indian lead in further emphasizing cultural and familial ties for children. Highlighting such ties acknowledges the importance of reunification and cultural and familial preservation to enable children to have a clear sense of tradition and belonging. Evidence indicates that compliance with ICWA promotes better outcomes through reunification. With regard to social work practice implications, in order to improve outcomes for Indian children, states should increase on-going training for child welfare workers regarding *all* of ICWA's mandates, increase emphasis on utilizing the BIA Guidelines and "best practices" for implementing ICWA, and work collaboratively with tribes to provide culturally competent active efforts.

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## Résumé

French-language abstract not available at time of publication.

## Resumen

**Objetivo:** Los lazos culturales y familiares son cruciales para el bienestar general de los niños. Las investigaciones y las prácticas de planificación en permanencia apoyan la reunificación de los niños con sus familias, siempre que sea posible. En 1978, el “Indian Child Welfare Act (ICWA) fue promulgado para promover la preservación cultural y familiar en beneficio de los niños Indios, pero escasos estudios empíricos han examinado la implementación y los resultados asociados con esta legislación decisiva. Este artículo examina la relación entre aceptación del ICWA en un estado del suroeste y la tasa de reunificación de los niños Indios con sus familias o miembros de la tribu siguiendo la colocación fuera del hogar.

**Método:** Se revisaron los registros públicos de protección infantil de 49 niños elegibles para el ICWA quienes estaban colocados en cuidado sustituto. Se recogieron los datos sobre la aceptación al tipo de colocación, uso de testigos calificados expertos, y la incorporación de la cultura India y sus recursos. Adicionalmente, 78 encargados de casos del estado y 16 empleados tribales fueron encuestados en relación a sus conocimientos y actitudes acerca de tres áreas de aceptación.

**Resultados:** Las revisiones de los registros de casos indicaron que la mayoría (85%) de los niños Indios fueron colocados de acuerdo a las preferencias establecidas por el ICWA. Casi todos los casos incluyeron un halazgo de la corte en el sentido de que se aplicaron esfuerzos activos para prevenir el rompimiento de la familia. A pesar de que los empleados del Estado reportaron conocimiento limitado de muchos de los requerimientos del ICWA, tanto los empleados del Estado como los de la Tribu, reportaron un alto nivel de cooperación Estado-Tribu en su trabajo con niños y familias Indígenas.

**Conclusiones:** Los resultados de este estudio señalan dos patrones importantes on los hallazgos: (1) La revisión del registro de casos individuales sugiere aceptación del ICWA; y (2) existen diferencias en el conocimiento y percepciones del ICWA entre los empleados del Estado y de la Tribu. Además, los sistemas estatales de protección infantil deben seguir el liderazgo del Indio Americano en enfatizar más aun los lazos culturales y familiares de los niños. Destacar estos lazos reconoce la importancia de la reunificación y de la preservación cultural y familiar para permitirle a los niños tener un claro sentido de tradición y de pertenencia. La evidencia indica que la aceptación del ICWA promueve mejores resultados a través de la reunificación.