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# THE HEART OF ICWA

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Presented By:  
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Little Traverse Bay Bands of Odawa Indians  
Chief Judge  
With special thanks to Judge William Thorne  
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## Introduction

**The purpose of this presentation:**

- 1. To show what prompted Congress to pass the Indian Child Welfare Act.**
- 2. I also want to show you why we need to reimagine the child welfare system for all kids using ICWA as a model.**

## **The History of Indian Child Welfare**

# **142 Years ago**

3

## **Bureau of Indian Affairs Started As Part of the War Department in 1824**



Slide Courtesy of Judge Thorne

4

## Removing Indian Children from their Families was a Government Policy



**In 1879 Carlisle Indian School, patterned after the military model, opened.**



Slide Courtesy of Judge Thorne

## ...in the museum at Haskell



Slide Courtesy of Judge Thorne

7

## Kill the Indian, Save the Man



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## **Generations learned to parent from BIA dorms**



Slide Courtesy of Judge Thorne

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## **The boarding schools broke the fabric of Indian families.**



Slide Courtesy of Judge Thorne

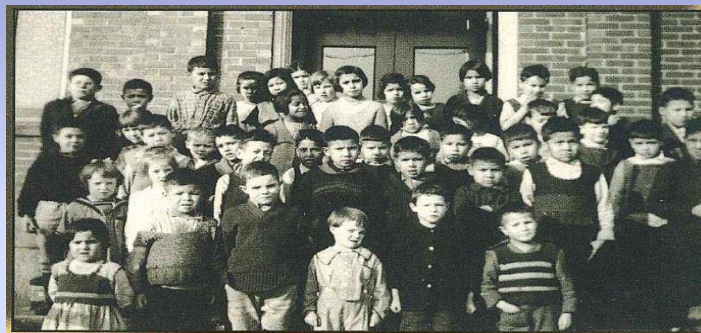
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## 76 Years Ago in 1945



11

## The Last US Boarding School



*Above: Holy Childhood students circa mid-1900s. These may have been the “day students”—the children who went to the school but did not board there. Day students and boarders usually had very different experiences. The fair-haired children pictured were still Odawa, just of mixed heritage.*

12

## The History of Indian Child Welfare

47 Years ago

13

## Tribes went to Congress



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## The National Statistics Shocked Congressional Leaders



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## Official Government Policy Broke the Fabric of Indian Families



archived www.catie.org

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## Testimony Brought Statistics to Life

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17

## What was the Result of the Government's Destructive Policy?

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18

## **The Government Policy of Removal Threatened the Very Existence of Tribes**



19

## **Congress Recognized That They had an Obligation To Indian Tribes and Tribal Families**



20

**ICWA attempts to fix what official government policy broke by promoting the following goals:**

1. **Protect the best interests of Indian children and families as determined by tribes.**
2. **Promote the stability and security of Indian families.**
3. **Recognize and strengthen the role of tribal governments in determining child custody issues.**

21

# The Power of ICWA



22

# The Power of ICWA



23

# The Power of ICWA



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# A Big Brother



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# An Avid Reader



26

## A Snow Snake Champion! His snake went 130 feet for 2<sup>nd</sup> place!



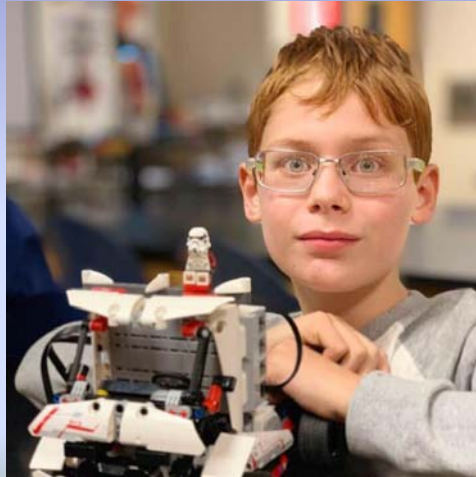
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## A Fisherman



28

## A Champion Robotics Programmer



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## An Excellent Chess Player



30

## ICWA Has The Power To Both Strengthen and Create Native Families



31

## Thanks to ICWA He's My Son



32



## **Minimum Federal Standards**

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**ICWA establishes minimum Federal standards for the removal of Indian children from their families, and the placement of Indian children in foster or adoptive homes or institutions that reflect the values of Indian culture.**

33

**Why Would We Want to Make It Harder For States To Put Native American Children in Foster Care today?**

34

## **Why ICWA is the GOLD STANDARD**



**443,000+ youth were in foster care in the United States as of September 2017.**

35

## **Is This Stability?**



36

## Is This The Path To College?



## Is This Safety?



## Are They Better Off?



39

## Are They Better Off?



40

## Are They Better Off?



41

## Are They Better Off?



42

## Better Safe Than Sorry....

- ‘Stranger’ foster care is harmful
- Foster care is not a neutral
- In deciding if foster care is needed, we need to balance the harm & risks
- If foster care is needed, we need to minimize the harm

Courtesy of Judge Thorne

43

## What would you want for someone you loved?

- **Active efforts**
- **Notice to the child’s tribe**
- **QEW requirements**
- **Clear and convincing evidence standard**

44

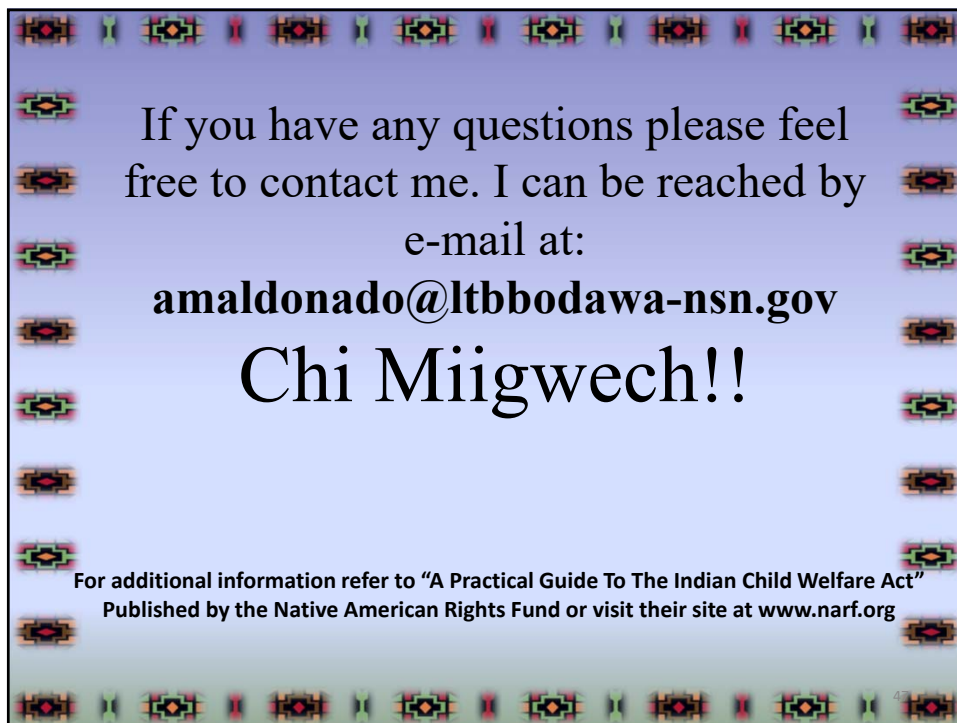
## **What would you want for someone you loved?**

- **Placement preferences**
- **Tribe's right to change the placement preferences**
- **Evidence *beyond a reasonable doubt*, including testimony from at least one qualified expert witness, that continued custody with the parent is likely to result in *serious emotional or physical damage to the child***

45

**Thank you for  
all you do!**

46



If you have any questions please feel free to contact me. I can be reached by e-mail at:

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**Chi Miigwech!!**

For additional information refer to "A Practical Guide To The Indian Child Welfare Act"  
Published by the Native American Rights Fund or visit their site at [www.narf.org](http://www.narf.org)