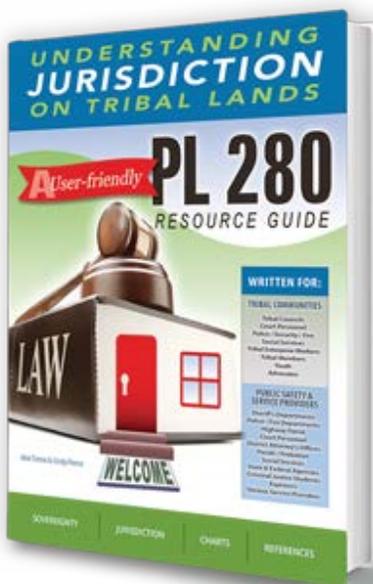


I.C.W.A.

An Overview of the Indian Child Welfare Act



An interactive article - excerpts from "A User-friendly PL 280 Resource Guide"



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The Indian Child Welfare Act (I.C.W.A.) is an extremely important piece of legislation to tribal communities. I.C.W.A. was enacted in response to a very real threat tribal communities faced – the loss of their children.

The taking of Indian children from their families and familiar surroundings to place them in far-away boarding schools began in the late 1870's and continued for decades. These government sanctioned boarding schools were guided by the philosophy of **assimilation**. A man named Richard Pratt founded the first Indian boarding school in 1879, seeing the boarding school system as an instrument to "kill the Indian ... save the man." [1]

This mode of education was made mandatory by Congressional legislation in 1891. In order to gain compliance of unwilling parents and tribal communities, various methods were used. In some cases, those who contemplated non-compliance were met with threats of having food withheld or being put in prison. During the height of the government's enforcement of compulsory attendance at the Indian boarding schools, one group of Indians, the Hopi Tribe, resisted the will of the U.S. government for their

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children. Because of their resistance, nineteen of the Hopi “ring-leaders” were arrested by the U.S. Army on November 25, 1894. They were escorted to Alcatraz to be “held in confinement, at hard labor, until ... they shall show ... they fully realize the error of their ways ...” [2] The Hopi “hostiles” were imprisoned at Alcatraz from January 3rd through August 7th, 1895.

By the year 1928, extensive research was conducted by an independent think tank on “The Problem of Indian Administration.” [3] Because this report was headed by a man named Lewis Meriam, it is commonly referred to as the “[Meriam Report](#).” One of the issues brought to light through this 847-page document focused on how the conditions at the Indian boarding schools were “grossly inadequate” (i.e. overcrowding and unsanitary conditions, disease, medical services and attention lacking, student labor, poor diet and general lack of food).

The results of the Meriam report did shed light on many problems, moving legislators to action regarding several issues, including the boarding schools. However, even by the year 1969, a special Senate subcommittee on Indian Education stated in their report that they were “shocked” by what they discovered. [4]

The Senate subcommittee’s lengthy report spoke of “families which want to stay together but are forced apart ... of 9-year-old children who want a neighborhood school but are sent thousands of miles away to remote and alien boarding schools.” [5] The report documented that there were seventy-seven boarding schools run by the Bureau of Indian Affairs in 1969, comprised of approximately 35,000 Indian children as resident students. This Senate report made special notice that “nearly 9,000 of the boarding school children are under 9 years old.”

Various changes took place as a result of the Senate subcommittee’s report. One change supported children staying close to their families and cultures instead of being sent off to far-away boarding schools. Along with this need for reform in Indian education policy was the need for a drastic change in policy towards Native Americans in many public and private social agencies. Disregard for Indian culture and community had moved beyond the walls of the boarding schools. An [ethnocentric](#) way of thinking permeated various social agencies as they dealt with Native Americans. State courts often “failed” in Indian child custody hearings “to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.” [6]

“[A]n alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions.”

Indian Child Welfare Act (I.C.W.A.), Congressional Findings, 25 USC § 1901(4)

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Breaking up Indian families and removing Indian children (often permanently) from their reservations was seen as acceptable practice – even sometimes, preferable. Tribal communities lived under the fear of their children being taken away from them. I.C.W.A. was designed to reverse this philosophy by recognizing “that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children.” [7] I.C.W.A. became a federal law in 1978 and was the official prevention of the breaking up of Indian families and communities.

The devastating impact federal and state policies had on tribal communities is still felt today. There are many within tribal communities who have experienced first-hand the loss of family, friends and culture because of such governmental policies. Although many are familiar with the fact that Indian children were taken from their families for an extensive amount of time through the boarding schools, or permanently through social services, most do not realize how recently these practices were implemented and condoned. *The following is one such example:*

When brother and sister, Alex and Mary, were very young (early 1950’s), circumstances brought state social services into their lives. As was played out in the lives of so many Indian children, Alex and Mary were transported away from their reservation, never to be returned back as children to their home and family. They were taken to a city about two hours away and placed into foster care. They lived their formative years in a foster home having no knowledge of their Indian heritage. Although they grew up not too far from their immediate family and relatives, they were deprived of any connection with them. Alex and Mary faced many struggles and challenges growing up. They never felt they truly “belonged.”

The story of *Alex Tortes* and *Mary Belardo* [8] illustrates the common and relatively recent practice of breaking up Indian families. It exemplifies the disregard for Indian culture and community that existed in state social services. Social services have an important role to play in any community. Many tribal communities have, in fact, established their own social services on their reservations. The I.C.W.A. was *not* designed to stop the needed work of social services but, rather, to stop the destructive policies of state social services and state courts that resulted in the common practice of removing Indian children from their homes.



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When Alex and Mary were teenagers, their older sister was able to locate them and told them of their Indian heritage and nearby family. Alex visited his mother twice before she passed away. However, Mary never met her mother. Mary eventually returned to the Torres-Martinez Desert Cahuilla Indian Reservation. She served with distinction as Tribal Chairwoman for many years. Mary continues to serve in leadership roles on her reservation. Alex followed his own career path, but when the opportunity arose for him to work with his tribe and other tribal communities he was very pleased. One of the greatest joys Alex now experiences is when he is able to reconnect with his extended tribal family and learn about his Indian heritage.

Endnotes

[1] Pratt, Richard H., *The advantage of Mingling Indians with Whites*, Proceedings of the National Conference of Charities and Corrections, 1892, 46

[2] Official website for the National Park Service, Alcatraz Island, CA, online article by Park Ranger Craig Glassner, *The Army and American Indian Prisoners on the Rock*, at: <http://www.nps.gov/alca/historyculture/the-army-and-american-indian-prisoners.htm>

[3] Institute for Government Research, Studies in Administration, *The Problem of Indian Administration* (Meriam Report), The Johns Hopkins Press. This was a survey requested by the U.S. Secretary of the Interior, Hubert Work, regarding Indian affairs by a private organization. Research was privately funded, allowing feedback to be free from governmental influence and to be as impartial as possible. “*The survey staff finds itself obligated to say frankly and unequivocally that the provisions for the care of the Indian children in boarding schools are grossly inadequate.*”

[4] *Report on Indian Education*, Nov. 3, 1969, Special Subcommittee on Indian Education, Senate Committee on Labor and Public Welfare, documented in Prucha, Francis Paul, *Documents of United States Indian Policy*, University of Nebraska Press 2000 p. 253

[5] Id. at 254

[6] *Indian Child Welfare Act* (I.C.W.A.), Congressional Findings, 25 USC § 1901(5)

[7] Id. at (3)

[8] *Alex Tortes* and *Mary Belardo* are tribal members of the [Torres-Martinez Desert Cahuilla Indian Tribe](#), a federally recognized Indian Tribe located in Thermal, California