

TESTIMONY OF SARAH KASTELIC, EXECUTIVE DIRECTOR OF THE NATIONAL INDIAN CHILD WELFARE ASSOCIATION, BEFORE THE OREGON SENATE AND HOUSE COMMITTEES ON JUDICIARY

SEPTEMBER 18, 2019

My name is Sarah Kastelic, and I am the executive director of the National Indian Child Welfare Association, located in Portland, Oregon. We are a Native nonprofit organization with an all-Native board of directors. We are dedicated to the well-being of American Indian and Alaska Native children and families, and we carry out our work through public policy development, research, training to improve workforce capacity, and community development. We are a national organization, but we were founded in Oregon in 1987 and continue to play an active role in assisting tribes and the state in improving services and outcomes for Native children. Our focus is primarily child welfare, but we also work in children's mental health, juvenile justice, and other related social services. Today my testimony will focus on the history of federal policy impacting Native children leading to the passage of the Indian Child Welfare Act, Oregon's role in the passage of this federal law, the basis for the law and continued need, and state support for the law and best practices. I'll begin by summarizing some of the federal policy that set the stage for the Indian Child Welfare Act, or ICWA.

Federal policy over the last two hundred years plus was primarily focused on assimilating Native children and families through policies that disrupted family integrity and disconnected Native children and families from their culture and support systems. In 1819, the United States government established the Civilization Fund, the first federal policy to directly aimed at Indian children. It provided grants to private agencies, primarily churches, to establish programs to "civilize the Indian." In a report to Congress in 1867, the commissioner of Indian Services declared that the only successful way to deal with the "Indian problem" was to separate Indian children completely from their tribes. In support of this policy, both the government and private institutions developed large mission boarding schools for Indian children that were characterized by military-type discipline and forbade children from speaking their language, practicing their religion, or engaging in their culture. Many of these institutions housed more than a thousand students ranging in age from 3 to 13. Approximately half of the Native children that were placed in these institutions died from disease, abuse, or extreme isolation.

Federal policy continued throughout the 20th century with assimilation as the key focus in the boarding schools until the 1950s. The passage of Public Law 280 in 1953 represented the culmination of almost a century-old federal policy of assimilation. It discontinued the federal recognition of tribal governments and tribal authority and provided select states with concurrent jurisdiction over tribal affairs. Its ultimate goal was to terminate the very existence of Indian tribes and relocate Native families to urban areas far from their extended family, culture, and support systems. Oregon is one of several states that adopted Public Law 280, which continues to challenge tribal-state relations today.

Throughout the 1950s and 60s, the adoption of Native children into non-Native homes, primarily within the private sector, was widespread. In 1959, the Child Welfare League of America, the standard-setting body for child welfare agencies, in cooperation with the Bureau of Indian Affairs, initiated the Indian Adoption Project. In the first year of this project, 395 Indian children were placed for adoption with non-Indian families in Eastern metropolitan areas. These were not children without relatives to care for them, but instead were targeted as part of the continued effort to separate Native children from their families and tribes. In 2001, the Child Welfare League of America publicly apologized for their role in the Indian Adoption Project.

Greater awareness of the destructiveness of these federal policies began to increase across Indian Country, culminating in a 1976 study by the Association on American Indian Affairs that found 25–35% of all Indian children were placed in out-of-home care by state child welfare systems and private agencies. Eighty-five percent of those children were placed in non-Indian homes or institutions. In 1978, in response to the overwhelming evidence from Indian communities that the loss of their children meant the destruction of Native culture, Congress passed ICWA. Oregon tribes and political leaders were involved

in the passage of ICWA. Oregon Senator Mark Hatfield was a strong supporter of the legislation and worked with tribal governments in Oregon to increase support for the legislation in the Congress.

ICWA has three main purposes. First, it provides requirements for state and private agencies to ensure Native children and families in state child welfare systems are treated fairly and receive effective services. Second, it recognizes the inherent authority of tribes to be involved in matters impacting the well-being of their tribal citizens. Third, it provides small grants to tribes to build their own child welfare systems. ICWA's protections are not based upon a racial classification of Native people, but rather on their political status as citizens of a tribal nation that supports a government-to-government relationship with state and federal governments.

Today the need for ICWA is as great as ever. While out-of-home placements of Native children have decreased significantly since the act's passage, Native children are still disproportionately placed in out-of-home care nationally and in over 14 state foster care systems. This includes Oregon's foster care system, in which Native children are disproportionately placed at a rate three times their rate in the overall Oregon child population. ICWA provides important guidance on how to improve outcomes for Native children and families by focusing on the role of extended family in the services and placement process, promoting early and effective engagement with the child's tribe, and moving past minimum efforts to prevent removal and instead working to promote more creative and active efforts in rehabilitating families. These are cornerstones of good practice in child welfare for all families, and 31 national child and family advocacy and standard-setting organizations have called ICWA the "gold standard" of child welfare practice.

Finally, I want to emphasize that tribes and states working together on these challenging issues is critical to success. The solutions need to emphasize collaborative and equitable partnerships; establishing state—not just federal—policy development such as state Indian Child Welfare laws, that raise the level of awareness of legal requirements and best practices within state child welfare agencies and courts; as well as specific, collaborative training and supervision; and periodic evaluation to understand how to support desired workforce skills and behavior and target change where it needs to occur.