

ICWA TALKING POINTS GUIDE

February 2019



PROTECT ICWA CAMPAIGN

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OVERVIEW

The ICWA Talking Points Guide (Guide) was developed as a reference for Indian child welfare advocates and allies to speak in a unified voice about Indian child welfare and the Indian Child Welfare Act (ICWA) in the current political, legal, and media climate.

The Guide is organized based on three topline messages and three core audiences developed by the Protect ICWA Campaign partners: the National Indian Child Welfare Association (NICWA), National Congress of American Indians (NCAI), Association on American Indian Affairs (AAIA), and the Native American Rights Fund (NARF).

TOPLINE MESSAGES

1. The Indian Child Welfare Act (ICWA) is a long-standing federal law protecting the well-being of Native children by upholding family integrity and stability within their community.
2. Opposing ICWA ignores the legal and diplomatic relationship between tribal nations and the federal government.
3. Tribal nations, tribal organizations, and non-tribal partners are taking action to protect ICWA and end the threat of forced removal of Native children from their families, tribes, and communities.

AUDIENCES



**Congressional Members
& Staffers**



Judges & Clerks



General Public & Media

Talking Point Tips

- Prior to speaking, consider your audience.
- Pull the most relevant talking points for your community/audience from this guide and make them your own.
- Practice & Repetition: Rehearse your message ahead of time with a member of your community, a colleague, or someone else familiar with the topic.
- Devote time to understand the history and contemporary context of ICWA.

STRENGTH OF ICWA

Topline Message 1: The Indian Child Welfare Act (ICWA) is a long-standing federal law protecting the well-being of Native children by upholding family integrity and stability within their community.

ICWA is the “gold standard” of child welfare policy.

- ICWA has been labeled the “gold standard” in child welfare policy and practice by a coalition of 31 non-Native national child advocacy organizations.
- ICWA ensures that children and families receive the services they deserve.
- ICWA helps ensure that Native children are protected from abuse and neglect while being treated fairly.
- ICWA prevents Native children from suffering the trauma of unnecessary removal from their families.
- ICWA requires agencies and courts take into account not just the immediate needs of Native children, but also their long-term needs as they grow and move into adulthood.
- Child welfare best practice nationally is to place children with their family whenever possible. Research shows that all children fare better when placed with family.
- At least 26 states have agreements or policies in place that support ICWA.

Studies show that being connected to culture is a proven protective factor for Native children.

- Cultural identity and ethnic pride result in greater school success, lower alcohol and drug use, and higher social functioning in Native children, adolescents, and young adults.
- Native children, adolescents, and young adults involved in their tribal communities and cultural activities have lower rates of depression, alcohol use, and antisocial behavior.
- Tribal language, ceremonies, and traditions are linked to a reduced risk of delinquent behavior for Native children, adolescents, and young adults.

Knowing who they are and being connected to their families and tribal communities is in the long-term best interest of Native children.

- Research shows that there are important long-term benefits to being raised with a distinct cultural identity as a Native person.
- Identification with a specific cultural background and a secure sense of cultural identity is linked to higher self-esteem, higher educational attainment, and lower rates of mental health problems and substance abuse in adolescents and adults.

Talking Point Tips

- Pull the most relevant talking points for your community/audience from this guide and make them your own.
- Focus your message on a strengths-based approach centered on Native children and families.
- Provide factual information about tribal governments and Native children and families.
- Topline Message 1 Tip: Use the strength-based statements above and integrate personal/community stories to resonate with your audience.

DIPLOMATIC RELATIONSHIP OF TRIBES & FEDERAL GOVERNMENT

Topline Message 2: Opposing ICWA ignores the legal and diplomatic relationship between tribal nations and the federal government.

ICWA is based on citizenship.

- Tribal governments have a legal, diplomatic relationship with the federal government.
- Today, there are 573 sovereign tribal nations recognized within the United States, which predate the formation of the federal and state governments.
- ICWA reaffirms the inherent rights of tribal nations acknowledged through hundreds of years of federal law and policy.
- The U.S. Constitution affirms the unique political status of tribal nations and Native people.
- ICWA applies to children who are citizens (referred to as “members” in ICWA) of a federally recognized tribe.
- The U.S. Supreme Court has repeatedly found federal laws that specifically govern tribal citizens constitutional.
- Citizenship requirements vary from tribe to tribe, just as citizenship requirements vary from country to country. ICWA does not apply to individuals who merely self-identify as American Indian or Alaska Native.
- The federal government has a federal trust responsibility to uphold ICWA in its entirety.

Tribes play a key role in the well-being of member children.

- As governments, tribal nations have a role in protecting Native children from abuse and neglect; helping families receive the support services they need; and ensuring children stay connected to their families, culture, and communities.
- Tribal nations have resources dedicated to helping their children, often know children’s extended families, and can advocate for the best interest of their member children.
- Opposing ICWA deprives Native children of advocacy and support from their tribal nations.
- Tribal nations are caregivers and stewards of the best interest of Native children.

Talking Point Tips

- Our research show that messaging with a unified voice and new key words are changing the ICWA conversation in the media and online by changing the narrative. Consider the following concepts:
 - Highlight the diplomatic relationship between tribes and the federal government.
 - Emphasize the diligence of a tribe to protect the well-being of Native children.
 - Humanize ICWA statute language when talking to the general public about Native children and the ICWA statute to make sure that the best interest of our children is a priority.
- Topline Message 2 Tip: Be prepared to describe specialized services that tribes provide but states may not have access to.

ICWA SUPPORT BY DIVERSE PARTNERS

Topline Message 3: Tribal nations, tribal organizations, and non-tribal partners are taking action to protect ICWA and end the threat of forced removal of Native children from their families, tribes, and communities.

ICWA protections are vital.

- Attacks on ICWA are a direct violation of the diplomatic relationship and responsibility of the federal government to tribal nations.
- ICWA was borne out of the forced removal of one out of every three Native children from their homes in the late 1970s. This issue is far from ancient history.
- Statistics show that tribal families in crisis are not treated fairly in the courts and child welfare systems.
- Native children are removed from their families and placed in foster care at a rate four times more often than their White counterparts even when both families have the same presenting problems.
- Native children are overrepresented in the foster care system at a rate 2.1 times greater than their proportion of the population.

Today states and tribal nations are doing more than ever to use ICWA to protect Native children.

- Tribal nations often have critical information regarding Native families that state or private agencies do not. This information is critical to guide state agencies and state courts as they make important decisions.
- States increasingly depend upon tribal nations to assist in developing effective case plans that reflect Native children and family needs, identify culturally appropriate services, identify and engage extended family members, and locate appropriate placements when necessary.
- Twenty-one states filed an amicus brief in this *Brackeen v. Zinke* case in support of ICWA. These states, which are home to over 70 percent of tribal nations, know that ICWA helps them better serve Native children and families.

Talking Point Tips

- Highlight the strong support from a large number of partners of diverse backgrounds.
- Topline Message 3 Tip: Experts in the field of child welfare support ICWA as a best practices law. If you need more information or support, visit www.nicwa.org.

RESOURCES

The following briefs were filed at the U.S. Court of Appeals in the Fifth Circuit in *Brackeen v. Zinke*

- Opening Brief of the United States
- Opening Brief of the Tribal Defendants
- Tribal Amicus Brief
- Members of Congress Amicus Brief
- States Amicus Brief
- Casey Family Programs et al Amicus Brief
- Indian Law Scholars Amicus Brief
- Constitutional Law Scholars Amicus Brief
- Abalsky (Originalist) Amicus Brief
- Native American Women's Amicus Brief
- United Keetoowah Band of Cherokee Indians Amicus Brief

Additional resources on the Indian Child Welfare Act

- Setting the Record Straight: The Indian Child Welfare Act Fact Sheet
- Top 10 ICWA Myths Fact Sheet
- Full Text of the Indian Child Welfare Act

QUESTIONS? CONTACT THE PROTECT ICWA CAMPAIGN PARTNERS:

National Indian Child Welfare Association | www.nicwa.org

National Congress of American Indians | www.ncai.org

Association on American Indian Affairs | www.indian-affairs.org

Native American Rights Fund | www.narf.org



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