The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

INDIAN CHILD WELFARE ACT (ICWA): PURPOSE AND KEY COMPONENTS

ZEALOUS ADVOCACY IN CHIPS CASES:
WHAT PARENTS' ATTORNEYS NEED TO KNOW TO EFFECTIVELY
ADVOCATE FOR THEIR CLIENTS

JUNE 16, 2016

PRESENTED BY:

JESSICA L. RYAN, ESQ.

WHY THE NEED FOR THE INDIAN CHILD WELFARE ACT?

- THE NUMBER OF AMERICAN INDIAN CHILDREN IN OUT OF HOME PLACEMENT PRIOR TO 1978 WAS APPROXIMATELY 1 IN 4. IN SOME STATES, SUCH AS MINNESOTA, THIS RATE WAS AS HIGH AS 35%
- UP TO 90% OF INDIAN CHILDREN WERE PLACED WITH NON-INDIANS



HISTORICAL OVERVIEW

WHY IS THERE A SPECIAL LAW THAT APPLIES TO INDIANS?

WHAT IS SOVEREIGNTY?

WHAT IS “INDIAN POLICY”?



The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text is centered in the middle of the slide.

6 PRIMARY ERAS OF FEDERAL INDIAN POLICY

1. AGREEMENTS AMONG EQUALS: 1787 – 1828

- US GOV & SUPREME COURT RECOGNIZED GOVERNMENT TO GOVERNMENT RELATIONSHIP
- TRIBES TREATED EQUAL TO FOREIGN NATION
- MARSHALL TRILOGY
- CONGRESS ENACTED LAWS TO PROTECT INDIAN LAND LOSS OR SALE TO WHITES WITHOUT FEDERAL GOVERNMENT APPROVAL (1790)

2. RELOCATION ERA 1828 – 1887

- PRESIDENT ANDREW JACKSON
- GOAL: MOVE EASTERN TRIBES WEST, THEN LATER TO “EDUCATE & CIVILIZE”
- “DOMINANT FEDERAL INDIAN POLICY OF THE 19TH CENTURY
- 1830 CONGRESS PASSED “INDIAN REMOVAL ACT”: PRESIDENT COULD “NEGOTIATE WITH TRIBE TO RELOCATE TO A “PERMANENT” HOME. BROKEN WITHIN A FEW YEARS.

3. ALLOTMENT & ASSIMILATION 1887 – 1934

- **FEDERAL POLICY DRIVEN BY:**

- 1) DESIRE FOR MORE LAND FROM INDIANS FOR WHITE SETTLEMENTS
- 2) BEST WAY TO HELP INDIANS OVERCOME POVERTY WAS TO ASSIMILATE INTO WHITE SOCIETY

- **1887 GENERAL ALLOTMENT ACT/DAWES ACT:**

- EXTINGUISH TRIBAL SOVEREIGNTY; ERASE RESERVATION BOUNDARIES; FORCE ASSIMILATION OF INDIANS INTO SOCIETY
- PRESIDENT DIVIDE COMMUNALLY HELD LAND INTO INDIVIDUAL & THEN SELL SURPLUS LAND

3. ALLOTMENT & ASSIMILATION 1887 – 1934

- RADICAL POLICY CHANGE BECAUSE:
- GREAT DEPRESSION ELIMINATED DESIRE & FINANCIAL ABILITY OF NON-INDIAN TO BUY LAND
- MERIAM REPORT, BY BROOKINGS INSTITUTE (1928)
 - SEVERE & HOPELESS CONDITIONS FACED BY INDIANS AS RESULT OF FEDERAL POLICIES
 - EXTREME POVERTY
 - DEVASTATING EPIDEMICS
 - INADEQUATE FOOD
 - INADEQUATE EDUCATION

PRESIDENT FRANKLIN D. ROOSEVELT

1934: WHEELER-HOWARD/INDIAN REORGANIZATION ACT

- **PURPOSE:** REHABILITATE INDIAN'S ECONOMIC LIFE & GIVE INDIANS A CHANCE TO DEVELOP THE INITIATIVE TO DESTROYED BY A CENTURY OF OPPRESSION & PATERNALISM (PEVAR 10)
- FIRST INDIAN POLICY IN 100+ YEARS THAT DID NOT HAVE EXPLICIT PURPOSE OF UNDERMINING STATUS OF INDIAN NATIONS

- PROTECTED REMAINING INDIAN LAND
- SECRETARY CAN ADD LAND
- TRIBES ENCOURAGED TO ADOPT OWN “CONSTITUTIONS”;
BECOME FEDERALLY CHARGED CORPORATIONS & ASSERT
POWERS OF SELF GOVERNMENT
- SOUGHT TO INCREASE INDIAN INFLUENCE IN MANAGING
INDIAN PROGRAMS
- CONCERNS IRA PATERNALISTIC, TRIBES NOT INCLUDED IN
DEVELOP OF IRA, TRIBES STILL SUBJECT TO SUBSTANTIAL FEDERAL
CONTROL

5. TERMINATION & RELOCATION 1953 - 1968

- 1949 HOOVER COMMISSION REPORT RECOMMENDED “COMPLETE INTEGRATION” OF INDIANS INTO WHITE SOCIETY
- ASSIMILATION IN “BEST INTERESTS” OF INDIANS
- SAVE MONEY BY ELIMINATING PROGRAMS
- 1953 – PRESIDENT DWIGHT D. EISENHOWER
- GOAL: TERMINATE TRIBE’S TRUST RELATIONSHIP WITH US GOVERNMENT

- 109 TRIBES TERMINATED W/IN 10 YEARS
- PL83-280: GAVE 6 STATES CRIMINAL JURISDICTION ON RESERVATIONS, FURTHER REDUCING FEDERAL OBLIGATIONS TO TRIBES
- 1956 – RELOCATION PROGRAM
 - JOB TRAINING & HOUSING ASSISTANCE IF LEAVE RESERVATION FOR URBAN AREA
 - 35,000 ENTERED PROGRAM IN 10 YEARS
 - 1/3 RETURNED HOME
 - JOBS & HOUSING PROMISES NOT KEPT

6. TRIBAL SELF DETERMINATION 1968 - NOW

“WE MUST AFFIRM THE RIGHTS OF THE FIRST AMERICANS TO REMAIN INDIANS WHILE EXERCISING THEIR RIGHTS AS AMERICANS. WE MUST AFFIRM THEIR RIGHTS TO FREEDOM OF CHOICE & SELF DETERMINATION.”

~PRESIDENT LYNDON B. JOHNSON, 1968~



“THIS, THEN, MUST BE THE GOAL OF ANY NEW NATIONAL
POLICY TOWARD THE INDIAN PEOPLE: TO STRENGTHEN THE
INDIAN SENSE OF AUTONOMY WITHOUT THREATENING HIS
SENSE OF COMMUNITY”

~PRESIDENT RICHARD NIXON, 1970~





“THIS ADMINISTRATION INTENDS TO RESTORE TRIBAL GOVERNMENTS TO THEIR RIGHTFUL PLACE AMONG GOVERNMENTS, ALONG WITH STATE AND LOCAL GOVERNMENTS, TO RESUME CONTROL OVER THEIR OWN AFFAIRS.”

~PRESIDENT RONALD REAGAN, 1983~

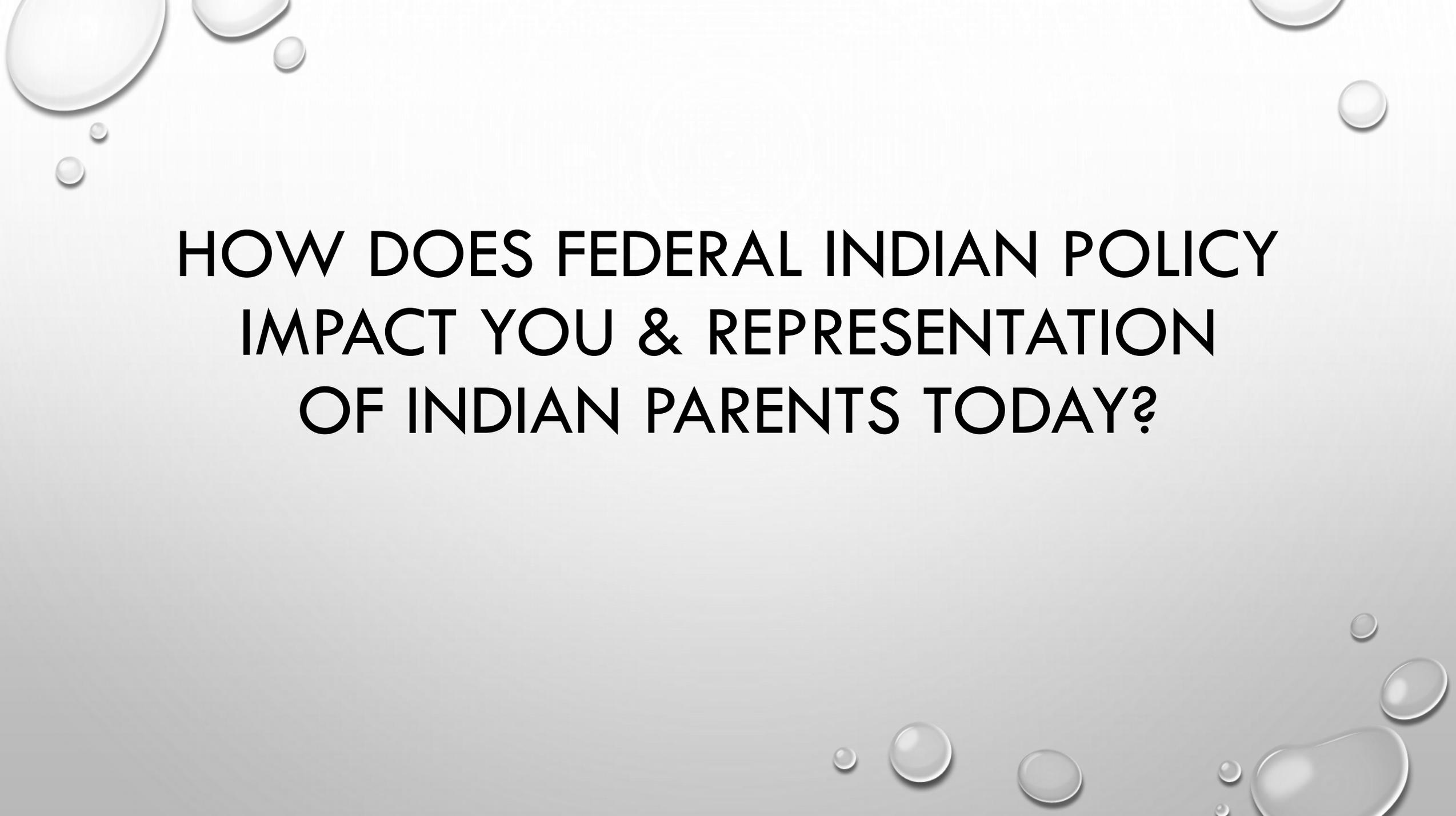




“ALL FEDERAL AGENCIES MUST CONDUCT THEIR BUSINESS
WITH TRIBES ON A GOVERNMENT-TO-GOVERNMENT BASIS,
RESPECTFUL OF TRIBAL SOVEREIGNTY.”

~PRESIDENT BILL CLINTON, 1994~





**HOW DOES FEDERAL INDIAN POLICY
IMPACT YOU & REPRESENTATION
OF INDIAN PARENTS TODAY?**



- REMOVAL OF INDIAN CHILDREN SEEN BY SOME AS CONTINUATION OF GOVERNMENT OPPRESSION

- EXAMPLES

- EFFECTS OF FORCED ASSIMILATION PRACTICES IMPACTS:

- WHOLE BEING OF INDIVIDUAL,

- FAMILY

- TRIBE

- IMPACTS THE: PHYSICAL, SPIRITUAL, EMOTIONAL, MENTAL HEALTH

- HISTORICAL TRAUMA ~ GENERATIONAL DEPRESSION



POSSIBLE EFFECTS ON INDIAN CHILDREN PRE-ICWA

- CHILD WELFARE LEAGUE OF AMERICA – INTENTIONAL WHOLESALE REMOVAL OF INDIAN CHILDREN
- SOME ADULTS ADOPTED OUT OF THEIR FAMILY & TRIBES EXPERIENCE:
 - LOSS OF SENSE OF BELONGING
 - LOSS OF IDENTITY
 - SHAME & JUDGMENT FOR NOT KNOWING TRIBAL WAYS

MN - - OHP DATA FOR 2014

- **AMERICAN INDIAN CHILDREN ARE 17.5 TIMES MORE LIKELY TO EXPERIENCE OUT-OF-HOME PLACEMENT THAN WHITE CHILDREN**
- **96.4 OUT OF 1,000 AMERICAN INDIAN CHILDREN EXPERIENCE OUT-OF-HOME PLACEMENT**
- **2013: GETTING WORSE - 83 PER 1,000 AMERICAN INDIAN CHILDREN IN OHP**



HOW CAN WE DO BETTER?

- **UNDERSTAND THE LAW**
 - **RESPECT THE LAW**
 - **APPLY THE LAW IN A GOOD WAY**
 - **ZEALOUSLY ADVOCATE FOR PARENTS**
- 

ICWA: 25 U.S.C. SECTION 1901 - 1963

- ACKNOWLEDGES POLITICAL RELATIONSHIP BETWEEN U.S. GOVERNMENT & TRIBES AS SOVEREIGNS
- POLITICAL NOT RACIAL DISTINCTION
- TRIBES = SOVEREIGNS. TRIBES RETAIN RIGHTS. RIGHTS NOT “GIVEN”
- ACKNOWLEDGES TRIBES FUNDAMENTAL INTEREST & RIGHT TO PROTECT GREATEST RESOURCE: CHILDREN
- ESTABLISHES MINIMUM FEDERAL STANDARDS FOR CHILD WELFARE PRACTICE WITH INDIAN FAMILIES

ICWA APPLIES:

- **CHILD CUSTODY PROCEEDINGS IF:**

- CHILD IS A MEMBER OF A FEDERALLY RECOGNIZED TRIBE; OR BIOLOGICAL PARENT IS A MEMBER & CHILD IS ELIGIBLE FOR MEMBERSHIP

- **THIRD PARTY CUSTODY IF:**

- NON-PARENT MAY GET CUSTODY OF THE CHILD

- **DOES NOT APPLY IN:**

- DELINQUENCY UNLESS TERMINATION IS POSSIBLE
- DISSOLUTION

- **NON-FEDERALLY RECOGNIZED TRIBES**

ICWA POLICY ARTICULATED:

- **TESTIMONY**
- **25 U.S.C. SECTION 1901**
- **25 U.S.C. SECTION 1902**
- **MISSISSIPPI BAND OF CHOCTAW INDIANS V. HOLYFIELD,
490 U.S. 30 (1989)**

BIA GUIDELINES

- BIA GUIDELINES PREPARED AFTER ENACTMENT OF ICWA IN 1978
- PUBLISHED ORIGINALLY 1979
- GUIDELINES – NOT BINDING LAW; PROVISIONS HAVE BEEN CITED BY APPELLATE COURTS
- REVISED FOR FIRST TIME AND PUBLISHED: FEBRUARY 25, 2015
- LOOK FAMILIAR? COMPARE TO OUR TRIBAL/STATE AGREEMENT

REGULATIONS

- NEWS FLASH! FEDS JUST RELEASED REGULATIONS FOR IMPLEMENTATION OF ICWA
- FOLLOWS ENACTMENT OF NEW BIA GUIDELINES
- PURPOSE: DEVELOP MORE CONSISTENT APPLICATION OF ICWA THROUGHOUT THE COUNTRY; APPLY THE LAW AS INTENDED TO IMPROVE KEEPING INDIAN FAMILIES TOGETHER. WHEN REMOVAL MUST HAPPEN, TO REUNIFY AS SOON AS SAFE.
- EFFECTIVE DATE COMMENCES IN 6 MONTHS
- STAY TUNED FOR TRAINING ON IMPLEMENTATION

MN INDIAN FAMILY PRESERVATION ACT (MIFPA)

- M.S.A. SECTION 260.755 – ENACTED: 1985
- CLARIFIES AND RAISES MINIMUM STANDARDS OF ICWA
- PURPOSE: M.S.A. SECTION 260.753
- PERMITS ALTERNATE TRIBE'S INVOLVEMENT
- REQUIRES NOTICE IN VOLUNTARY FC WITHIN 7 DAYS
- REQUIRES NOTICE IN VOLUNTARY PREADoption OR ADOPTIONS UPON FILING TPR OR WITHIN 90 DAYS OF TEMPORARY PLACEMENT FOR ADOPTION, WHICHEVER IS FIRST
- STANDARDS FOR ACTIVE EFFORTS STANDARDS & QUALIFIED EXPERT WITNESS DETAILED

TRIBAL/STATE AGREEMENT

- CONTEMPLATED & AUTHORIZED IN ICWA & MIFPA
- 11 TRIBES IN MN & DHS
- APPLIES TO ALL INDIAN FAMILIES IN MN
- CITED BY OTHER STATES
- ORIGINALLY EXECUTED 1998; REVISED 2007
- COLLABORATION IS THE PRIMARY GUIDING FORCE
- FEDS LIKED WHAT WE DID - - SEE SIMILARITIES IN BIA GUIDELINES

KEY PROVISIONS:

- “INDIAN CHILD” IS WHERE THE CASE STARTS
 - ACT AS IF “INDIAN CHILD” UNTIL TOLD OTHERWISE BY CHILD’S TRIBE
 - TRIBE MAKES DECISION
 - MORE THAN ONE TRIBE POSSIBLE? NOTIFY ALL

PARENT REPRESENTATION:

IF INDEGENCY DETERMINED, PARENT OR INDIAN CUSTODY SHALL HAVE RIGHT TO COURT APPOINTED COUNSEL IN ANY REMOVAL, PLACEMENT OR TERMINATION PROCEEDING. 25 USC SECTION 1912(B)

PARENT INCLUDES UNMARRIED FATHER WHO TAKES ANY ACTION TO HOLD HIMSELF OUT AS BIOLOGICAL FATHER MSA 260.755, SUBD. 14

NOTICE REQUIREMENTS:

- NOTICE MUST BE SERVED ON PARENT/INDIAN CUSTODIAN & TRIBE BY “REGISTERED MAIL WITH RETURN RECEIPT REQUESTED”
- PERSONAL SERVICE CANNOT SUBSTITUTE FOR FEDERAL MANDATE
- NO HEARING UNTIL AT LEAST 10 DAYS AFTER RECEIPT OF NOTICE BY PARENT/INDIAN CUSTODIAN & TRIBE
- EXTENSION FOR 20 ADDITIONAL DAYS IF REQUESTED
- EXCEPTION: EPC – TO PREVENT IMMINENT PHYSICAL DAMAGE OR HARM
- RETURN CHILD HOME ASAP
- GUIDELINES: EMERGENCY REMOVAL AND PLACEMENT MUST BE AS SHORT AS POSSIBLE AND PROVIDES GUIDANCE ON HOW TO ASSESS

ACTIVE EFFORTS

- LEGAL TERM OF ART – MORE THAN “REASONABLE EFFORTS”
- “RIGOROUS AND CONCERTED LEVEL OF EFFORT”
- REQUIRED CONTACT TO CLOSURE
- PREVAILING SOCIAL & CULTURAL VALUES
- PRESERVE THE FAMILY, THEN REUNIFY IF REMOVAL WAS NECESSARY
- PETITIONER MUST PROVIDE ACTIVE EFFORTS
- DON'T BE A JERK – RESOURCES ARE LIMITED
- HELP HOW YOU CAN
- GOAL IS BALANCED AND HEALTHY FAMILY, NOT “WINNING”
- COLLABORATE TO REACH THE GOAL



**ACTIVE EFFORTS –
M.S.A. SECTIONS 260.755, SUBD. 1 A; 260.762**

- 2015 STATUTES REVISED TO MORE CLEARLY ARTICULATE WHAT IS ACTIVE EFFORTS; WHAT FINDINGS COURT MUST MAKE
 - INCLUDES PROVISION TO ALLOW FOR TRADITIONAL HELPING AND HEALING SYSTEMS
 - ENCOURAGES EARLY NOTICE TO TRIBES;
 - EMPHASIZES IMPORTANCE OF EFFORTS TO GAIN INVOLVEMENT & GUIDANCE FROM EXTENDED FAMILY & TRIBE
- 

The background features a light gray gradient with several realistic water droplets of various sizes scattered in the corners. The droplets have highlights and shadows, giving them a three-dimensional appearance.

WHAT IS **NOT**
ACTIVE EFFORTS?

“BEST INTERESTS OF AN INDIAN CHILD”

- LEGAL TERM OF ART
- NOT SAME AS BEST INTERESTS IN A NON-INDIAN MATTER
- “BEST INTERESTS OF AN INDIAN CHILD SUPPORT THE CHILD’S SENSE OF BELONGING TO FAMILY, EXTENDED FAMILY, AND TRIBE. THE BEST INTERESTS OF AN INDIAN CHILD ARE INTERWOVEN WITH THE BEST INTERESTS OF THE INDIAN CHILD’S TRIBE.” M.S.A. SECTION 260.755, SUBD. 2A

QUALIFIED EXPERT WITNESS

- QEW REQUIRED FOR OHP AND AGAIN FOR PERMANENCY
- STANDARD: FC – CLEAR & CONVINCING EVIDENCE, INCLUDING QUALIFIED EXPERT WITNESSES, THAT CONTINUED CUSTODY OF THE CHILD BY THE PARENT IS LIKELY TO RESULT IN SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE CHILD
- STANDARD: PERMANENCY – EVIDENCE BEYOND A REASONABLE DOUBT, INCLUDING QUALIFIED EXPERT WITNESSES, THAT CONTINUED CUSTODY OF THE CHILD BY THE PARENT OR INDIAN CUSTODIAN IS LIKELY TO RESULT IN SERIOUS EMOTIONAL OR PHYSICAL DAMAGE TO THE CHILD.
- LEGAL TERM OF ART - - NOT AN EXPERT WITNESS

M.S.A. SECTION 260.755, SUBD. 17A & 260.771, SUBD. 6

- TRIBALLY DESIGNATED QEW IS NOT SUBJECT TO CHALLENGE
- PARTIES CAN BRING OTHERS TO BE CONSIDERED AS QEW
- COURT OR ANY PARTY CAN ASK BIA FOR CHILD'S TRIBE FOR POSSIBLE QEW'S
- PURPOSE OF QEW – USE CULTURALLY & SOCIALLY APPROPRIATE STANDARDS FOR MEASURING THESE IMPORTANT DECISIONS

DESCENDING PREFERENCE ORDER, IF TRIBE DOES NOT DESIGNATE QEW

1. MEMBER CHILD'S TRIBE RECOGNIZED BY CHILD'S TRIBAL COMMUNITY AS KNOWLEDGEABLE IN TRIBAL CUSTOMS RE: FAMILY ORGANIZATION & CHILD REARING
2. INDIAN PERSON FROM AN INDIAN COMMUNITY WITH SUBSTANTIAL EXPERIENCE IN DELIVERY OF CHILD AND FAMILY SERVICES & EXTENSIVE KNOWLEDGE OF PREVAILING SOCIAL & CULTURAL STANDARDS & CONTEMPORARY & TRADITIONAL CHILD REARING PRACTICES OF THE CHILD'S TRIBE

IF CLEAR & CONVINCING EVIDENCE THAT DILIGENT EFFORTS MADE TO SECURE 1 & 2, THEN ALTERNATE RESOURCES POSSIBLE

PLACEMENT PREFERENCES

FOSTER CARE PLACEMENT PREFERENCES, DESCENDING ORDER:

- 1. MEMBER OF CHILD'S EXTENDED FAMILY, INDIAN OR NON-INDIAN;**
- 2. FOSTER HOME LICENSED, APPROVED, OR SPECIFIED BY THE INDIAN CHILD'S TRIBE;**
- 3. AN INDIAN FOSTER HOME LICENSED OR APPROVED BY AN AUTHORIZED NON-INDIAN LICENSING AUTHORITY;**
- 4. AN INSTITUTION FOR CHILDREN APPROVED BY AN INDIAN TRIBE OR OPERATED BY AN INDIAN ORGANIZATION WHICH HAS A PROGRAM SUITABLE TO MEET THE INDIAN CHILD'S NEEDS**

FOSTER CARE PLACEMENTS

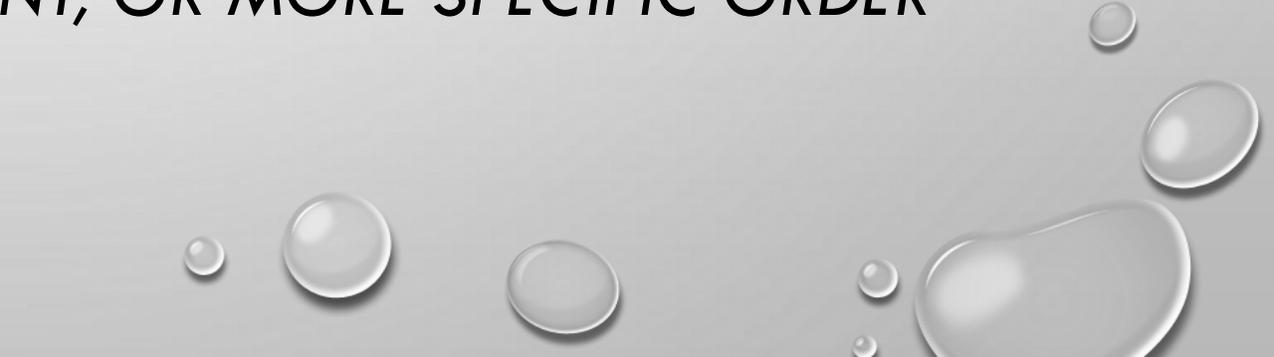
- **MUST BE IN THE LEAST RESTRICTIVE SETTING WHICH MOST APPROXIMATES A FAMILY AND IN WHICH THE SPECIAL NEEDS MAY BE MET. PLACEMENT SHALL ALSO BE WITHIN REASONABLE PROXIMITY TO HER HOME, TAKING INTO ACCOUNT SPECIAL NEEDS OF THE CHILD, UNLESS GOOD CAUSE TO THE CONTRARY.**



ADOPTION PLACEMENT PREFERENCES, DESCENDING ORDER:

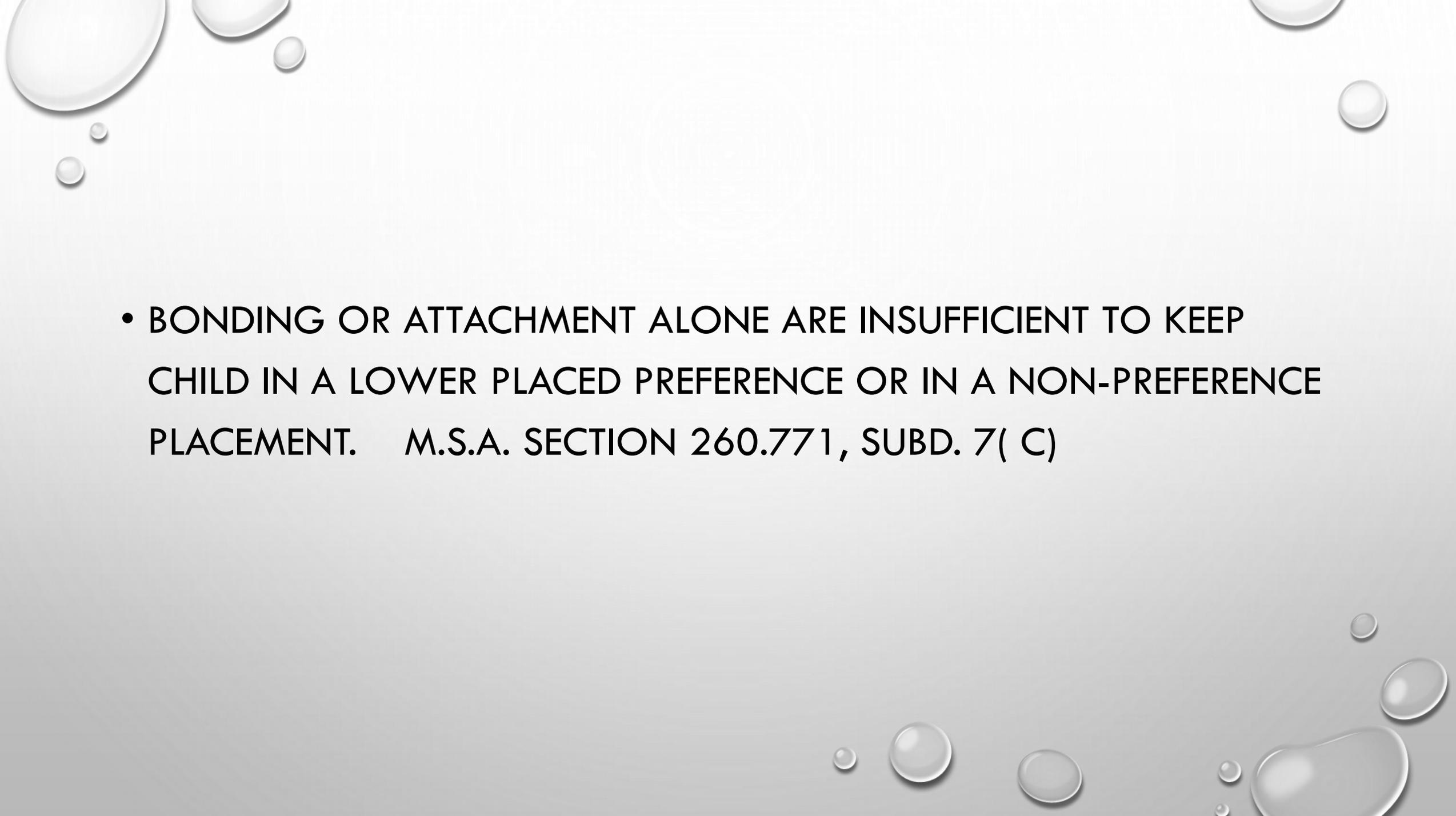
- 1. MEMBER OF THE CHILD'S EXTENDED FAMILY**
- 2. OTHER MEMBERS OF THE INDIAN CHILD'S TRIBE**
- 3. OTHER INDIAN FAMILIES**

**** TRIBES CAN ESTABLISH A DIFFERENT, OR MORE SPECIFIC ORDER***



GOOD CAUSE NOT TO FOLLOW PLACEMENT PREFERENCES:

- COURT MUST FOLLOW ORDER OF PREFERENCES, UNLESS:
 - REASONABLE REQUEST OF THE PARENT, IF ONE OR BOTH PARENTS ATTEST THEY HAVE REVIEWED THE PLACEMENT OPTIONS THAT COMPLY; OR
 - REASONABLE REQUEST OF THE INDIAN CHILD, IF THE CHILD IS ABLE TO UNDERSTAND AND COMPREHEND THE DECISION THAT IS BEING MADE; OR
 - THE TESTIMONY OF A QEW DESIGNATED BY THE CHILD'S TRIBE AND, IF NECESSARY EXPERT TESTIMONY, THAT SUPPORTS PLACEMENT OUTSIDE THE ORDER OF PREFERENCES DUE TO EXTRAORDINARY PHYSICAL OR EMOTIONAL NEEDS OF THE CHILD THAT REQUIRE HIGHLY SPECIALIZED SERVICES; OR
 - TESTIMONY OF LSSA THAT DILIGENT SEARCH DID NOT LOCATE AVAILABLE, SUITABLE FAMILY THAT MEETS PLACEMENT CRITERIA

- 
- BONDING OR ATTACHMENT ALONE ARE INSUFFICIENT TO KEEP CHILD IN A LOWER PLACED PREFERENCE OR IN A NON-PREFERENCE PLACEMENT. M.S.A. SECTION 260.771, SUBD. 7(C)

TRANSFER OF JURISDICTION

- LAW PRESUMES A TRANSFER OF JURISDICTION TO TRIBAL COURT FROM DISTRICT COURT
- M.S.A. SECTION 260.771, SUBD. 4
- EITHER PARENT CAN OBJECT TO TRANSFER
- TRIBAL COURT CAN DECLINE TO ACCEPT TRANSFER
- TRANSFER CAN OCCUR AT ANY POINT IN THE PROCEEDINGS
- CULTURAL CONSIDERATIONS

GOOD CAUSE NOT TO TRANSFER M.S.A. SECTION 260.771, SUBD 3A

- **FACT SPECIFIC INQUIRY, CASE BY CASE BASIS**
- **SOCIOECONOMIC CONDITIONS & PERCEIVED ADEQUACY OF THE TRIBAL COURT, SOCIAL SERVICES OR JUDICIAL SYSTEMS MUST NOT BE CONSIDERED**
- **PARTY OPPOSING TRANSFER HAS BURDEN OF PROOF, BY CLEAR AND CONVINCING, THAT GOOD CAUSE TO DENY TRANSFER EXISTS**
- **OPPOSITION TO TRANSFER MUST BE IN WRITING AND SERVED ON PARTIES**

GOOD CAUSE TO DENY TRANSFER EXISTS IF:

- INDIAN CHILD'S TRIBE DOES NOT HAVE TRIBAL COURT OR ANY OTHER ADMINISTRATIVE BODY VESTED WITH AUTHORITY AND CHILD'S TRIBE HAS NOT DESIGNATED ANOTHER TRIBAL COURT; OR
- EVIDENCE NECESSARY TO DECIDE THE CASE COULD NOT BE ADEQUATELY PRESENTED IN THE TRIBAL COURT WITHOUT UNDUE HARDSHIP TO THE PARTIES OR WITNESSES AND TRIBAL COURT IS UNABLE TO MITIGATE THE HARDSHIP. WITHOUT EVIDENCE OF UNDUE HARDSHIP, TRAVEL DISTANCE ALONE IS NOT A BASIS FOR DENYING TRANSFER.

PROCESS TO TRANSFER

- TRIBAL COURT/STATE COURT FORUM DEVELOPED PROTOCOL
- MN RULES ADOPTED – RULE 48

RESOURCES

- FEDERAL REGISTER – VOL. 80, NO. 37, FEBRUARY 25, 2015, P. 10146 – 10159 (GUIDELINES)
- MINNESOTA TRIBAL/STATE AGREEMENT 2007 – ICWALC WEBSITE, DHS WEBSITE
- INDIAN CHILD WELFARE ACT LAW CENTER – WWW.ICWLC.ORG
- INDIAN CHILD WELFARE ACT HANDBOOK – JUDGE B.J. JONES
- A PRACTICAL GUIDE TO THE INDIAN CHILD WELFARE ACT – NATIVE AMERICAN RIGHTS FUND
- THE RIGHTS OF INDIANS & TRIBES – STEVEN PEVAR
- NATIONAL INDIAN CHILD WELFARE ASSOCIATION – WWW.NICWA.ORG (REGULATIONS + SUMMARY)
- NATIVE AMERICAN RIGHTS FUND – WWW.NARF.ORG (REGULATIONS + SUMMARY)

QUESTIONS OR COMMENTS?

JESSICA L. RYAN, ESQ.

5001 AMERICAN BOULEVARD WEST

SUITE #500

BLOOMINGTON, MN 55437

JLR@BPSLAWFIRM.COM

952-893-1813