



# Understanding ICWA Placements Using Kinship Care Research:

## *Family that Children Have Never Known*

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### INDIAN CHILD WELFARE ACT (ICWA)

The Indian Child Welfare Act, or ICWA, is a federal law passed in 1978. ICWA was passed in response to the alarmingly high number of American Indian and Alaska Native children being removed from their homes by both public and private agencies. Over the past few years, opponents of the Indian Child Welfare Act (ICWA) have raised concern that following ICWA placement preferences might result in children being placed with people they have never known, even though those caregivers may be biological family. The fact that ICWA provisions might result in placing children with family caregivers they don't know has drawn criticism from ICWA opponents in a concerted effort that seeks to upend ICWA. ICWA opponents intentionally confuse the issue of who is "family," characterizing temporary caregivers as having a family relationship with children and portraying actual extended family members as "strangers" if children do not yet have a close relationship with those family members. This intentional mischaracterization of who is family flies in the face of a growing body of research and public policy that increasingly demonstrates the value of extended family in children's lives. It is critical for ICWA advocates and defenders to be able to counter this argument.

**There are key benefits to following ICWA placement preferences for long-term mental health and well-being of American Indian/ Alaska Native (AI/AN) youth.** There is a large body of evidence, recently compiled in peer

### HIGHLIGHTS

- *Research shows that children in kinship care have profound and enduring benefits to mental health, economic, and educational well-being.*
- *Anti-ICWA policymakers and groups disregard these facts in their attempts to upend the Indian Child Welfare Act.*

reviewed publications, showing the benefits of kinship care for all children and youth (Sahota, 2019). Many arguments from ICWA opponents are based on outdated attachment and bonding literature. More recent research and literature on kinship care and youth psychological developmental milestones is supportive of ICWA placement preferences. Furthermore, recent research has shown that ICWA placement preferences should be the gold standard for all children, not just those who are Native, given the benefits of kinship care (Sahota, 2019, Winokur et al., 2014, Lovett and Xue, 2018).

**There is strong evidence that kinship care is beneficial for all children.** Quantitative studies (meaning those with large enough numbers of children to allow for statistical analysis) conducted with the general U.S. population show clear, long-term benefit to kinship care for all U.S. children. There is very limited research on kinship care and outcomes for AI/AN youth specifically, but a few

qualitative studies have been done that show a striking depth of emotional connection between kinship caregivers and AI/AN children and youth (Sahota, 2019).

## KINSHIP CARE RESEARCH

**Rigorous and credible research studies including large numbers of children show strong evidence that placement with extended family has lifelong benefits for all children.**

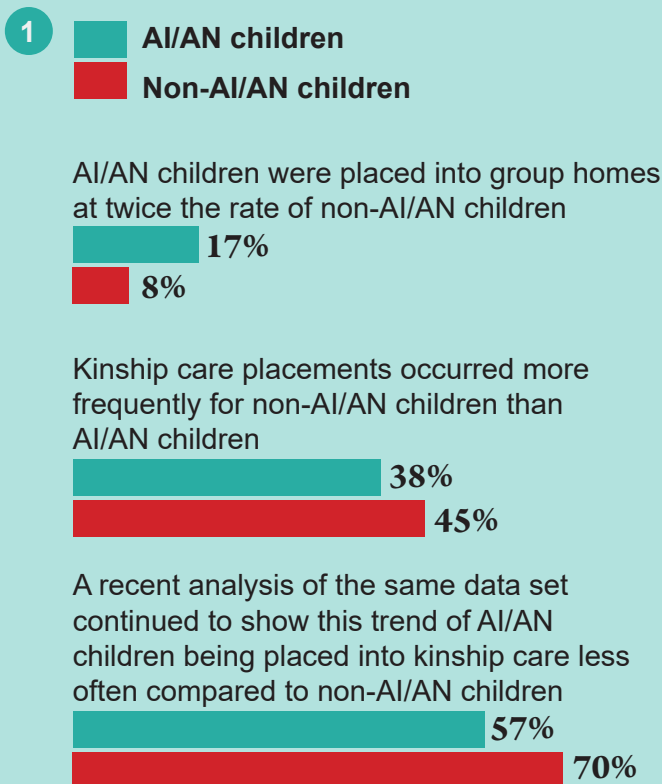
In terms of quantitative research, there was a recent meta-analysis (which means an analysis combining the findings of multiple different research studies) that looked at data available for more than half a million children in the general U.S. population (Winokur et al., 2014). This study found that children in kinship care had statistically significantly fewer behavioral problems, fewer mental health disorders, better well-being, and less placement disruption (Winokur et al., 2014) than children in non-kinship foster care.

Another large recent study found similar positive long-term effects of kinship care (Lovett and Xue, 2018). The authors of that study conducted an analysis of national data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Youth in Transition Database (NYTD) (Lovett and Xue, 2018). Data in the NYTD are collected across several years, allowing for longitudinal tracking (meaning following how children fare over multiple years). The authors of this study found that “in the long run, there are profound and enduring benefits to kinship foster care” (Lovett and Xue, 2018, p. 4). In the AFCARS/ NYTD data study, children in kinship care were more likely to be employed or enrolled in formal education at age 21 and less likely to require public assistance, be homeless, or be incarcerated compared to children who had been placed in non-kin foster care (Lovett and Xue, 2018). The authors suggest that one reason kinship care could be helpful in longer term outcomes for children and youth is that “kinship care is much more likely to result in youth being placed with a family that matches their prior family along racial, religious, and cultural dimensions” (Lovett and Xue, 2018, p. 22).

These robust, credible research studies tell us that kinship care has long-term benefits for children as they approach adulthood. These benefits are significant and include better outcomes in education, employment, housing, juvenile delinquency, and mental health. Therefore, it is critical to consider the long-term effects of a placement decision in Indian child welfare cases and for all children. Although being placed with extended family may mean that a child or youth did not previously know those family members well, the long-term benefits are clear and convincing for kinship care placements compared to non-kinship care placements.

**Significant disparities remain between AI/AN children and non-AI/AN children in the rates of placement into kinship care** (see chart 1).

Despite placement preferences for kinship care codified in ICWA, AI/AN children are placed into kinship care less than non-AI/AN children. In an analysis of the National Survey of Child and Adolescent Well-Being (NSCAW), Carter (2009)



Source: NSCAW

found that AI/AN children were placed into group homes at twice the rate of non-AI/AN children (17% vs. 8%). Kinship care placements occurred more frequently for non-AI/AN children (45%) than AI/AN children (38%) (Carter, 2009). A recent analysis of the same data set, NSCAW, continued to show this trend of AI/AN children being placed into kinship care less often compared to non-AI/AN children (57% of AI/AN children vs. 70% of non-AI/AN children in out of home care; data calculated from Table 1 in Maher, Clyde, Darnell, Landsverk, & Zhang, 2015). Recent research in developmental psychology has started taking a longer view and looking at outcomes in adolescence and young adulthood. This literature shows that achieving a sense of coherence in cultural identity is a developmental milestone for adolescents (National Indian Child Welfare Association, 2017). This sense of being grounded in cultural identity is more likely to occur in kinship care placements for all children.

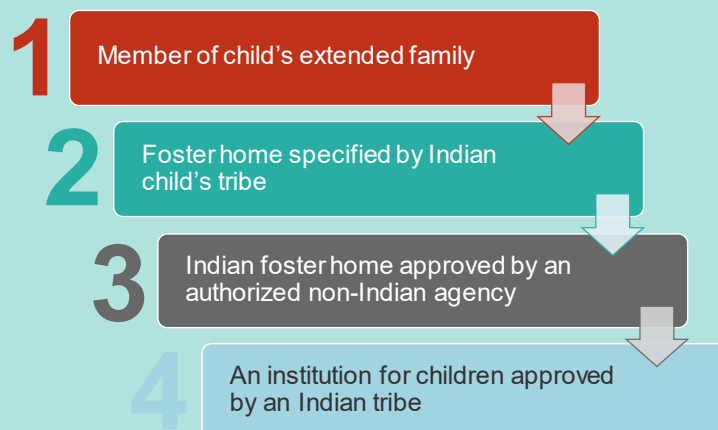
**Studies of AI/AN children’s experiences with their kin caregivers show strong attachment and bonding development** (Henderson et al., 2015, Cross and Day, 2008, Cross, Day and Byers, 2010, Mooradian, Cross, and Stutzky, 2007, Kopera-Frye, 2009). These studies commonly reported on grandparents’ and grandchildren’s perspectives. Grandparents felt deeply responsible for keeping their grandchildren connected to family and culture, resulting in them going to extraordinary efforts to assume caregiving responsibilities despite facing substantial financial stress and their own health problems (Henderson et al, 2015, Cross and Day, 2008, Cross, Day and Byers, 2010,

Mooradian, Cross, and Stutzky, 2007). In one study, grandparents worried that their physical limitations prevented them from doing physical activities with their grandchildren, but their grandchildren expressed compassion and understanding of their grandparents’ physical needs (Cross and Day, 2008), demonstrating mutual empathy and attachment between both members of the dyad.

**Thus, research shows overwhelmingly that kinship care is the preferred placement for all children, not just AI/AN children, because of the profound and long-lasting benefits to mental health, economic, and educational well-being.** Federal child welfare law has increasingly acknowledged the value of kinship care for all children, from the Fostering Connections to Success Act of 2008 to the Family First Prevention Services Act of 2018. ICWA opponents have argued that ongoing placement and even adoption by non-family members is preferable because a child has “bonded” with their foster family, but this assertion is not based in fact. Rather, the opposite is true: research shows clearly that children placed with their extended family develop strong attachments to them and have better long-term outcomes than children in non-kinship care placements. Unfortunately, evidence shows that despite ICWA placement preferences and research on the benefits of kinship care, AI/AN children are still less likely than non-AI/AN children to be placed in kinship care settings (Carter, 2009, Maher, Clyde, Darnell, Landsverk, and Zhang, 2015).

Kinship care should be the preferred placement for all children given its clear benefits, making defending ICWA all the more critical in today’s policy context.

## 2 ICWA PLACEMENT PREFERENCES



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**NICWA**

National Indian Child Welfare Association

The National Indian Child Welfare Association (NICWA) works to support the safety, health, and spiritual strength of Native children along the broad continuum of their lives. We promote building tribal capacity to prevent child abuse and neglect through positive systems change at the state, federal, and tribal levels.

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