

9th Annual Early Children's Mental Health Conference Embracing Our Diversity

Engaging Native American Children and Families



Tribal Justice Collaborative

*In the best interest
of the Indian child....*

Casey Family Programs * Tribal STAR * Ipay Nation of Santa Ysabel
Pala Band of Mission Indians * Sycuan Band of Kumeyaay Nation

- Tom Lidot, Tlingit
- Tribal Liaison & Advisor, Center for Tribes



Tribal Justice Collaborative
Improving outcomes
for Tribal children and families.





Engaging Native American Children and Families

Competencies:

1. Identify two regional and historical events that resulted in family and cultural trauma in Native communities.
2. Increase awareness and access to Native-specific resources in Southern California.
3. Learn strategies for culturally responsive, trauma informed engagement with Native families and communities.

Tribal Justice Collaborative & Tribal STAR Background & History

- Began in 2003 as a training & technical assistance program to improve outcomes for Native American rural foster youth aging out of the child welfare system.
- Began training ICWA for county child welfare 2009
- Implemented a Judicial Advisory 2010
- Began training and collaborating with courts 2010.
- Hosted first annual Judges' Dinner 2011.
- CA adopted Tribal STAR's ICWA full day ICWA curriculum as part of the common core 2017.



Tribal Justice Collaborative & Tribal STAR Background & History

- 2018: Tribal STAR, Academy for Professional Excellence, SDSU School of Social Work shifted priorities to focus on training state social workers.
- June 2018 The Tribal Justice Collaborative was formed and housed under POPS and Casey Family Programs to continue the judicial initiative and expand statewide.





6TH ANNUAL JUDGES' DINNER

Judicial Commitment to ICWA Implementation

ICWA CHAMPIONS OF COLLABORATION

Superior Court of Riverside County

Laura Schott, San Bernardino County Children and Family Services

ICWA CHAMPION OF LEADERSHIP

Chairman Robert Smith, Pala Band of Mission Indians

ICWA CHAMPIONS OF TRAINING

California Department of Social Services

California Social Work Education Center

Hon. Richard Blake, Chief Judge, Hoopa Valley Tribe

Hon. Kevin Briscoe, Chief Justice, Mississippi Band of Choctaw Indians

Hon. Alex Cardenas, Mayor of the City of El Centro, CA

Hon. Michael Donner, Superior Court of Riverside County

Hon. Ana Espina, Superior Court of San Diego County

Hon. Cheryl Fairbanks, Tlingit/Tsimshian, Intertribal Court of Appeals for Nevada

Hon. Cynthia Gomez, Tule River Yokut, Tribal Advisor to the Governor of California

Hon. Anita Fineday, White Earth, Casey Family Programs

Hon. Becky Dugan, Superior Court of Riverside County

Hon. Jorge Hernandez, Superior Court of Riverside County

Hon. William S. Lebov, Superior Court of Riverside County

Hon. Devon Lomayezva, Chief Judge, Intertribal Court of Southern California

Hon. Joseph Plummer, Pechanga Band of Luiseno Indians

Hon. Mark Radoff Chief Judge, Chemehuevi Indian Tribe

Hon. Edward Raybal, Pala Band of Mission Indians

Hon. Katherine Tennyson, Multnomah County Circuit Court, OR

Hon. Joanne Willis Newton, Chisana Cree, Intertribal Court of Southern California

JUDICIAL ADVISORY

HONORABLE ABBY ABINANTI, YUOK * HONORABLE LEONARD EDWARDS

HONORABLE BILL THORNE, POMO/COAST MIWOK * HONORABLE JUAN ULLOA

JUNE 16, 2017



Engaging Native American Children and Families

Engagement Tips

1. Engage with a goal to learn about your participants cultural identity. “Where are you from? To which tribe are you connected?”
2. Assess their cultural awareness and knowledge, do they practice cultural traditions? “Are you descended from your mother or father’s side?”
3. Refrain from asking about casinos.

Historical Context

The Two Apologies: What is the significance?

In 2000 Kevin Gover(Pawnee), Assistant Secretary for Indian Affairs, delivered an apology for the conduct of the Bureau of Indian Affairs and their collusion in helping to break up Indian families.

Mr. Shay Bilchik, Executive Director of the Child Welfare League of America, issued an in 2001 for their role in the Indian Adoption Project, stating the project was developed to remove Indian children, mostly infants, and place them in adoptive homes with non-Indian parents.

Historical Context

1. Forced removal & relocation = loss of ancestral homelands, connection to culture and historical landmarks.
2. Communicable diseases used as weapons = reliance on western medicine.
3. Cultural genocide = shame, guilt, loss of identity.
4. Broken treaties = broken trust.
5. Lack of recognition for tribal sovereignty = biases by agencies, services, and general population.
6. Continuous political, social, and cultural assault against identity and culture = perpetuation of stereotypes, risk indicators, and on-going cultural, historical, and family traumas.

California Historical Context

1. The first governor of California stated that extinction of Indians is inevitable.
2. The gold rush in Northern California and the Mission system in Southern California were significant events that continue to affect the mental health of tribal descendants today.
3. The original treaties signed in California were never ratified resulting in rancherias today.
4. Termination era resulted in many tribes losing recognition and identity.
5. Organized revolts had consequences until the early 1900's.

Social Work

Historical Trauma



Maria Yellowhorse Braveheart, Ph.D.
(Hunkpapa, Oglala Lakota)



Dolores (Dee) Subia Bigfoot, Ph.D.
(Caddo Nation of Oklahoma)

Historic Trauma

- *Historical Trauma* is the collective emotional and psychological injury both over the life span and across generations, resulting from a **cataclysmic** history of genocide.
- *Cultural Trauma* is an attack on the fabric of a society, affecting the essence of the community and its members.
- *Intergenerational Trauma* occurs when trauma is not resolved, subsequently internalized, and passed from one generation to the next.

Historic Trauma *(cont'd)*

Characteristics of unresolved grief and loss:

- being quick to anger
- low self-esteem/shame of identity
- history of depression
- shame about loss of culture
- suicidal ideation
- substance abuse
- violence



Photo Credit: Associated Press

Historic Trauma:

What a service provider may see:

- Distrust of services & perception that services are a punishment.
- Emotional remoteness and “going through the motions” of the process.
- Apathy and resistance toward following through with case plans or contacting other government agencies.



Tribal Justice Collaborative

Keep the family together

These are Hopi men who were sent to Alcatraz in 1885 for refusing to send their children to boarding school.





Engaging Native American Children and Families

Engagement Tips

1. Know your tribal resources and check that your participant does as well. Help them feel connected & build connection.
2. Build your tribal behavioral health network.
 - Indian Health Council, North San Diego,
 - Southern Indian Health Council, South SD.
 - San Diego American Indian Health Center.
 - Tribal TANF
 - Southern California American Indian Resources.

Engagement and Teaming with Tribes

- When working and communicating with Tribes, show the same level of respect and professionalism as you would to a governor of a neighboring state. Tribal representatives are representatives of a sovereign government.
- As soon as you are aware your case is or may be an ICWA case, contact the appropriate Tribal ICWA social worker or advocate. Develop and maintain a relationship with the ICWA social worker or advocate before you need them.
- If it is necessary to visit the reservation, contact the social worker to ask permission and for the appropriate protocol for a visit. *It is not advised to visit the reservation unannounced.*
- Meaningfully consider the Tribe's input in the same way you would any other collaborative partner. You and the Tribe want the best outcome for the child.
- Attempt to resolve the case informally before bringing the case before the court. Collaborative efforts result in better outcomes for the child and family, and fewer wasted resources.

Our Children, Our Sovereignty, Our Culture, Our Choice

ICWA Guide for Tribal Governments and Leaders

Introduction - A Word From the Authors

Our tribes are threatened by the removal of our youngest and most vulnerable members, our children. As leaders we want to make informed decisions to protect the future of our tribe, our culture, our children and families. Historically, we have seen state and federal programs compromise our dignity and culture by breaking up our families and tribes. Even today we hear of unwarranted removal of our Indian children and the attempts to keep them separated from their culture and tribal identity. The Indian Child Welfare Act (ICWA), when complied with, can help prevent these unwarranted removals and ensure Indian children are kept safe while remaining with their families. The purpose of this Guide is to recommend actions that tribal leadership can take towards ensuring compliance with ICWA.

The recommendations that appear in this guide were made by tribal court judges, tribal attorneys, tribal educators who train on ICWA, tribal legislators, a former Tribal Governor/Social Services Director, Counsel for the County (who was also a tribal member), and directors of social services for tribal child welfare programs. It is important to note that these are recommendations, not mandates, made by individuals who work in various arenas in child welfare.



“Let us put
our minds
together and see
what kind of life
we can make for
our children.

- Sitting Bull
Hunkpapa Lakota

Caution: every state and child welfare jurisdiction interprets ICWA compliance differently. Tribal leaders, ICWA designated agents, and Native social service providers should be aware of any MOUs (memoranda of understanding), child welfare protocols, and court standards that can impact outcomes for Native children and families.



This document created by: Rose Margaret Orrantia, Tom Lidot and Lucille Echohawk with legal review by Suzanne Garcia, Attorney. Contact the Center for Tribes for more information: info@cbctribes.org; 1-800-871-8702.

Détente and Decorum for Child Welfare Leaders

Strategic Teaming and Engagement with Tribes and Native American Communities

DEFINITIONS

Détente (n) dé-tente \dā-'tānt\ 1. The relaxation of strained relations or tensions (as between nations). 2. A period of a détente. An ending of unfriendly or hostile relations between countries.

Decorum (n) de-co-rum \dī-'kōr-əm\ 1. Literary and dramatic propriety; fitness. 2. Propriety and good taste in conduct or appearance. Correct or proper behaviors that show respect and good manners.

Through the speed of technology and social media we are instantly aware of the cultural, social, and political conflicts happening anywhere in the world with the hit of a button. Yet here in our own backyard centuries of conflict have left a legacy of strained relations, disproportionality and disparities that impact child welfare today.

Efforts to build and strengthen trust between state child welfare agencies and tribes require knowledge of and acknowledgement of bias in social work practice related to the Indian Child Welfare Act of 1978 (ICWA) and past U.S. and California policies detrimental to California's Native Americans. Understanding the tribal narrative of local history and interactions between tribes and child welfare agencies can assist directors, managers and supervisors in navigating a collaborative path to safety, permanency, and well-being for Native American children. Strategic teaming and engagement with tribes and Native American communities can be achieved when child welfare leaders operate as change agents working toward inclusive and sustainable institutions and communities.

To be most effective, child welfare leaders need to lead by example and be aware of privilege, power, humility, and social justice and embrace a growth mindset* that seeks to understand the root causes of disproportionality and disparity related to American Indian children in the child welfare system. For child welfare leaders who are just beginning to team and engage with tribes and Native American communities the American Indian Enhancement (AIE) Implementation Toolkit* provides a framework for decision making and strategies for improving practice when working with Native American families. The resources and recommendations within this document support the California Child Welfare Core Practice Model and the 2016 Federal Regulations and Guidelines for Implementing the Indian Child Welfare Act.



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Sharing Our Lived Experiences: *Eight Tips for Understanding the Two-Spirit/LGBTQ Journey for Native Youth in the Child Welfare System*

This resource is dedicated to Two-Spirit and American Indian/Alaska Native¹ LGBTQ children and youth whose lives are impacted by the child welfare system, and to the child welfare professionals, foster and adoptive parents, caregivers, and community members who strive to support them.

Introduction

This fact sheet is intended to assist and support Native youth who may be Two-Spirit² and/or LGBTQ (lesbian/gay/bisexual/transgender/questioning). Native youth in child welfare placements can experience many challenges. These include feelings of abandonment, guilt, shame, disconnection from extended family, and many feelings related to unresolved grief and loss due to multi-generational historical traumas.

The goal of this document is to strengthen families in achieving wellness and stability by assisting youth in feeling connected to resources and communities. It is also meant to support healthy identity, healthy development, reduce the risks of suicide and substance abuse, and strengthen ICWA (Indian Child Welfare Act) compliance.

Historically, Two-Spirit people were respected and honored by their Tribes. However, not all tribes or tribal members are inclusive in their beliefs. Two-Spirit people are working to reclaim their roles and places in their Tribal circles. Therefore it is important for youth to speak up against discrimination based on their tribal or sexual identity. Additional historical information and resources are provided at the end of this fact sheet.

¹ For the purposes of this document the term American Indian is interchangeable with Native American and the use of the term Native or Indians can apply to both American Indians and Alaska Natives in general.

² The term Two-Spirit refers to Native American/Alaska Native lesbian, gay, bisexual, transgender/queer and/or questioning individuals. It came from the Anishinabe language and means having both male and female spirits in one person. It has a different meaning in different communities. <http://www.tribal-institute.org/2010/A3-EltonNaswoodPP.pdf>

Eight Tips for Understanding the Two-Spirit/LGBTQ Journey for Native Youth in the Child Welfare System

1. You are not alone; there are other American Indian/Alaska Native youth like you experiencing similar thoughts and feelings related to their sexuality, gender, and tribal identity.
2. Remember that you are a gift to the community and meant to be a contributing member. Although right now you may feel you don't belong or that no one understands. Over time this will change.
3. Do not feel ashamed of being Native American or Alaska Native. Being Native, you may experience strong feelings of connection toward the Earth, nature, and your environment that others do not feel. You may also experience deep feelings when you see injustice or learn about historical events. These feelings are natural and you should pay attention to them.
4. Reach out to others and develop trusting relationships with those who accept and support you. Try to maintain relationships with at least one or two close friends with whom you may share your worries and your successes in life. If you feel the need to seek or get counseling to cope with your feelings, this is okay.
5. Understanding and accepting your sexual and gender identity can take time and it is important to value yourself, your identity, and your unique heritage through this process. Take responsibility to protect yourself and others from sexually transmitted infections (STI's) and be aware of the risks involved in all sexual activities. There are many educational resources to assist you about healthy sexuality and there are accounts of current and past Natives who lived out healthy lives as Two-Spirit or LGBTQ individuals.

Resources for Two-Spirit Youth in Foster Care

From Two-Spirit Adults Who Were in Foster Care as Youth

Child welfare workers and caregivers: Please consider sharing these messages with Two-Spirit and Native LGBTQ youth!

- This document was created just for you. If you feel you are in an unsafe environment it is important to speak up and tell somebody you trust.
- There are digital stories of other Two-Spirit/LGBTQ youth that you can view at http://www.nrcpfc.org/digital_stories/two-spirit/.
- A similar fact sheet was created for parents and caregivers of Two-Spirit and LGBTQ youth. It can be found at <http://www.nrcpfc.org/downloads/wu/Two-SpiritTipsSheet.pdf>.

6. Be patient with your parents and caregivers, remember they are also learning how to best support your experience and development. Be open to sharing your feelings and thoughts with them and other friends or family members you trust.
7. If you ever have thoughts of suicide or find yourself unable to stop having self-destructive thoughts it is important to tell someone you trust. Seek support and assistance to work through these feelings. If you feel you are in an unsafe environment it is important to speak up and tell somebody you trust. This document was created just for you.
8. As a Native person you are encouraged to know who you are and where you are from. You are encouraged to learn about your tribe, its history and culture. Participate in Native community events and remember to respect and acknowledge your elders. Observe how others act in community settings and offer to help and volunteer at events. Remember when another Native person asks 'where are you from?' they may also be asking 'what is your tribe?' When you speak and interact with others it is important to be careful with your words and actions.

Additional & Historical Information:

Two-Spirit is a Native American³ term that is usually used to indicate a person whose body simultaneously houses a masculine spirit and a feminine spirit. Two-Spirit is a Native concept: Will Roscoe writes that Two-Spirit people have been "documented in over 130 tribes, in every region of North America, among every type of native culture." Different words are used for Two-Spirit people in different tribes, and the word Two-Spirit may have different meanings in different Native languages. Some tribes may not have a commonly known and used word for Two-Spirit people at this point in time.

Historically and culturally, Two-Spirit people were respected and honored by their tribes. Their gender roles in the community included protecting children; being parental/partners; helping in ceremonies; gathering food and medicine; caretaking; and serving as peacekeepers, name givers, and spiritual leaders. Due to oppression (including homophobia/transphobia) and historical and intergenerational trauma there are issues that may disproportionately impact Two-Spirit/Native LGBTQ people today. These include: loss of identity; loss of culture; alienation from family, friends, and community; substance abuse; hate crimes; unemployment; various forms of violence, including childhood physical abuse, childhood sexual abuse, domestic violence, and sexual assaults (often unreported); discrimination; suicide; HIV infection; and depression and other mental health issues. Today, Two-Spirit people are working to reclaim their roles and places in their tribal circles.

³ For the purposes of this document, the term Native American is interchangeable with American Indian and use of the terms Native and Indian can apply to both American Indians and Alaska Natives in general.

The NACC envisions a justice system that protects the rights of children by ensuring their voices are heard through the assistance of well-trained, well-resourced, independent lawyers.

A NATIONAL CONVERSATION ON ICWA AND THE NEW REGULATIONS

Why are Child Advocates and Child Welfare Organizations not Questioning the New Federal ICWA Regulations and the 2015 BIA ICWA Guidelines?

Over the past several years, the Bureau of Indian Affairs (BIA) and tribal leaders have mounted an unrelenting campaign to expand tribal rights in cases involving the Indian Child Welfare Act (ICWA). It is important to note, that these efforts have not included seeking congressional approval to amend the ICWA. The focus of their efforts is having the BIA push through their agenda with only limited public comment.

No one can question our nation's horrific history and the harmful policies in the 1950's and 1960's regarding Native American children. However, this dark history should not prevent us from having an objective and honest discussion of the 2015 BIA Guidelines, and the recently published ICWA federal regulations. Why are child welfare organizations and child advocacy groups not questioning how the 2015 BIA Guidelines and the newly released federal regulations ignore the rights of Indian children? Indeed, for the past several years, if not longer, there has been a deafening silence by child welfare groups, state agencies and child advocates regarding how the BIA Guidelines and proposed federal regulations will adversely impact foster children. →

by Philip (Jay) McCarthy, Jr.



by Judge Leonard Edwards (retired)



Why Should Indian Children be Treated Differently?

Attacks on implementation of the Indian Child Welfare Act (ICWA) have recently been in the headlines. Several critics of the ICWA have stated that Indian Children should not be treated differently in child welfare and adoption proceedings.¹ Legal actions have been filed with the intention to declare the ICWA unconstitutional arguing that it discriminates based on race.² A federal court judge has recently found that a state court judge has illegally denied Indian parents of their due process rights after the state has removed their children.³ A recent United States Supreme Court case held that the ICWA

does not apply if the biological father does not have present custody of the child.⁴ Years ago, in an attempt to circumvent the ICWA, state courts created the Existing →

1. See Cohan, Marie, "ICWA Puts Tribes' Interests Ahead of Children's" *The Chronicle of Social Change*, May 10, 2016;
2. *A.D. v Washburn*, a federal action filed on July 6, 2015, by the Goldwater Institute in Arizona; *National Council for Adoption v Jewell*, Virginia litigation; *Doe v Jensen*, Minnesota litigation; *Doe v Pruitt*, Oklahoma litigation; *C.E.S. v Nelson*, Michigan litigation. See ICWA Defense Project Memorandum, June 25, 2016; <https://turtletalk.files.wordpress.com/2015/08/2016-06-24-icwa-defense-project-memo-updated.pdf>. This argument ignores the fact that Indian tribes are sovereign nations and that the ICWA protects the citizens of their nation.
3. *Oglala Sioux Tribe v Luann Van Hurnik*, in Pennington County, South Dakota, No. CIV. 13-5020-JLV.
4. *Adoptive Couple v. Baby Girl*, 570 U.S. ____; 133 S. Ct. 2552; (2013).

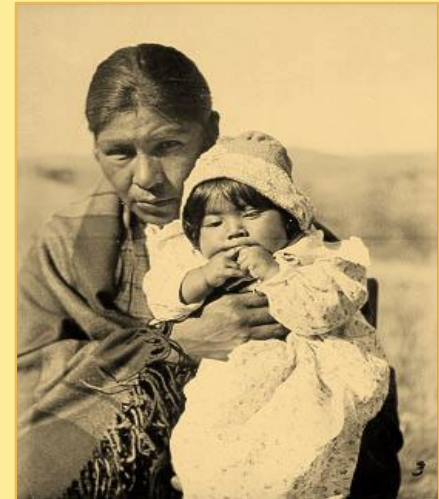
Why ICWA?

“[S]hould Indian children be treated differently than other children? Given the history of Indian children in the United States and the trust relationship promised to them by the United States government, the answer is Yes.”

--Hon. Leonard Edwards
Santa Clara Superior Court (Ret.)

ICWA Basics

- Who is an Indian child?
- Who determines who is an Indian child?
- How may a Tribe participate in an ICWA case?
- When does ICWA apply?



Maria Antonia Paipa & daughter
Photo permission of the San Diego Historical Society, Davis Collection

ICWA: Purpose

In adopting ICWA, Congress declared that the U.S. policy is to:

- ***Protect*** the best interests of Indian children;
- ***Promote the stability and security*** of Indian Tribes and families.

Purpose accomplished through:

- ***Minimum federal standards*** for the removal of Indian children from their families and their placement in foster or adoptive homes that reflect the ***unique values of Indian culture***
- Assistance to Indian Tribes for operating child and family service programs

Spirit of ICWA

Maintaining connections to culture and community increases protective factors. Spirit of ICWA means treating the case as an ICWA case:

- When the child's Tribe is not a federally recognized Indian Tribe
- When the child is a descendent of a federally recognized Tribe but is not eligible for enrollment
- When the family is a Native American family but not a member of a Tribe

California law gives a court discretion to allow non-federally recognized Tribes to participate in proceedings and make recommendations.



Engaging Native American Children and Families

Engagement Tips

1. Support your participant's connection to their culture and tribal identity as a remedial/restorative approach.
2. Be ready to share your own background and know how to answer the question "where are you from?"

Tribal Justice Collaborative & Tribal STAR Background & History

- 2018: Tribal STAR, Academy for Professional Excellence, SDSU School of Social Work shifted priorities to focus on training state social workers.
- June 2018 The Tribal Justice Collaborative was formed and housed under POPS and Casey Family Programs to continue the judicial initiative and expand statewide.



Contributions

What have American Indian/Alaska Natives contributed to contemporary society?



Code Talkers



Choctaw Code Talkers-WWI



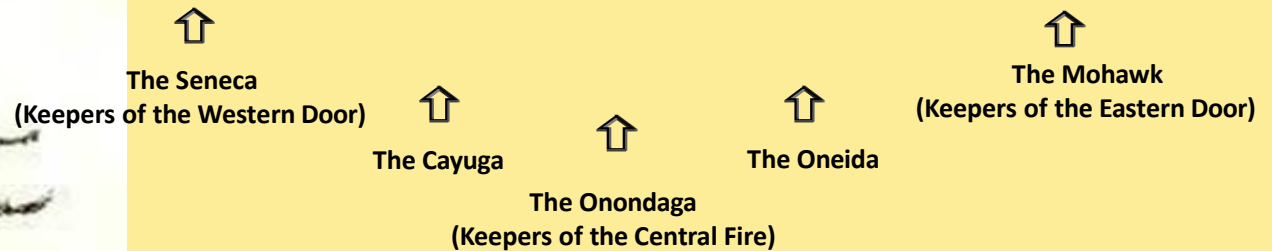
Navajo Code Talkers-WWII

Law and Policy

The Tree of Peace



The Haudenosaunee Wampum Belt Commemorating the Great Laws of Peace of the Iroquois Confederacy



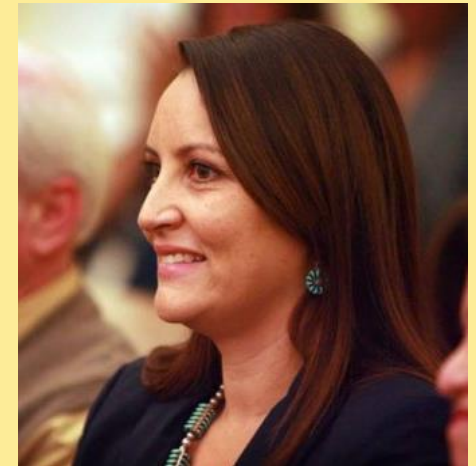
Judicial



The Honorable Abby Abinanti (Yurok)
First California Native admitted to California Bar
Superior Court of California- San Francisco
Unified Family Court (retired)
Chief Justice, Yurok Tribal Court (2007- Present)



The Honorable Diane Humetewa (Hopi)
U.S. District Court for the District of Arizona
May 14, 2014- Present



The Honorable Sunshine Sykes (Navajo)
Riverside County Superior Court
December 2013-- Present

Additional considerations:

- **Awareness of bias**
- **Awareness of spectrum of identity**

Tribal Sovereignty: Child Welfare

- Designate ICWA social worker or advocate as primary contact for a child dependency case
- Designate ICWA representatives to receive notice of dependency proceedings involving Indian children
- Complete background checks and approve foster homes for children in dependency
- Define expert witness criteria
- Order Tribal Customary Adoption

Best Practice

Follow the Spirit of ICWA. Ensure access to culturally appropriate services and facilitate ties between the child, extended family and Tribe when the child is not eligible for membership in a federally recognized Tribe or when the child's Tribe is an unrecognized Tribe.





Engaging Native American Children and Families

Engagement Tips

1. Support your participant's cultural resilience. What stories did they hear about from their elders? What stories of survival did they learn about their tribe?
2. Support holistic approaches inclusive of traditional Native practices.
3. Support participants in growing and building mutually supportive relations and networks.

Thank you

TomLidot@pacific-mtn.com