

# AB 1058 from the Perspective of Tribal Members

23<sup>rd</sup> Annual AB 1058 Child Support Training Conference  
August 27–30, 2019



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**Why is it important to talk about this topic?**



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## Past Treatment of Tribal Families in the Court System (pre ICWA)

- Cultural biases regarding child rearing practices were used as justification for removal



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**Past Treatment of Tribal Families in the Court System (pre ICWA)**

- "General neglect" and "social deprivation" were reasons cited for removal in 99% of cases in South Dakota



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**Past Treatment of Tribal Families in the Court System (pre ICWA)**

- Testimony from anyone besides the state's case worker was rare



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**Past Treatment of Tribal Families in the Court System (pre ICWA)**

- Parents were coerced into voluntary agreements or relinquishments



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## Past Treatment of Tribal Families in the Court System (pre ICWA)

- Attorneys were not provided for parents or children



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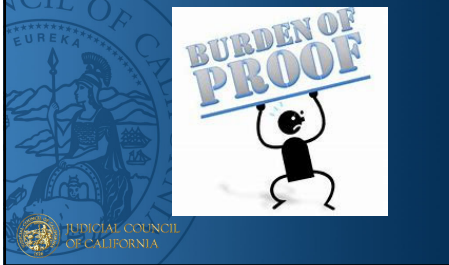
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## Past Treatment of Tribal Families in the Court System (pre ICWA)

- The burden was on the Indian family to prove they could provide for their children



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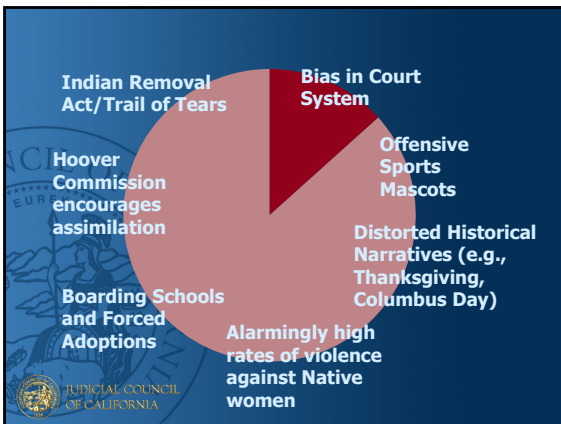
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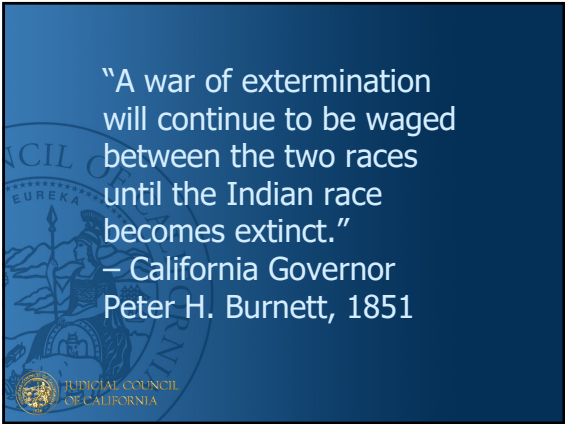
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"A war of extermination will continue to be waged between the two races until the Indian race becomes extinct."  
– California Governor Peter H. Burnett, 1851



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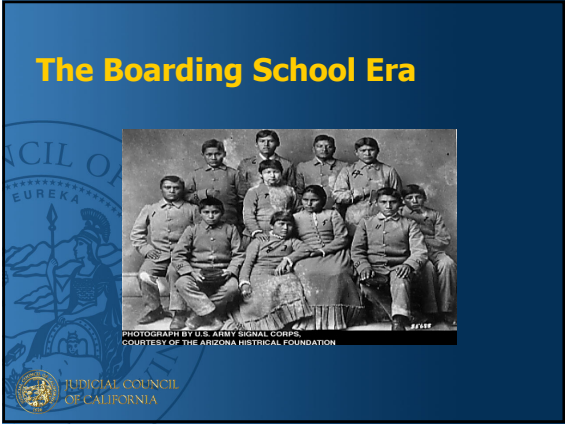
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### The Boarding School Era



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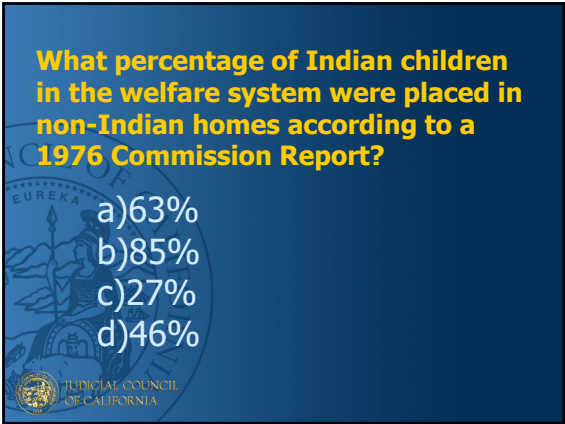
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What percentage of Indian children in the welfare system were placed in non-Indian homes according to a 1976 Commission Report?

- a) 63%
- b) 85%
- c) 27%
- d) 46%



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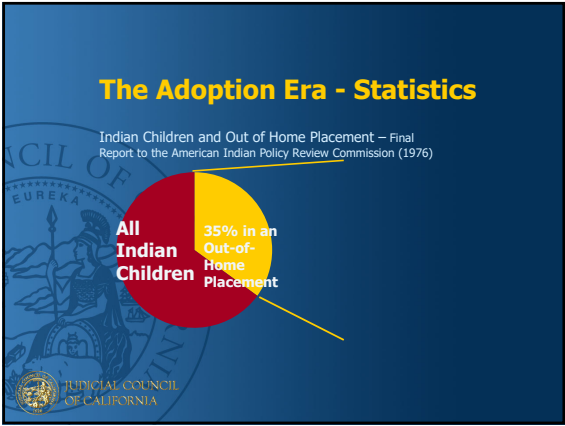
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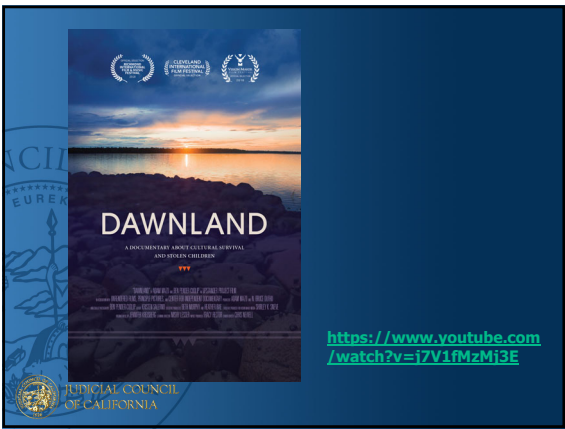
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EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA

EXECUTIVE ORDER N-15-19

2. The Governor's Tribal Advisor shall establish the Truth and Healing Council to bear witness to, record, examine existing documentation of, and receive California Native American narratives regarding the historical relationship between the State of California and California Native Americans in order to clarify the historical record of this relationship in the spirit of truth and healing. The Truth and Healing Council shall be led and convened by the Governor's Tribal Advisor and shall include representatives or delegates from California Native American tribes, and may include relevant state and local agencies, as well other relevant non-governmental stakeholders.

all California Native Americans for the many instances of violence, maltreatment and neglect California inflicted on tribes; and

Americans; and

JUDICIAL COUNCIL OF CALIFORNIA

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**What is the American Indian population in California today (total California population is about 37 million)?**

- a) 362,801
- b) 617,294
- c) 112,568
- d) 532,027



Source: US Census Bureau

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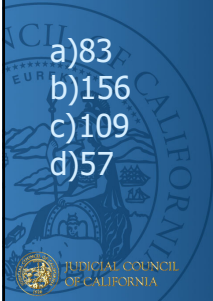
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**How many federally-recognized tribes are in California?**

- a) 83
- b) 156
- c) 109
- d) 57



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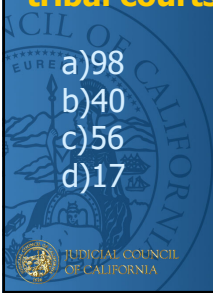
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**Of these tribes, how many have tribal courts?**

- a) 98
- b) 40
- c) 56
- d) 17



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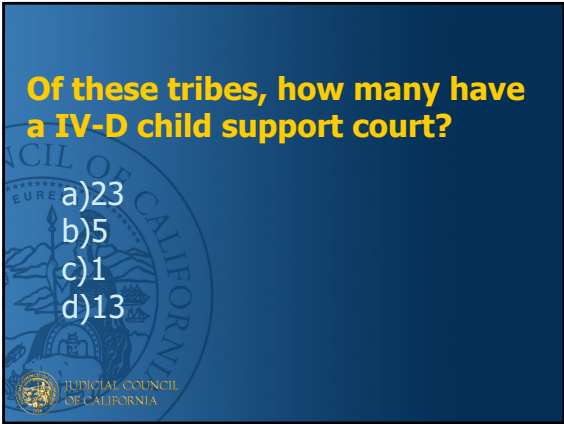
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**Of these tribes, how many have a IV-D child support court?**

- a) 23
- b) 5
- c) 1
- d) 13



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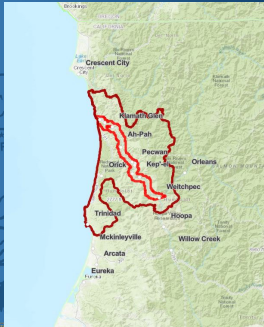
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### **Yurok Country**



- Only tribe in California with a IV-D program.

Source: <http://www.yuroktribe.org>



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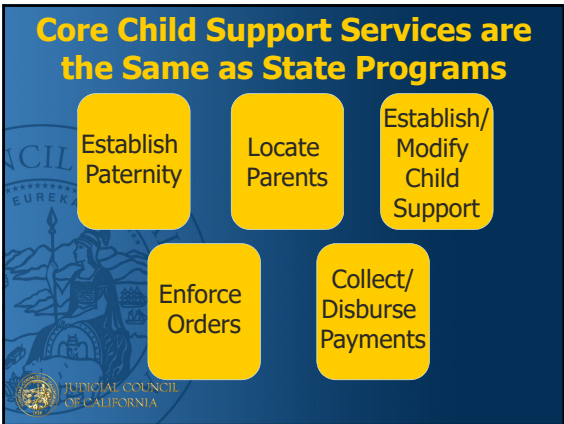
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### **Core Child Support Services are the Same as State Programs**



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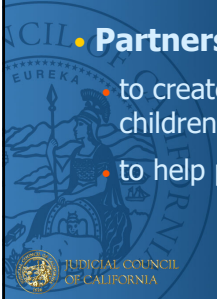
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## Tribal Justice Systems

- **Partnership** with same goals
  - to create better lives for the children
  - to help parents do their job



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OF CALIFORNIA

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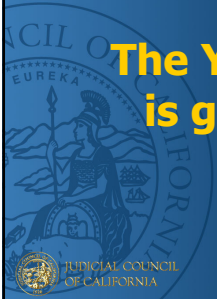
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## The Yurok Tribe is guided by:



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OF CALIFORNIA

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Values



JUDICIAL COUNCIL  
OF CALIFORNIA

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### Challenges in Engaging Tribal Members in the IV-D Program



- Historical aversion to court system
- Is the court a problem solver or the problem itself?

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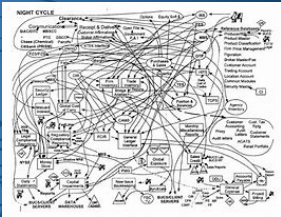
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### Challenges in Engaging Tribal Members in the IV-D Program



- Complexity of the court process

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## Challenges in Engaging Tribal Members



- Remoteness of location



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## Unique aspect/focus of the Tribal IV-D program

- More accessible than state IV-D program
- Know clients on a more personal basis
- Goal is for court to be seen as part of the litigants' extended family
- Use of in-kind contributions
- Focus on responsibilities of parties rather than rights



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## What would you do?

Matt and Sofia have three children together, a 5-year-old girl, a 2-year-old boy, and a 6-month-old boy. They live in a remote tribal community, 18 miles from the nearest market which is only accessible by a one-lane mountainside road. Matt works in town, making minimum wage, and Sofia stays at home with the kids. They've recently separated, with Sofia taking the kids to live with relatives in the same community. While her relatives help her with food, she struggles to provide her kids with their basic necessities, particularly for her two boys who are both still in diapers. Matt wants to help support his kids, but complains that his wages are too low to afford a place to live and pay support. The parties want to come to an agreement on support, but are at an impasse. You are the judge. What do you do?



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## What would you do?

You order Matt to provide \$100 worth of diapers per month and deliver them to Sofia. It is now a few years later, and the kids are no longer in diapers. Neither parties' financial situation has changed much. They liked the in-kind contribution in lieu of monetary support, but don't know what to do now. How do you fashion a new order for the parties that is about the same value as the prior order for diapers?



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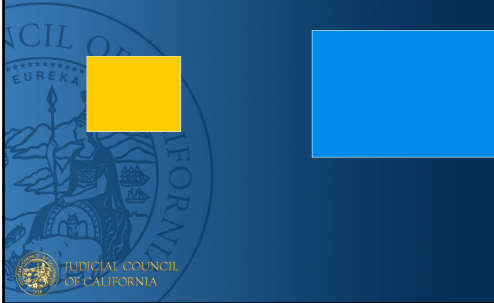
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## Do we pursue assimilation...



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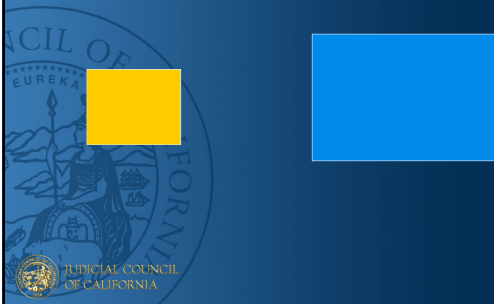
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## or accommodation?



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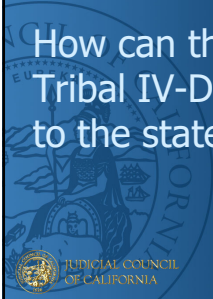
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## Table Discussion

How can the practices in the Tribal IV-D program be applied to the state IV-D program?



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## Table Discussion

How can child support professionals develop their cultural competence as it relates to tribal members?



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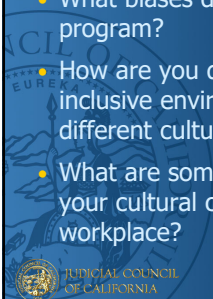
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## Self-Assessment

- What biases do you bring to the IV-D program?
- How are you doing at creating an inclusive environment for those with different cultural experiences?
- What are some best practices to improve your cultural competence in the workplace?



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