Finding Strength and Connection: Native American Adults Formerly in Foster Care

[INTRO MUSIC]

I'm Julia Scott, host of this Judicial Council podcast. Today we'll be diving into the role that the Indian Child Welfare Act, or ICWA, plays in the lives of foster children who come from Indian families. ICWA exists to protect the best interests of Indian children and families, and to prioritize the placement of Indian children in homes that reflect the unique values of Indian cultures.

But as we'll hear today, ICWA is sometimes applied in slippery and uneven ways that have resulted in generations of former foster children raised far away from extended Native family members or relevant cultural experiences. And as we'll also hear, the negative consequences can be serious and lasting.

[INTRO MUSIC FADES OUT]

Ambi Ma'aele Bear Brown will tell you that they lost their nation on the day they were born.

AMBI MA'AELE BROWN: I'm from Seal Beach, Compton. I'm a gang baby. And so my story with where I'm from is really complicated. I don't know if I belong anywhere because I'm not claimed. The aspects of who I was at birth and before my history, I was erased. And I was raised by a white family that did take me home, and they believed philosophically that I had no race, and they erased me as such, which was very confusing, as you can imagine.

From birth, Ambi's story has been one of loss of identity. Starting with their two birth certificates issued by the hospital. One was more specific and accurate: it said they were Samoan and Mixed Native. The second one was more vague: it just said Mixed Race and Pacific Islander. That second one was what the court received when Ambi's mother gave them up.

It may not seem like a major difference, but by expunging the reference to 'mixed Native,' Ambi's case was never flagged under ICWA, the Indian Child Welfare Act.

And Ambi's birth mother didn't flag it either. She was escaping an abusive relationship. When Ambi was born, their mother took the adoption money, changed her name, and moved across the country. She took Ambi's older brothers with her.

So Ambi's adoptive parents brought them home, and they raised Ambi not to ask questions about their race or where they were from. But Ambi had nothing but questions. And they grew up with a feeling of isolation that they couldn't explain.

AMBI MA'AELE BROWN: They refused to tell like what ethnicity I was, what heritage I had… They would refer to it as like kind of a side note that if I really ne eded to know at 18, I could ask. And I would ask them all the time, but it wasn't until 18 that they allowed me to know. And you'd think that a mirror would help me, but it did not. And so, it was kind of a secret that everyone else had around me all the time.

Silence and erasure too often feature in stories of Native American children who have been raised for a time in foster care, or who are permanently adopted by non-Native families after passing through dependency court.

While ICWA explicitly exists to keep Native families together or reunite Native children with their families wherever possible – and barring that, extended family, or other tribal members – that's not always realistic. And foster parents may not always prioritize keeping Native kids connected to tribal community events, activities or professional services.

The consequences of this are both predictable and serious. Dr. Carrie Johnson has seen them play out too many times.

DR. CARRIE JOHNSON: What I've seen throughout the years in working with youth in the foster care system or who have been disconnected from our culture and community is, there's such a lack of cultural identity, like who they are or lack of knowing about their culture or many times even their tribe. And because of that disconnect, we see a lot of mental health issues like depression, suicide ideations, substance use, problems in school.

Dr. Johnson is Wahpeton Dakota. She is a clinical psychologist, and the CEO of Sacred Path Indigenous Wellness Center, which has primary locations in Orange and Los Angeles Counties.

She and her colleagues founded Sacred Path 15 years ago after noticing that many Indian children from the foster care system were still really struggling, even though they were receiving individualized therapy. So, they decided to add some culturally relevant activities where the youth could participate and belong – like drum and dance classes, and beading classes.

Their youth leadership programs are popular, too.

DR. CARRIE JOHNSON: Teaching the youth leadership skills and letting them know that they have a voice in what's happening today in their lives, and that they can make changes. They can be the ones saying, this is what happened in my life. This is what I need support with. And we work with them on how we get what they need to be successful in their lives.

Over time, these culturally relevant interventions have been transformative. Dr. Johnson has seen the results.

DR. CARRIE JOHNSON: The women say that the beading class is what really, really helps 'em. Just having that connection, it's like being with other Native people, beading and talking and sharing stories with each other and supporting each other. That's just been really, really helpful.

[MUSIC TRANSITION]

The act of returning to or discovering a tribal heritage, or reclaiming extended family, is powerful. So powerful, in fact, that different large tribal nations across the U.S. have welcoming ceremonies. Sometimes these are called Lost Bird ceremonies, according to Dr. Art Martinez, who is a member of the Northern Chumash tribe.

DR. ART MARTINEZ: When someone comes back to the community, we might hear words said like, 'Oh, you found your way back,' or 'We've been missing you, you know, you've been missing from our community. We need you here.' And it's very overtly communicated to them that there is a place and a purpose for them within our community.

Dr. Martinez has been advising dependency courts on ICWA child welfare issues for 40 years. He is also a clinical psychologist who has worked with many former foster youths from Native backgrounds.

Over the years, he has observed the same sorts of trauma manifest again and again. And he has a theory about why that is.

DR. ART MARTINEZ: **What we see as a common thread of why this is still happening, is that there's a direct relationship between the higher risk that a youth has, in my experience, for things to not go well, and the distance that they had in being raised from their own culture or from tribal cultural experiences.**

[MUSIC TRANSITION]

Ambi refused to give up on finding their roots. When they turned 18, they got access to their two birth certificates. Ambi started searching for their family and eventually located them, thanks to an aunt who found Ambi on Facebook and revealed their family name.

Ambi met their mother, but it was a difficult reunion. They discovered that their father was in prison and some of their brothers were, too. Ambi found them through mugshots and learned about their lengthy criminal history and gang affiliation.

Ambi's adoptive parents were disgusted to learn about these criminal histories and reacted with fear for their own safety.

AMBI MA'AELE BROWN: I talked to them about what I found out, and that I did want to go and meet my brothers. Their response was absolute fear. And they told me that what I was saying was all a choice, that being Indigenous was a choice. Being Samoan was a choice, being brown was a choice. And that if I wanted to verbatim here, 'if I wanna be a thug, then they would treat me like one.' So, they changed the locks on my forever home that year, and I went to do it all on my own.

Despite their pain, Ambi doesn't regret making these connections. Their experiences inspired them to enroll in Cal State Long Beach, where they are now pursuing their MA in political science and working towards a PhD JD track. Ambi wants to work on issues of identity and belonging for children in adoption and foster care, particularly for those affected by the Indian Child Welfare Act.

Even though Ambi was a Native adoptee, their case never triggered ICWA. More than once, Ambi has wondered what the version of their life would have been like if it had. Would they have been placed with a different Native family? Or simply gotten a chance to feel connected to themselves?

AMBI MA'AELE BROWN: This is not advocacy in the abstract. What I hope is clear is that what happens when identification, notice and jurisdiction fail at the front end, those failures shape a person long after childhood ends.

[MUSIC TRANSITION]

Under ICWA, child welfare agencies must first ask the child, parents, guardians, or Native custodians if the child is a member of, or eligible for membership in, a federally recognized tribe.

If there is any reason to believe that a child may have a Native American background, the law requires the social worker or lawyer who represents that child to gather more information about their ancestry and submit it to the court. If there is 'reason to know,' a legal distinction, then notice is required to be given to the tribe and to any other relevant parties.

COMMISSIONER GABRIELA SHAPIRO: I'm Gabriela Shapiro and I am the Indian Child Welfare Act Commissioner for Los Angeles County, which means that we're a reunification court and a court to help families remain together.

Native American children in the LA County foster care system appear with their families before Commissioner Gabriela Shapiro's court. Using the support and services of the Department of Children and Family Services, her job is to work with families and social workers to ensure that Native children have an upbringing that complies with both the letter and spirit of ICWA. It is one of a handful of such courts in California.

All children can be well served when they are placed in stable homes with families who love and care for them. But when it comes to foster placements, Commissioner Shapiro has observed that efforts vary widely in terms of the priority that non-Native caregivers put into giving children access to their identity.

The good news is, she has a lot of options to correct for that.

COMMISSIONER GABRIELA SHAPIRO: I routinely make orders that the department has to provide, and that's the agency, has to provide culturally appropriate services. What does that mean? they're phrases, they sound nice, but it's hard to really define what it is. And I try not to use those generalities, and I want more specific services, such as refer the children to a Native summer camp or a Native language program, or provide them with opportunities to go and visit the tribe. So, what it means is blending the legal requirements with understanding the culture and traditions of the tribe and trying to present that to enrich the family's lives.

It's actually not that uncommon for tribal members or Indigenous families to not know which tribe they are from, to not have any or minimal connection to their tribe or to not have membership in a tribe. This can be seen as a legacy of the inappropriate removals of Native children in the 1950s and 1960s into adoption or into the child welfare system, as well as Indigenous people's forced removals from their ancestral lands, and resulting fear from disclosing tribal heritage. Not to mention the assimilation tactics used by the government, such as the Residential Boarding Schools or the relocation era during the 1950's, where tribal people from across the nation were provided one-way tickets to live in large metropolitan areas.

This resulted in enforced disconnection and tribal diaspora. Consequently, in Los Angeles County, there are more than 200 in-state and out of state tribes to which individuals identify. But someone may not always know which family members were members of a tribe.

When that is the case, Commissioner Shapiro will often refer them to the specially trained social workers within the American Indian unit in the Department of Children and Family Services.

But her efforts go far beyond that.

COMMISSIONER GABRIELA SHAPIRO: I order that the department provide them with education of what does it mean to raise a child in a Native home? What does it mean to incorporate positive Indian parenting? What does it mean to expose the child to professionals, doctors, dentists who are traditionally Native, and who they can look to as role models?

Commissioner Shapiro does not have a Native background. But in talking with a lot of Native American professionals and other judges and social workers who have worked in the community for many years, she says she has realized that it's not just taking a child to a powwow and telling them they're Native American. A secure sense of identity comes from everyday interactions in life.

[MUSIC TRANSITION]

Cherita, who asked that her last name not be used, grew up knowing she was part Chickasaw, on her mother's side. Her mother was proud of being Native American. Cherita was too, but she didn't have too many opportunities to learn about her culture because she and her siblings were mostly raised among her father's side of the family, which is African American.

CHERITA: My mom was actually in foster care as well. So I'm like a second generation foster youth. Her grandma who helped raise her grew up in a boarding school, which is something she never talked about. As my mom was growing up, they knew they were Native American, but other than that, there was really a separation from, a disconnect from the culture.

Cherita is the eldest of eight kids, and she grew up all over San Diego County. She and her siblings first went into foster care when Cherita was seven. She went in and out of foster care three times from there. She was enrolled in, and pulled out of, around 20 different schools before she graduated.

Sometimes Cherita will look back and think what her teenage years could have been like if she had been raised with more of a connection to the Chickasaw Nation. Her parents struggled with addiction and mental illness. Over time, she developed issues of her own.

CHERITA: I had some struggles, you know. I struggled with homelessness, substance use, really, really unhealthy relationships. And it wasn't until I became a mom that I knew, like, for one, I didn't want her to go into foster care. And two, I just have always felt like when you're a parent, like your child really is your priority, you know? And I just wanted her to have a different life than what I had.

Cherita's commitment to her daughter changed her whole outlook. So did spending more time learning about her own heritage.

CHERITA: I'm like, yes, this does matter, you know? There's this long line of women that I knew, you know, I got to meet my great-grandmother and live with her for a little while, and then I know my grandma, I know my mom, I know me, and we're this line of Chickasaw women down to my daughter. And that was really like validating for me in a way.

Some of her siblings had applied for their CDIB cards, a Certificate of Degree of Indian Blood, so she did that too. She also got her citizenship, which felt validating. The Chickasaw Nation is helping her pay for university.

CHERITA: I'm going to get my degree and I'm gonna walk across the stage one day and I'm gonna graduate. Like, that's always been a dream of mine.

When her daughter was very small, Cherita decided to bring her to Oklahoma for the annual meeting of the Chickasaw Nation. Her mom and her sister came too. They all had a big family meal together and went to a powwow.

CHERITA: And now we've been learning like words in Chickasaw, so she knows how to say I love you. She knows how to say hello, how are you? All in Chickasaw. You know, and I just, I love that because she gets to have this connection that I'm just now -- we're, like, getting the connection together at the same time, really, you know?

[MUSIC TRANSITION]

As we just heard, foster care can turn into a cycle. Dr. Johnson, whom we met earlier, has devoted her career in part to breaking that cycle, which she traces back to dealing with the impact of generations of historical trauma.

DR. CARRIE JOHNSON: I've heard and seen mothers saying, 'How can I even raise my children when I don't know how to parent? Because my parent didn't parent me, and we were in foster care.'

Dr. Johnson understands that feeling because she's lived it.

DR. CARRIE JOHNSON: I grew up in foster care. I grew up a victim of child abuse and sexual abuse, and now I have my children. So, these children are all, you know, dealing with generational traumas and they often feel like they're to blame, that they're the cause of all this.

Dr. Johnson's mother was sent to a boarding school, and she lived with those traumas. Once they were in foster care, Dr. Johnson and her siblings were always placed with white families, and there was never any connection provided to her Wahpeton Dakota culture and community. So part of the work she does with Sacred Path is meant to give back to other families and other children who are walking a similar path.

DR. CARRIE JOHNSON: I know the importance of our culture. I know the importance of our community, and because of my own personal experience, the programs that we do, the work that I do is so important.

[MUSIC TRANSITION]

So why does this keep happening? How do generations of Native American youth keep getting assigned to foster situations where they routinely lack access to family, identity, culture or community?

Dr. Art Martinez says in his experience, courts too often fall victim to short-term thinking when it comes to setting the stage for what will happen in a child's life forever.

DR. ART MARTINEZ: Judges and arbitrators feel like they they're forced into having short term remedies. It really is endemic in that short term, three months, six months thinking.

When a family is in crisis, the first question is, where is a safe and stable place for a child? And the easiest option is sometimes to place them with a non-Native family, even though the natural family may have many options for healthy placement within their community.
But sometimes the parents live in a city, far away from those other family or community members.

Dr. Martinez has seen many cases where counties have delayed reaching out to extended family. The delay then becomes its own justification for keeping the child with the non-Native family.

DR. ART MARTINEZ: Courts and social workers are reluctant to reach out to those extended family members because they often live a distance away, and so they wouldn't want to approach that until permanent placement is an option that the court is envisioning. And by that time, there are many arguments that come up, some of which are contrived or self-

serving, that the child can't leave the home that they have developed a relationship with that they have found stability in.

Several experts I spoke with for this podcast told me that over the past 25 years, there has been more training on ICWA in California, and these failures happen less often as a result.

But if a court really wants to help the child in the long term, it will routinely make a long-term plan for a child's life by finding relatives or members of the same tribe that will afford them healthy experiences and a protective environment, Dr. Martinez says. This can also act as a vehicle for the parents to re-access those parts of family and community that they have become distanced from.

[MUSIC TRANSITION]

There's an important identity shift that occurs when you go from being an observer of your culture to a participant – and not just in your culture, but in the wellness of your people.

It took years for Cherita to work though feeling like an outsider in Indigenous spaces. She admits that she's getting more comfortable there, but it's taken time.

CHERITA: **At my school I'm part of this Indigenous leaders and scholars' program, which has been great. But every time I go into that classroom, there's a little part of me that's insecure. Like, do I belong here? Am I supposed to be here? Do I have a right to be here?**

Cherita is now carving a path for her future. She is currently pursuing a degree in social work, which she loves. Her goal is to work with foster youth and at-risk youth.

Ambi's story is evolving, too. They have gone to the Tribal Affairs office in Washington to try to sort out their history, but they don't hold out a lot of hope of being claimed. They have no nation.

Today, Ambi likes to use their story in a legal context as a teachable opportunity.

AMBI MA'AELE BROWN: When records are vague and not challenged, when race is discussed, but political status is ignored, the law is being shaped by omission. And ICWA, it's not a strategic inconvenience, it's a binding law. It's not about moving quickly at the expense of jurisdictional truth, but it's to make a record honest enough for the court to do its job, where the best interest of that child follows that child until end of life.

Ambi personally knows Commissioner Shapiro, and they see how seriously certain courts are taking this issue. They also do not want to discourage people from wanting to foster or adopt. Ambi does want parents to think carefully about the ramifications of a closed versus open adoption.

AMBI MA'AELE BROWN: ICWA is not about perfection. It does not require flawless parents or clean stories, but it does require vigilance. And really how I feel is that there's hope. If someone listens, there's hope. If someone understands that there's more than a legality issue here, it's a whole life.

[OUTRO MUSIC FADE IN]

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That's it for this episode from the Judicial Council of California. I'm Julia Scott. Thanks for listening.