

# Tribal Court- State Court Forum Meeting

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JUNE 9, 2016

8:30 A.M. TO 5:00 P.M.

LOS ANGELES COURT OF APPEALS  
300 SOUTH SPRING STREET  
2<sup>ND</sup> FLOOR, NORTH TOWER  
LOS ANGELES, CA 90013



JUDICIAL COUNCIL  
OF CALIFORNIA

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TRIBAL COURT-STATE COURT FORUM

# TRIBAL COURT-STATE COURT FORUM MEETING



JUDICIAL COUNCIL  
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

**June 9, 2016**  
**8:30 a.m. to 5:00 p.m.**  
**Second District Court of Appeals**  
**300 S. Spring Street**  
**Los Angeles, CA**

## Agenda

THURSDAY, JUNE 9

8:30 – 8:35 a.m.      **Invocation**

8:35 – 8:45 a.m.      **Welcome and Introductions**

○ Approve Previous Meeting Minutes

*Hon. Abby Abinanti, Co-Chair*

*Hon. Dennis M. Perluss, Co-Chair*

8:45 – 10:00 a.m.      **Session 1: Forum Member Project Updates**

***Educational Projects***

*Hon. Abby Abinanti*

***Cross Court Cultural Exchanges- Child Support and Domestic Violence***

*Hon. Abby Abinanti*

*Hon. Christopher Wilson, Judge, Humboldt Superior Court*

*Hon. David Nelson, Judge, Mendocino Superior Court*

*Hon. Joseph Wiseman, Chief Judge, Northern California Intertribal Court System*

***Tribal Court Access to California Restraining & Protection Order System (CARPOS)  
and Jurisdictional Tools- Making Full Faith and Credit a Reality***

*Hon. Patricia Lenzi, Chief Judge, Cedarville Rancheria of the Northern Paiute Indians*

*Tribal Court*

*Hon. Dennis Perluss*

*Ms. Jenny Walter*

***SB 406 Study***

*Mr. Brian Hebert, Executive Director, California Law Revision Commission*

*Hon. Mark Radoff, Chief Judge, Chemehuevi Tribal Court*

10:00 – 10:15 a.m.      **Break**

10:15 a.m. – 11:30 p.m.      **Session 2: Indian Child Welfare Act (ICWA) Updates (National and Statewide Focus)**

***ICWA- Federal Regulations, Federal Compliance Project and Cases***

*Hon. Leonard Edwards, Judge (ret.)*

*Ms. Ann Gilmour, Attorney*

***ICWA California Department of Justice Taskforce Report***

*Hon. Abby Abinanti*

*Mr. Michael L. Newman, Director, Bureau of Children's Justice, California Department of Justice*

*Ms. Delia Parr, California Indian Legal Services*

***ICWA Statewide Workgroup & Consultation Policy, Data & systems***

*Ms. Mary Risling, Tribal Consultant, California Department of Social Services (CDSS)*

*Ms. Kelly Winston, Bureau Chief, CDSS*

*Los Angeles County Superior Court Personnel*

***California Statutes and Rules of Court – Implementation Issues***

***Proposed Legislative and Rule Proposals***

*Ms. Ann Gilmour*

*Ms. Delia Parr*

*Hon. Joseph Wiseman, Chief Judge, Northern California Intertribal Court System*

11:30– 12:00 p.m.

**Session 3: Funding**

*Ms. Natasha K. Anderson, Deputy Associate Director, Tribal Justice Support*

*Directorate Bureau of Indian Affairs, Office of Justice Services*

*Hon. Richard Blake, President, National American Indian Court Judges Association*

12:00 – 1:00 p.m.

**WORKING LUNCH**

**Session 4: State of Tribal Courts**

***Where We Stand After Dollar General and Other Recent Cases***

*Professor Carole Goldberg, Vice Chancellor, University of California at Los Angeles*

1:00 – 1:30 p.m.

**Session 5: Continuum of Care Reform and ICWA in California**

*Ms. Sylvia Deporto, Child Welfare Director, San Francisco Human Services Agency*

- 1:30 – 2:30 p.m.      **Session 6: Local ICWA Roundtables- Updates on Strategies for Reducing Disparities and Disproportionality**  
*Dr. Carrie Johnson, Director of United American Indian Involvement and Co-Chair of the Los Angeles ICWA Stakeholders' Roundtable*  
*Hon. Amy Pellman, Judge, Los Angeles Superior Court and Co-Chair of the Los Angeles ICWA Stakeholders' Roundtable*  
*Hon. Sunshine Sykes, Judge, Riverside Superior Court and Chair of the Riverside County Tribal Alliance*  
*Ms. Mary Trimble-Norris, Director of the American Indian Child Resource Center and Tri-Chair of the Bay Area Collaboration of American Indian Resources*  
*Ms. Sylvia Deporto, Child Welfare Director, San Francisco Human Services Agency and San Francisco County Representative on the Bay Area Collaboration of American Indian Resources*
- 2:30 – 3:15 p.m.      **Session 7: National Level News and Programs**  
**Tribal Law and Policy Institute (TLPI)**  
*Mr. Jerry Gardner, Director, TLPI*  
  
**Casey Family Programs**  
*Mr. Sheldon Spotted Elk, Director of ICWA Programs, Casey Family Programs*  
  
**National American Indian Court Judges Association (NAICJA)**  
*Hon. Richard Blake*
- 3:15 – 3:30 p.m.      **Break**
- 3:30 – 4:30 p.m.      **Session 8: Planning for ICWA Statewide Roundtables 2016-2017 Casey Family Programs and NAICJA in Collaboration with Forum**  
*Ms. A. Nikki Borchardt Campbell, Executive Director, NAICJA*  
*Mr. Sheldon Spotted Elk*
- 4:30 – 5:00 p.m.      **Session 9: Forum Priorities 2016-2017 and Court Improvement Program Grant Application**  
*Hon. Abby Abinanti*  
*Hon. Dennis M. Perluss*  
*Ms. Jenny Walter*
- 5:00 p.m.      Adjourn

*Qualifies for 6 Hours of MCLE and  
1 Hour of Elimination of Bias Continuing Education Credits*

*This meeting is supported with funds from the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services and a from the Governor's Office of Emergency Services (Cal OES) (Grant No. CW 15141535).*



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TRIBAL COURT-STATE COURT FORUM

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)  
[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

April 14, 2016

12:15-1:15 p.m.

By Conference Call

**Advisory Body  
Members Present:**

*Hon. Dennis M. Perluss, Cochair, Hon. April Attebury, Ms. Jacqueline Davenport, Hon. Gail Dekreon, Hon. Leonard P. Edwards, Hon. Cynthia Gomez, Hon. William Kockenmeister, Hon. Anthony Lee, Hon. Patricia Lenzi, Hon. David E. Nelson, Hon. Mark Radoff, Hon. John H. Sugiyama, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Claudette C. White, Hon. Christine Williams, Hon. Joseph J. Wiseman, and Hon. Daniel Zeke Zeidler*

**Advisory Body  
Members Absent:**

*Hon. Abby Abinanti, Hon. Kimberly A. Gaab, Hon. Michael Golden, Mr. Olin Jones, Hon. Mark Juhas, Hon. Suzanne N. Kingsbury, Hon. John L. Madigan, Hon. Lester Marston, Hon. Allen H. Sumner, Hon. Christopher G. Wilson, and Hon. Sarah S. Works*

**Others Present:**

*Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Ann Gilmour, and Ms. Jennifer Walter*

OPEN MEETING

**Call to Order and Roll Call**

The chair called the meeting to order at 12:17 p.m., and staff called roll.

**Approval of Minutes**

The committee approved the February 11, 2016 minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-8)

**Item 1**

**Cochairs Report**

Justice Perluss provided the following updates:

- *California Judicial Council Meeting: [Honoring Judge Richard Blake and Presentation](#)*  
The council honored Judge Blake for his inaugural role in serving as forum Cochair. The forum's presentation to the council was very well-received.
- *California Supreme Court Cases*  
Two cases involving the Indian Child Welfare Act, *In re Isaiah W.*; *Los Angeles County Department of Children and Family Services v. Ashlee R.*, S221263 and *In re Abigail A. et al.*; *Sacramento County Department of Health and Human Services v. Joseph A. et al.*, S220187, are scheduled for oral arguments before the Supreme Court of California, on Tuesday, May 3, 2016, at 1:30 p.m., in San Francisco.

- *Alaska v. Central Council of Tlingit and Haida Indian Tribes, Alaska Supreme Court No. S-14935*

The Alaska Supreme Court recently held that Alaska's child support enforcement agency must recognize and enforce support orders entered by Native American tribal courts. After determining that tribal courts have inherent subject-matter jurisdiction to determine support obligations owed to children who are members of (or eligible for membership in) the tribe, the court ruled that their orders must be treated in the same manner as all other foreign support orders under the Uniform Interstate Family Support Act.

- *Big Forum Meeting on June 2-3, 2016*

California is hosting a national gathering of tribal/state court forums. Forum members are invited to attend and travel expenses will be paid using grant funds. Please R.S.V.P. to Jenny Walter if you plan to attend.

- *Forum In-Person Meeting on June 9, 2016*

Our next in-person meeting is in Los Angeles. If members have not already done so, please R.S.V.P. to Jenny Walter. The draft agenda for the meeting is attached. If you have items you would like added to the agenda, contact Jenny Walter.

- *Native American Indian Court Judges Association (NAICJA) Conference on October 19-21, 2016 at Morongo (Riverside County)*

The annual NAICJA Conference is in California this year. The forum will be planning a presentation.

## **Item 2**

### **Forum Collaboration with NAICJA and Casey Family Programs to convene two Indian Child Welfare Act Roundtables (the first one will be in conjunction with NAICJA Conference (October 18th and the second one will be in the north- location and date to be determined))**

Ms. Nikki Borchardt Campbell, Executive Director, National American Indian Court Judges Association (NAICJA) described her organization. Established in 1969, NAICJA is a national association comprised of tribal justice personnel & others devoted to supporting and strengthening tribal justice systems through education, information sharing, and advocacy. Mr. Sheldon Spotted Elk, Director, Indian Child Welfare at Casey Family Programs described Casey Family Programs, which is the nation's largest operating foundation focused on safely reducing the need for foster care and building Communities of Hope for children and families across America. Both organizations have teamed up to promote dialogue, conduct needs assessments, and help jurisdictions improve compliance with the Indian Child Welfare Act. They will be working with the forum to plan two ICWA roundtables. The first will be in the south and will be on October 18<sup>th</sup> right before the NAICJA Conference at Morongo. The second will be in the north at a location to be determined by the forum, NAICJA and Casey Family Programs.

## **Item 3**

### **Approval of Minutes for February 11, 2016**

The minutes were approved upon a motion by Judge Radoff, which was seconded by Judge Zeidler.

## **Item 4**

### **Report on Meeting Convened by California Department of Justice (DOJ), March 15, 2016**

Judge Patricia Lenzi, Justice Dennis Perluss, and Jenny Walter reported on the meeting convened by the California Attorney General's Office to address lack of recognition and enforcement of tribal protection orders in violation of state and federal full faith and credit statutes.

Representatives from the U.S. Department of Justice, the California Sheriffs Association

(CSSA), California Indian Legal Services, the Yurok Tribal Court, and tribal advocates participated. Despite agreement on the law, the position of California DOJ and CSSA is that law enforcement will not recognize or enforce any protection order, tribal or nontribal, unless it is in the California Restraining and Protective Order System (CARPOS), which can be viewed through the California Law Enforcement Telecommunications System (CLETS). No solutions were offered to give tribal courts access to CLETS to enter their orders into CARPOS. Forum members were directed to the letter from the forum cochairs offering pragmatic solutions and requesting a response within thirty days of the meeting.

#### **Item 5**

##### **Report on Joint Jurisdictional Court**

Ms. Jackie Davenport, Judge Suzanne Kingsbury, and Judge Christine Williams reported on their Family Wellness Court (FWC), which has been in operation for one year. The FWC has heard a range of case types, including a truancy referral from the School Attendance Review Board, one dependency and several delinquency cases. Some of the first participants to be referred to the court are graduating. One participant took less than a year to graduate, and another is graduating in May or June. One family declined to participate in the FWC because of the number of hearings and the level of participation and engagement required by the court. The judges explained that the FWC is able to address core issues impacting children and families; while this takes hard work—on the part of the participants, with judicial attention and culturally appropriate services—children and families have better outcomes. The judges reported that the FWC is well-received in both the tribal and nontribal communities. Attorneys are pleased to come to the court on tribal lands because they see that they are part of a solution in providing true wraparound services. Court administrative services are freely shared; on occasion a state court clerk will fill in for the tribal court clerk. By modeling local judicial and court administration collaboration, the FWC has strengthened tribal and county relationships.

Ms. Davenport described the types of operational issues that they are addressing, such as adapting mandatory council forms for use in the FWC, ensuring statutory findings and orders, sharing state court resources (court clerk and reporter are provided by state court), coordinating with sheriff for transportation of in-custody participants, developing scripts for state court judges that they can use when making a referral on the record to the FWC, and developing performance measures.

Shingle Springs Band of Miwok Indians will be hosting a celebration of the FWC on April 27, 2016. For more information about the Family Wellness Court, see [www.shinglespringsrancheria.com/tribal-court/](http://www.shinglespringsrancheria.com/tribal-court/) or [www.eldoradocourt.org/documents/pdf/FWC\\_Manual.pdf](http://www.eldoradocourt.org/documents/pdf/FWC_Manual.pdf).

#### **Item 6**

##### **Report on Yurok Tribal Meth Summit February 27, 2016**

This item was deferred.

#### **Item 7**

##### **Cross Court Educational Exchange on Domestic Violence and Child Welfare**

Judge Nelson and Judge Wiseman reported that the event was a resounding success with more than sixty participants. They described the event. The first session included a lively discussion on the jurisdictional landscape existing in California Indian country relating to both criminal and civil jurisdiction. Participants explored case scenarios and grappled with civil/regulatory versus criminal/prohibitory distinctions, which led to a greater understanding of how Public Law 280

affects access to justice and appreciation for the need for cooperation between tribal, state and federal authorities to ensure access to justice for Native Americans in California. During the second session, participants gained a greater understanding of the two tribal justice systems in the county: the Round Valley Tribal Court and the NCICS, which operates with a governing body—the Judicial Council—that is appointed by the governing bodies of the four consortium tribes with different tribal codes and tribally specific services. During the third session, moderated by Judge David Riemenschneider, panelists addressed three topics: (1) a statewide perspective on full faith and credit under the Violence Against Women Act- how it should work and challenges statewide; (2) local challenges and exploring workaround solutions-- rule 5.386 of the California Rules of Court and an existing local protocol together with access to the California Courts Protective Order Registry can be used to protect the public; and (3) the collaboration between county and tribal probation to develop a batterer intervention program that is culturally responsive and tribally specific. The fourth session focused on law enforcement collaboration and coordination to address domestic violence in tribal communities in Mendocino County. Through a panel discussion, using a hypothetical case involving criminal assault and traffic violations for speeding and drunk driving, participants explored legal questions relating to law enforcement’s authority to detain and arrest and related questions of court jurisdiction.

During lunch, generously provided by the Hopland Tribe, participants heard remarks from Congressman Jared Huffman and Ms. Tricia Tingle, Bureau of Indian Affairs, Office of Tribal Justice Support.

During the afternoon, participants described ways that the tribal and state justice systems might collaborate across jurisdictions in criminal cases. The judges facilitated a dialogue among the panelists and exchange participants to explore how cases could be coordinated to improve public safety and accountability for the benefit of all citizens. Panelists discussed hypothetical cases involving decisions about intake, investigation, filing, notification of justice partners (cross notification across tribal/state/county jurisdictional lines), and disposition/sentencing. Participants learned about opportunities for coordination, challenges to cross-jurisdictional cooperation, benefits of coordinating justice system responses to leverage resources (for example, through the use of deferred entry of judgment), and the imposition of creative sanctions to improve outcomes. Participants shared how culturally appropriate services could be provided when the tribal and state justice systems come together at regular system meetings, drawing on shared restorative and wellness principles to hold offenders accountable. Participants also learned about the limitations of prosecutorial discretion in terms of felony charges, waitlists for alcohol and drug treatment programs, and statutory obstacles in fashioning creative cross-jurisdictional solutions in certain felony cases.

During the last session, a panel of experts on the Indian Child Welfare Act addressed how other jurisdictions have come together to support Indian children and families involved in the child welfare system. This session explored how funding under title IV-E of the Social Security Act could potentially follow the child in child welfare cases that are transferred from the state court to the tribal court. Additionally, participants learned about innovative models in Minnesota and California (specifically as between Alpine County and the Washoe Tribe), and sparked interest among participants in how such models and ways of approaching title IV-E funding could be adapted in Mendocino County.



At the end of the exchange, participants reflected on what they had learned during the sessions and from each other. Following a discussion facilitated by Judge Nelson, Judge Wiseman, and Ms. Jenny Walter, the participants identified the steps they wanted to take to: (1) strengthen their existing tribal/state/county collaborations, (2) advance local and statewide policies; and (3) improve access to their tribal and state justice systems through education and resource development.

Materials can be accessed here:

<https://ftp.jud.ca.gov/>

Username: forum

Password: forum123

#### **Item 8**

##### **Status Report on Forum/CJER Collaboration**

Judge Nelson reported that he and Judge Matthew McGlynn (Center for Judiciary Education and Resources (CJER) Curriculum Committee) have completed their review of the CJER online toolkits relating to juvenile dependency and delinquency cases, and have made recommendations to include parts of the Federal Indian Law Toolkit and cross-reference others. Judge Nelson invited forum members to share their reports on the status of their collaboration on the other toolkits. Ms. Walter offered to assist Judge Beckloff, Judge Juhas, Judge Marston, Judge Radoff, and Judge Wiseman, who have volunteered to work on updating the other toolkits with CJER.

#### **Item 9**

##### **Report on Responses to SB 406 Study**

Ms. Walter reported on the status of the SB 406, a collaboration with U.C. Davis School of Law. She described the purpose of the three surveys and summarized the survey information received. Directing members to the materials in their e-binders, she reported that the response rate for state court judges is 64% and that Professor Florey and she were working together to increase the response rate. The response rate from tribal court judges is 30% and 0% for tribal practitioners. Although the tribal practitioner survey was emailed to the 200 plus membership of the California Indian Lawyers Association, the tribal court judges on the call agreed that they would help by sending the survey to their colleagues and the attorneys who practice in their courts. Judge Lenzi and Judge Radoff underscored the importance of the study and their willingness to do outreach to increase the response rates.

#### **Item 10**

##### **Court Improvement Program- Collaborative Opportunity**

Ms. Walter described a funding opportunity to support the creation of effective practice model partnerships between state courts and/or Court Improvement Program, state child welfare agency and a tribe, group of tribes, tribal child welfare agency and/or tribal courts for effective implementation of the Indian Child Welfare Act (ICWA). She reported that applicants who are awarded the grant could receive up to \$500,000 per year over five years. She directed members to the information in their meeting materials proposing ICWA projects. She described briefly the four purpose areas that she was contemplating pursuing in organizing the grant application:

- Relationship building such that tribal voices are consistently and meaningfully included in all partnerships engaged in ICWA system change at the statewide and local levels;
- Policy changes are identified, coordinated, and implemented;
- Education on ICWA is delivered in a coordinated way to judges, attorneys, and social workers consistent with federal and state mandates; and

- Technology is being used to flag ICWA requirements, collect tribe-specific ICWA data, and achieve interoperability among tribal/state/court databases.

Ms. Walter described how this grant would enable the forum to build on existing policy work in the area of ICWA, especially in light of the new Bureau of Indian Affairs (BIA) ICWA Guidelines and the proposed BIA ICWA regulations. This grant would also enable the forum to implement its educational recommendations. And because the draft statewide ICWA Task Force report identified the lack of reliable, meaningful and accessible statewide data on Indian children as a problem for ICWA compliance in California, the grant would enable the Judicial Council staff agency to hire a technologist to develop standards for data collection, data sharing, interoperability, and automation—among the courts as well as between the courts and the California Department of Social Services’ new system of child welfare case management system.

Also, the forum has identified several projects that are innovative, but without funding. Ms. Walter explained that we have been unable to implement or duplicate these projects, such as tribal representation in juvenile dependency cases and expanding the joint jurisdictional model of the FWC. Forum members discussed the grant opportunity and agreed it was an excellent opportunity for these purposes, especially the tribal representation project. Ms. Walter encouraged forum members to support the Judicial Council, as the State’s Court Improvement Program, to apply for the funding. She explained that the Judicial Council would be sure to establish a statewide ICWA Implementation Partnership, including at a minimum a representative of the Tolowa Dee-ni’ Nation (Tribal Court Improvement Program in California), the forum, the California Department of Social Services, the Child Welfare Directors Association, California Tribal Court Judges Association and the Statewide ICWA Workgroup. The ICWA Implementation Partnership would be the primary “steering committee” for the grant throughout the five year period.

Two tribal court judges expressed support for the concept proposal. Ms. Walter said that she would be reaching out to forum members for letters of support.

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#### **A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 1:15 p.m.

Pending approval by the advisory body on June 9, 2016.

# Session 1: Member Projects



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TRIBAL COURT-STATE COURT FORUM

1. Forum Collaboration with Tribal Law and Policy Institute to promote tribal court-state court partnerships. California hosted a national gathering of tribal/state court forums on June 2-3, 2016.
2. Forum Collaboration with National American Indian Court Judges Association (NAICJA) and Casey Family Programs to convene two Indian Child Welfare Act Roundtables (the first one will be in conjunction with NAICJA Conference on October 18th and the second will be in the north- location and date to be determined).
3. Forum Collaboration California State Court Clerks, California Tribal Court Administrators, with National Judicial College, and the Northern Federal District Court to foster tribal/state/federal partnerships and sustain these partnerships through the development and dissemination of the [Court Toolkit for Tribal/State/Federal Administrators and Clerk](#).
4. Forum Collaboration with the California Chief Justice's [Power of Democracy Steering Committee](#) to develop a civic learning opportunity for native and nonnative youth to learn about state and tribal courts in Humboldt and Del Norte Counties.
5. Forum Collaboration with the California Judiciary Education Resources (CJER) Curriculum Committee to incorporate the Forum's [Federal Indian Law Toolkit](#) into the existing CJER online toolkits. Thank you to Judge David Nelson for taking the lead on this project, and to Judge Beckloff, Judge Juhas, Judge Marston, Judge Radoff, and Judge Wiseman, who have volunteered to update the CJER toolkits.
6. Forum Collaboration with Filmmaker on Documentary: *Tribal Justice in California* will follow two cases in tribal courts in California. Revealed through the voices of the Native Americans at the center of the cases and the voices of the tribal court and state court judges who hear the cases will be the story of the tribal judges' striving as they lay the foundation of contemporary tribal law by incorporating traditional tribal concepts of justice. Also revealed will be the cooperative relationships among tribal and state court judges in California to achieve a seamless delivery of justice and to ensure that citizens receive the benefits of tribal and state justice systems. To see clips, check out: <https://vimeo.com/142182399>



## **Cross-Cultural Court Exchange—Yurok Tribe Yurok Tribal Office, Community Room**

190 Klamath Blvd  
Klamath, CA 95548

**January 6, 2016**

*Judges Abby Abinanti, William Follett, and Christopher G. Wilson are co-hosting this cross-court exchange on child support with cross-over issues relating to domestic violence. This exchange is financially assisted through Grant Award Number CW14131535 from the California Office of Emergency Services (CalOES).*

9:00 – 9:30 a.m. Welcome and Tribal Court Tour

*Hon. Abby Abinanti  
Hon. William Follett  
Hon. Christopher G. Wilson*

9:30 – 9:45 a.m. Session 1: History of Collaboration

*Hon. Abby Abinanti  
Hon. William Follett  
Hon. Christopher G. Wilson*

9:45 – 10:30 a.m. Session 2: History of Tribal IV-D Program

National Context and Roadmap:  
*Ms. Kathleen Hrepich, Chief Counsel (or Leslie Carmona)  
California Department of Child Support Services  
Ms. Rachel Freitas, Region IX*

Yurok Tribal IVD Program: Description of the Court and Services  
*Hon. Abby Abinanti and Ms. Denise Bareilles, Child Support  
Attorney/Manager*

10:30 – 10:40 a.m. **Break**

10:40 – 11:15 a.m. Session 3: Concurrent Jurisdiction

*Hon. Abby Abinanti  
Hon. Rebecca Wightman, Commissioner  
Superior Court of San Francisco County  
Ms. Bareilles*



11:15 a.m. – 12:15 p.m.

**Session 4: Transfer Process- Roles and Responsibilities**

Presentation and facilitated discussion to clarify participants' roles and responsibilities

*Presenter: Ms. Anna Maves, Supervising Attorney, Judicial Council*

*Facilitators:*

*Hon. Abby Abinanti*

*Hon. William Follett*

*Hon. Christopher G. Wilson*

12:15 – 1:15 p.m.

**Lunch Hosted by Yurok Child Support Services**

1:15 – 2:15 p.m.

**Session 5: Transfer Process–Examining Rule 5.372 of the California Rules of Court**

*Facilitator: Ms. Ann Gilmour*

Facilitated discussion to identify which parts of the current process are working and which parts could be improved

2:15 – 3:30 p.m.

**Session 6: Hypotheticals–Working Through Implementation Questions**

*Facilitator: Hon. Wightman*

3:30 – 3:45 p.m.

**Break**

3:45 – 5:00 p.m.

**Discussion/Next Steps**

*Facilitated by Judges Abinanti, Follett, and Wilson*

- A. Rule Recommendations
- B. Protocols, Guidelines, FAQs Development
- C. Judicial Resource Guide
- D. Annual IVD Conference Workshop
- E. Child Support Guideline Study
- F. Other

*Qualifies for 6.0 hours of continuing education units (MCLE)*



## **Cross-Cultural Court Exchange Northern California Intertribal Court System and Mendocino Superior Court**

**Hopland Community Center  
April 8, 2016**

*Judges Joseph J. Wiseman and David E. Nelson are co-hosting this cross-court exchange to discuss and problem-solve together local court concerns relating to domestic violence, sexual assault, stalking, teen dating violence and/or elder abuse in the tribal community. This exchange is financially assisted through Grant Award Number CW12111535 from the Governor's Office of Emergency Services (OES).*

8:30 – 8:45 a.m.

**Ceremonial Blessing, Welcome, Introductions**

8:45 – 9:00 a.m.

**Context for Meeting: Welcome and Overview of the Northern California Intertribal Court System/Mendocino Superior Court Collaboration**

Participants will learn about the Tribal Court–State Court Forum and local inter-jurisdictional collaboration on the part of NCICS and the Mendocino Superior Court.

*Hon. Joseph Wiseman, Chief Judge, Northern California Intertribal Court System (NCICS)*

*Hon. David Nelson, Presiding Judge, Superior Court of Mendocino County*

9:00 – 9:30 a.m.

**Session 1: Overview of Jurisdiction in Indian Country and Public Law 280**

Participants will learn about the jurisdictional landscape existing in California Indian country relating to both criminal and civil jurisdiction. Participants will also begin to develop an understanding of how these issues may affect the ability of Native Americans to achieve adequate access to justice in various case types. By exploring case examples, participants will appreciate the need for cooperation between tribal, state and federal authorities to ensure access to justice for Native Americans in California.

*Hon. Lester J. Marston, Chief Judge, Blue Lake Rancheria Tribal Court*



9:30 – 10:00 a.m.

**Session 2: Overview of the NCICS and Round Valley Tribal Court**

Presenters will share their experiences—a day in the life of a tribal court judge. Participants will learn how one inter-tribal court system, the NCICS, operates with a governing body—the Judicial Council—that is appointed by the governing bodies of the four consortium tribes with different tribal codes and tribally-specific services. Participants will also learn about the Round Valley Tribal Court, how the court was established and why it is a critical component of the Round Valley Tribal Government. Participants will learn what jurisdiction the courts are exercising, the types of cases they are hearing, and generally how they operate.

*Ms. Laura Betts, Round Valley Court Administrator*

*Mr. Joe Dukepoo, Round Valley Tribal Council Member*

*Ms. Tania Martinez, NCICS Court Manager*

*Hon. Joseph Wiseman*

*Tribal Council Members*

10:00 – 10:15 a.m.

***Break***





10:15 – 11:15 a.m.

**Session 3: Domestic Violence—Recognition and Enforcement of Protective Orders and How Tribal Justice Systems and State Criminal Justice Systems Work Together**

Panel Moderated by: *Hon. David Riemenschneider, Judge, Superior Court of Mendocino County*

This session will cover three topics: (1) a statewide perspective on full faith and credit under the Violence Against Women Act- how it should work and challenges statewide; (2) local challenges and exploring workaround solutions-- rule 5.386 of the California Rules of Court and an existing local protocol together with access to the California Courts Protective Order Registry can be used to protect the public; and (3) the collaboration between county and tribal probation to develop a batterer intervention program that is culturally responsive and tribally-specific.

*Hon. Joseph Wiseman*

*Ms. Dorothy Alther, Director, California Indian Legal Services*

*Ms. Jean Glentzer, Adult Division Manager, Mendocino Probation*

*Ms. Barbara Smith, Director, Round Valley Domestic Violence Program*

*Ms. Anita Toste, Tribal Advocate, Hopland Tribal Band of Pomo Indians*



11:15 a.m. – 12:15 p.m.

#### **Session 4: Law Enforcement Collaboration**

Panel Moderated by: *Mr. Olin Jones, Director, California Attorney General's Office of Native American Affairs*

Participants will learn about coordinated law enforcement efforts among tribal/state/federal agencies to address domestic violence in tribal communities in Mendocino County. Participants will also learn about the partnerships among the federal government and the tribal governments of some of the tribes situated in Mendocino County that provide for special law enforcement commissioning (SLEC) of tribal police officers as deputies of the Bureau of Indian Affairs. Participants will learn how various agencies handle calls for assistance, communicate regarding responding to inter-jurisdictional challenges involving tribal jurisdiction, and participate in regular meetings to discuss tribal-state-federal issues generally and specifically with respect to domestic violence crimes.

*Sheriff Thomas D. Allman, Mendocino County Sheriff's Office*  
*Ms. Carlene Fischer, Special Agent in Charge, Bureau of Indian Affairs-Office of Justice Services*  
*Chief Ron Quilt, Round Valley Tribal Police Department*  
*Chief Michael Scalercio, Hopland Tribal Police Department*  
*Chief Louie Torres, Cahto Tribal Police Department*  
*Chief Paco Vergara, Coyote Valley Band of Pomo Indians Police Department*

12:15 – 1:15 p.m.

***Lunch Hosted by Hopland Tribe***  
***Remarks by Congressman Jared Huffman***



1:15 – 2:15 p.m.

### **Session 5: Cross-Jurisdictional Court Collaboration**

Panel Moderated by: *Hon. Joseph Wiseman and Hon. David Nelson*

The judges will facilitate a dialogue among the panel participants to explore how cases could be coordinated to improve public safety and accountability for the benefit of all citizens. Panelists will discuss hypothetical cases involving decisions about intake, investigation, filing, notification of justice partners (cross notification across tribal/state/county jurisdictional lines), and disposition/sentencing. Participants will learn about opportunities for coordination, challenges to cross-jurisdictional cooperation, benefits of coordinating justice system responses to leverage resources (for example, through the use of deferred entry of judgment), and the imposition of creative sanctions to improve outcomes. Participants will also learn how culturally appropriate services could be provided when the tribal and state justice systems come together at regular system meetings, draw on shared restorative and wellness principles to hold offenders accountable.

*Mr. C. David Eyster, District Attorney, Mendocino County*

*Mr. Buck Ganter, Chief Probation Officer, Mendocino County*

*Ms. Tania Martinez, NCICS Court Manager*

*Ms. Linda Thompson, Public Defender, Mendocino County*



2:15 – 3:15 p.m.

### **Session 6: Indian Child Welfare Act**

ICWA and cross-jurisdictional collaboration to support Indian children and families involved in the child welfare system. This session will cover three topics: (1) title IV-E (tribal and nontribal) of the social security act as a funding source to support child welfare cases and services- what it funds, what are the eligibility requirements and limitations on its use and how it can impact cross-jurisdictional collaboration; (2) innovative models for cross-jurisdictional collaboration and sharing of resources; and (3) Mendocino County, title IVE and other child welfare resources- what resources can be shared cross-jurisdictionally?

Panel Moderated by: *Ms. Jena Conner, MSW, Deputy Director, Mendocino County Health and Human Services Agency, Family and Children's Services*

*Ms. Cindy Blacksmith, Director, Washoe Tribal Social Services*

*Ms. Josie Loomis, ICWA/Social Case Manager, Hopland Tribe*

*Hon. Anne K. McKeig, Minnesota Fourth Judicial District, Family Justice Center*

*Ms. Debra Samples, Acting Regional Program Manager, Administration for Children and Families, Department of Health and Human Services, Children's Bureau*

*Ms. Elizabeth Sandoval, Supervising Staff Counsel, California Department of Social Services Legal Division*

*Ms. Nichole Williamson, Director, Alpine County Health and Human Services*

3:15 – 3:30 p.m.

### **Break**

3:30 – 4:30 p.m.

### **Discussion/Next Steps/Reflecting on Workbook Notes**

Facilitated by: *Hon. Joseph Wiseman and Hon. David Nelson*

- A. Resource Sharing
- B. Data Collection
- C. Protocols
- D. Coordination of Collaborative Meetings
- E. Other

Qualifies for 4.0 hours of general continuing education units and 2.0 hours of elimination of bias (MCLE, BBS)

# TRIBAL COURT DV PROTECTION ORDER MEETING

## AGENDA

California Office of the Attorney General, 7<sup>th</sup> Floor Conference Room  
1300 I Street, Sacramento, California 95814  
March 15, 2016

Conference Call Line:  
Dial: 877-336-1828  
Participant Code: 2305141

- |               |   |
|---------------|---|
| 10:00 – 10:15 | <b>Introductions</b><br>Olin Jones, Director, Office of Native American Affairs   |
| 10:15 – 10:30 | <b>Purpose and Goals of the Meeting</b><br>Olin Jones, Director, Office of Native American Affairs  |
| 10:30 – 10:45 | <b>Federal Perspective of Full Faith and Credit for Tribal Court Protection Orders</b>  |
| 10:45 – 11:00 | <b>Administration of the California Restraining &amp; Protection Order System (CARPOS)</b>  |
| 11:00 -11:30  | <b>Work Around Solutions: California Courts Protective Order Registry (CPOR) and Registration of Tribal Protection Orders</b>   |
| 11:30 – 12:00 | <b>Scope of Public Safety Gaps Related to Non Direct Filing of Tribal Court DV TROs</b>   |
| 12:00 – 12:15 | <b>Break (Working Lunch)</b>  |
| 12:15 – 2:00  | <b>Open Discussion of Full Faith &amp; Credit in Cross Jurisdictional Recognition of Tribal Court Protection Orders</b><br>Facilitator: Kathleen Kenealy, Chief Assistant Deputy Attorney General, Division of Civil Law <ul style="list-style-type: none"><li>• Potential Solutions</li><li>• Next Steps</li></ul> |
| 2:00          | <b>Adjournment</b>  |



# JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Tel 415-865-4200  
TDD 415-865-4272  
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www.courts.ca.gov

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HON. TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

MR. MARTIN HOSHINO  
*Administrative Director,*  
*Judicial Council*

## TRIBAL COURT–STATE COURT FORUM

HON. ABBY ABINANTI  
HON. DENNIS M. PERLUSS  
*Cochairs*

*Hon. April E. Attebury*  
*Ms. Jacqueline Davenport*  
*Hon. Gail Dekreon*  
*Hon. Leonard P. Edwards (Ret.)*  
*Hon. Kimberly A. Gaab*  
*Hon. Michael Golden*  
*Hon. Cynthia Gomez*  
*Mr. Olin Jones*  
*Hon. Mark A. Juhas*  
*Hon. Suzanne N. Kingsbury*  
*Hon. William Kockenmeister*  
*Hon. Anthony Lee*  
*Hon. Patricia Lenzi*  
*Hon. John Madigan*  
*Hon. Lester J. Marston*  
*Hon. David E. Nelson*  
*Hon. Mark Radoff*  
*Hon. John H. Sugiyama*  
*Hon. Allen H. Summer*  
*Hon. Sunshine S. Sykes*  
*Hon. Juan Ulloa*  
*Hon. Claudette C. White*  
*Hon. Christine Williams*  
*Hon. Christopher G. Wilson*  
*Hon. Joseph J. Wiseman*  
*Hon. Sarah S. Works*  
*Hon. Daniel Zeke Zeidler*

COMMITTEE STAFF  
*Ms. Jennifer Walter*  
Tel 415-865-7687

March 21, 2016

Kathleen Kenealy, Chief Assistant Attorney General  
Olin Jones, Director Office of Native American Affairs  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814

Dear Ms. Kenealy and Mr. Jones:

We are writing on behalf of the Tribal Court-State Court Forum (Forum) to thank you for inviting us to the March 16, 2016 meeting on tribal justice protection orders. Although we were disappointed at the group's failure to propose concrete next steps, we found the discussion and perspectives shared informative. Based on our positive dialogue, we would like to propose possible action items in the following areas: (1) data collection; (2) education; and (3) policies.

### Data Collection

We recommend that the existing California Law Enforcement Telecommunications System (CLETS) be used to gather information on the number of instances that law enforcement uses the system to verify a tribal protection order. Each time an officer queries CLETS for a tribal protection order, the system would flag the inquiry and compile them into two groups: those with a hit confirmation and those without. If this information were regularly shared with the Tribal Court Judges Association and the Forum, the judges could follow up and gather more qualitative information about the orders and the outcomes and circumstances surrounding the efforts to enforce them.

### Education

We recommend that CLETS be used to communicate to law enforcement that a tribal protection order must be accorded full faith and credit. We learned at the meeting that the system can generate autoreplies and recommend that one be added to the system so that every time an officer queried the system for a tribal protection order, an autoreply would direct the officer to enforce the tribal protection order just as it would a state court order, regardless of whether the order was registered or found in the system.

We recommend that your office, in conjunction with the California State Sheriff's Association (CSSA), produce a laminated card, similar to the Marsy's card, with information on federal and state full faith and credit laws and resources on tribal courts (for example, a link to a directory of tribal courts in California).

We recommend mandated Peace Officer Standards Training (POST) classes on full faith and credit: enforcing tribal protection orders. These classes should include law enforcement tools, such as the laminated card and other jurisdictional tools (for example, those recently developed by representatives from our Forum, your office, CSSA, POST, the Tribal Police Chiefs Association, and local law enforcement agencies). Your office should lead a coordinated statewide educational effort to endorse these and other law enforcement educational tools, as well as on-site programs and briefings on full faith and credit: enforcing tribal protection orders.

### Policies

We recommend that the California Attorney General, in collaboration with CSSA, reaffirm that federal and state laws require an officer enforce a tribal protection order regardless of whether it is registered in or verified through the California Restraining and Protective Orders System (CARPOS) or other database. A joint policy statement, or one that is coordinated with a similar statement by CSSA and the City Police Chiefs, should be issued to all local (city police departments and county sheriff departments) and state (California Highway Patrol) law enforcement. Such a policy statement should also reassure officers that state law provides for immunity from civil liability for good faith enforcement of tribal protection orders that are regular on their face.

Since we agree that tribal court access to statewide and federal databases is critical to achieve victim and officer safety, we recommend that tribal courts be given this access to enter their orders. Some potential solutions may be a legal opinion or letter by the California Attorney General authorizing access, a technological advance that creates a firewall so orders are entered but not read by tribal courts, or a pilot project through the U.S. Department of Justice to permit access to the federal database.

And finally, we recommend that the California Department of Justice sponsor legislation to amend Government Code section 15155 to add a tribal court judge position to the CLETS Advisory Board to signal that your office supports tribal court access to CLETS.

At the end of our meeting, the concept of a local tribal court and state court working in tandem as sister courts was raised. While it is not evident how this concept might assist in achieving our shared goal, the Forum embodies this concept through its composition and operation in recommending policies, implementing education, and promoting partnerships. We welcome the opportunity to learn more about how these shared values can help us achieve a solution.

March 21, 2016

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In conclusion, everyone in attendance at the meeting agreed that federal and state laws mandate that tribal protection orders must be accorded full faith and credit and enforced regardless of whether they are registered or entered into a state or federal database. Yet everyone also agreed, as a practical matter, victim and officer safety could not be achieved without finding a legal and technological way to promptly enter tribal protection orders into CARPOS (or the federal database searchable through CLETS). While these are two separate issues, both must be addressed if we are to accomplish our shared goals.

We would like to propose a conference call within thirty days to discuss these recommendations and any others that your office is contemplating and an in-person meeting within sixty days to explore the viability of potential solutions.

Thank you for your leadership. We look forward to discussing how we can help implement solutions.

Sincerely



Honorable Abby Abinanti



Honorable Dennis Perluss

JW/cb

cc: Hon. Richard C. Blake, Chief Judge, Hoopa Valley, Redding Rancheria, and Smith River Rancheria Tribal Courts  
Ms. Marcia Good, Senior Counsel to the Director, Office of Tribal Justice United States Department of Justice  
Hon. Patricia Lenzi, Chief Judge, Cedarville Rancheria of Northern Paiute Indians Tribal Court  
Mr. Martin Ryan, President, California State Sheriffs Association





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# MEMORANDUM

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Date  
May 2, 2016

Action Requested  
Please Review

To  
California State Sheriffs  
Tribal Police Chiefs  
Tribal Court Judges  
Presiding Judges of the Superior Courts  
Executive Officers of the Courts

Deadline  
N/A

Contact  
Jennifer Walter  
415-865-7687 phone  
415-865-7217 fax  
[jennifer.walter@jud.ca.gov](mailto:jennifer.walter@jud.ca.gov)

From  
Hon. Abby Abinanti, Co-Chair  
Hon. Dennis Perluss, Co-Chair  
Tribal Court–State Court Forum

Subject  
Jurisdictional Tools

---

On behalf of the California Department of Justice, the California State Sheriffs Association, the California Tribal Police Chiefs Association, the Peace Officers Standards and Training and the Tribal Court–State Court Forum, we are writing to share the following jurisdictional tools with you.

- Glossary of Terms for Courts and Law Enforcement;
- Frequently Asked Questions About Domestic Violence Offenses Committed in Indian Country;

May 2, 2016

Page 2

- Chart on Jurisdiction to Arrest; and
- Practice Tips for Law Enforcement.

We partnered to create these educational tools in response to questions from judges and law enforcement about the overlapping jurisdictional authority of county, state, and tribal law enforcement on tribal lands. These tools are intended to give practical information to law enforcement officers in the field and judges about domestic violence on tribal lands. In the course of developing them, representatives from the abovementioned groups identified that these tools would be most effective if they were used as part of a local training or cross-jurisdictional meeting convened by a judge, local sheriff, or tribal police chief. Attached please find a framework for convening such a training or meeting, which includes convening goals, steps before and after convening, and resources.

We believe that using these jurisdictional tools and taking steps to convene a training or meeting will strengthen each of our justice systems and lead to innovative collaborations. These tools are offered with the hope that they will improve communication, foster understanding, and promote partnerships for the benefit of all our citizens.

## Goals of Convening

The goal of convening is to develop a seamless response to domestic violence cases so that law enforcement and the judicial process work for cases arising on tribal land just as effectively as they work for cases on nontribal land. Working effectively together entails respectful interactions between authorities, understanding tribe-specific histories and cultures, and knowledge of available and appropriate services.

The most obvious reasons for convening state, local and tribal leaders are as follows:

1. Education about each other's justice system: governmental structure, courts, laws and rules, traditions and customs, and law enforcement capacity and training.
2. Leveraging and maximizing resources available in the county and through the tribe
3. Problem-solving shared cross-jurisdictional challenges;
4. Agreements and operational guidelines for cross-jurisdictional matters; and
5. Sustained and productive relationships among justice partners and the community.

## Steps to Convene

1. The initial meeting can be convened by any justice partner, but should include the county sheriff or police chief and that person's tribal counterpart. The tribal government should be asked to identify the tribal members to be involved. Possible county partners might include council members, prosecutors, defense attorneys, advocates (system-based and community-based), mental health, Child and Adult Protective Services, and social services. Tribal partners could include tribal council members, tribal prosecutors, tribal presenting officers, tribal advocates, tribal probation services, tribal social services and mental health, and Indian Health Services.
2. The initial meeting should focus on building relationships and identifying areas of mutual concern targeted for systemic improvement.
3. Some examples of topics to meet about include:
  - a. Notification procedures, such as when tribal leadership should be notified, by whom, and the type of situations when notification is required;
  - b. Available and appropriate services for victims, perpetrators, and family members in the county and through the tribe;
  - c. Education on tribal histories, historical trauma, and resiliencies;
  - d. Training on operations such as legal authority (federal, state, and tribal codes and customary laws), law enforcement capacity and procedures, and training gaps;
  - e. Operational concerns, such as the following:
    - Data: Measuring and sharing calls for response, response times, quality of investigations, and crime statistics;

- Points of contact: Designating points of contact for the tribe and local law enforcement;
- Joint communication –when, by whom, limits on what can be disclosed;
- Access to tribal lands and location of alleged victims;
- Familiarity and Access to orders- what access is there to a registry system for storing data and images of protective orders?
  - a. Tribal registry or emergency number (outside business hours) to ask if the order is current;
  - b. National Crime Information Center;
  - c. California Restraining and Protective Order System (CARPOS) through the California Law Enforcement System (CLETS);
  - d. California Courts Protective Order Registry (CCPOR);
- f. Community education, such as co-sponsoring events to build relationships with law enforcement, local government, and community members, as well as provide education; and
- g. Protocols and memoranda of understanding to memorialize and sustain successful cooperative efforts.

#### After the Initial Convening

Jurisdictional conflicts between states and tribes have engendered bitterness and costly litigation. Ongoing and regular meetings may ease such conflicts, avoid future misunderstanding, while supplying much needed services to tribal communities within a problem-solving framework. By meeting regularly, justice partners can build stronger relationships and address problems as they arise, memorializing solutions in agreements and protocols.

Some considerations after the initial convening include identifying:

1. The entity or entities that will convene the collaboration (a tribal and non-tribal entity may want to jointly convene the meeting);
2. The location of the meetings (it is worth considering holding some or all of the meetings on tribal lands);
3. The knowledge and skills needed to sustain the collaboration;
4. The justice partners' knowledge and skills;
5. The gaps in knowledge and skills and develop a strategy to fill those gaps;
6. The facilitation skills within the collaboration; and
7. The staff to help with meetings and implementation of the collaboration's recommendations.

## Resources

1. California Department of Justice, Office of Native American Affairs, <http://ag.ca.gov/nativeamerican/>
2. California Police Officers Standards and Training, <https://www.post.ca.gov/home.aspx>  
For an example of an ongoing county-tribal meeting, see the final segment of “Policing Indian Lands” (2009)  
[http://post.ca.gov/Data/Sites/1/post\\_docs/telecourseprogramguides/Policing%20Indian%20Lands.pdf](http://post.ca.gov/Data/Sites/1/post_docs/telecourseprogramguides/Policing%20Indian%20Lands.pdf)
3. California State Sheriff’s Association, <http://www.calsheriffs.org/index.php/sheriffs-offices>
4. California Tribal Court-State Court Forum, <http://www.courts.ca.gov/forum.htm>  
Cooperative Agreements Information  
<http://www.courts.ca.gov/17422.htm>
5. California Tribal Police Chief’s Association, include website  
Written Testimony of Chief Bill Denke before Indian Law and Order Commission, Feb 16, 2012, available at <http://www.aisc.ucla.edu/iloc/resources/documents/bd-testimony-inidan-lando-commision-final.pdf>
6. International Association of Chiefs of Police (2006) Promising Practices for Improving Safety in Indian Country, available at <http://www.theiacp.org/portals/0/pdfs/IndianCountryReport2006.pdf>. Chapter 2, “Cooperation and Coordination” highlights initiatives in Riverside and Butte Counties and the Attorney General’s Office; chapter 6 “Training and Education” highlights the San Diego County Sheriff’s Office Tribal Liaison Program. Programs and agreements from around the U.S. are included.
7. Tribal Law and Policy Institute  
Promising Strategies: Public Law 280 (March 2013) [https://www.walkingoncommonground.org/files/Promising%20Strategies%20280%20Final%203-13\(1\).pdf](https://www.walkingoncommonground.org/files/Promising%20Strategies%20280%20Final%203-13(1).pdf)  
Law Enforcement and Criminal Justice Under Public Law 280 (2007)  
[http://www.tribal-institute.org/download/pl280\\_study.pdf](http://www.tribal-institute.org/download/pl280_study.pdf)  
Cooperative Agreements Information <https://www.walkingoncommonground.org/state.cfm?topic=12&state=CA>
8. Tribal Police Links, <http://tribaljurisdiction.tripod.com/id9.html>

## Glossary of Terms for Courts and Law Enforcement

### “California Peace Officer”

- A peace officer as defined in California Penal Code §§830 et seq.

### “Courts”

- *California state courts* are established by Article 6 of the California Constitution. There are three levels—superior courts in each of the 58 counties; appellate courts which review matters by geographical region, and the Supreme Court, the final state decision-maker of the constitutionality of state laws. The Supreme Court must review all criminal convictions resulting in imposition of the death penalty. Superior court judges may be initially appointed by the Governor or may seek election directly to a judicial seat. Judges appointed by the Governor must stand for election. Terms are six (6) years; there are no lifetime appointments. Superior Courts hear criminal, civil, juvenile, family, probate, and traffic matters. For more information visit the California Courts website, <http://www.courts.ca.gov/998.htm>.
- *Tribal courts* are established by federally recognized tribes which are sovereign nations. The term “tribal court”, “tribal court system”, or “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods of dispute resolution, trial courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record. (25 U.S. C. § 3653(8)). There is considerable variation in how tribal courts operate and what kinds of matters they hear. Some are more formalized using written laws and procedures while others use traditional Native ways of resolving matters such as peacemaking, councils, and sentencing circles. Tribal courts may serve a single tribe or multiple/all tribes in a particular geographical region. For more information, visit the California Tribal Courts Directory, <http://www.courts.ca.gov/14400.htm>.
- *Federal courts* are established by Article III of the United States Constitution, and are courts of limited jurisdiction. Judges are nominated by the President and confirmed by the U.S. Senate for lifetime terms. There are three levels of federal courts—District, Circuit (appellate) courts, and Supreme Court. Courts hear federal actions arising under federal statutes, common law and the Constitution, disputes between states and residents from different states. For more information, visit the United States Courts website, <http://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts>.

- Domestic violence offenses may fall under state, tribal, and federal statutes and may be heard by state, tribal and/or federal courts depending on how and where the offense occurred.

“Court Order/Protective or Protection Order/Restraining Order”

- These terms can be used interchangeably to mean the same thing.
- A protection order is an injunction or other order issued by a tribunal under the domestic violence, family violence, or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another person. (CA Family Code § 6401(5))
- Orders not issued by a California court, no matter what they are called, are subject to full faith and credit as “foreign orders” if:
  - The issuing court had jurisdiction over the parties and the subject matter (18 U.S.C. §2265(b)(1); CA Family Code § 6402(d)(3)); and
  - The Party to be restrained was provided with reasonable notice and the opportunity to be heard (18 U.S.C. § 2265(b)(2); CA Family Code §6402 (d)(4)).
- Officers enforcing such orders should verify the existence of an order and its specific terms and conditions from an official source, such as by reading a copy of the order in the protected party’s possession, or obtaining information from a supervisor or police dispatcher with access to the terms of the order.” *Beier v. City of Lewiston* (9<sup>th</sup> Cir., 2004) 354 F. 3d 1058; *Guerra v. Sutton* (9<sup>th</sup> Cir., 1986) 783 F. 2d 1371; *Marks v. Clarke* (9<sup>th</sup> Cir., 1997) 102 F. 3d 1012.

“Criminal Prohibitory and Civil/Regulatory”—see separate table

“Full Faith and Credit”

- The Full Faith and Credit provision (18 U.S.C. § 2265) of the Violence Against Women Act (VAWA) requires courts and law enforcement to recognize and enforce protection orders from other jurisdictions, including Indian tribes and bands, as if the orders were issued in their jurisdiction. (See also CA Family Code § 6403(a))
- Under federal and state laws, registration of a protection order cannot be a prerequisite to enforcement (18 U.S.C. § 2265(d)(1)(3); CA Family Code § 6403(d))

## “Immunity from Civil Liability”

- Police officers who enforce a protection order from another jurisdiction in good faith are entitled to immunity from civil liability for false arrest or false imprisonment. CA Family Code § 6405(a) provides:  
*There shall be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a foreign protection order that is regular upon its face, if the peace officer, in making the arrest, acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order.*
- Officers enforcing such orders should verify the existence of an order and its specific terms and conditions from an official source, such as by reading a copy of the order in the protected party’s possession, or obtaining information from a supervisor or police dispatcher with access to the terms of the order.” *Beier v. City of Lewiston* (9<sup>th</sup> Cir., 2004) 354 F. 3d 1058; *Guerra v. Sutton* (9<sup>th</sup> Cir., 1986) 783 F. 2d 1371; *Marks v. Clarke* (9<sup>th</sup> Cir., 1997) 102 F. 3d 1012.

## “Indian Country”

Indian Country is defined by federal law (18 U.S.C. § 1151) and includes these categories of land ownership and use:

- Federal reservations, including fee land, and land privately owned, and/or subject to a rights-of-way such as a public road (18 USC 1151(a)); *Donnelly v. United States* (1913) 228 U.S. 243 *United States v. John* (1978) 437 U.S. 634);
- Dependent Indian communities which are federally supervised lands set aside for the use of Indians (18 U.S.C. § 1151(b)); *Alaska v. Native Village of Venetie Tribal Government* (1998) 522 U.S. 520);
- Indian allotments, whether on or off a reservation, to which title has not been extinguished, including rights-of-way running through allotments (18 U.S.C. § 115); *United States v. Pelican* (1914) 232 U.S. 442; and *United States v. Ramsey* (1926) 271 U.S. 467);
- Other land which has been set aside for the use of Indians as Indian land, and overseen by the U.S. Government;
- Land held in trust by the United States for a tribe or individual Indian (*Oklahoma Tax Comm'n. v. Potawatomi Indian Tribe* (1991) 498 U.S. 505); and
- Indian country status is not changed by Public Law 280 (See generally, *California v. Cabazon Band of Indians* (1987) 480 U.S. 202, 207 n.5).



Some of the material for this section is drawn from the U.S. Attorney's Resource Manual, §677, visited August 7, 2015 at <http://www.justice.gov/usam/criminal-resource-manual-677-indian-country-defined>.

#### "Inherent Sovereign Authority"

Indian tribes, as sovereigns, historically have inherent jurisdictional power over everything occurring within their territory, unless clearly and unambiguously limited by Congress, through treaties, statutes, and common law. *Water Wheel Camp Rec. Area Inc. v. Larance* (9<sup>th</sup> Cir., 2011). Any analysis of jurisdiction should begin with this sovereign authority and determine whether this broad sovereign authority had been reduced.

#### "Jurisdiction"

- Jurisdiction means legal authority to act.
- Concurrent jurisdiction means multiple justice systems have legal authority to act.
- Outside of California, Congress has granted exclusive criminal jurisdictional authority to the federal courts under the General Crimes Act (18 U.S.C. §1152) and limited concurrent criminal jurisdictional authority over Indian Country to the federal courts under the Major Crimes Act (18 U.S.C. § 1153). Congress passed Public Law 280 which removed federal criminal jurisdiction under 18 U.S.C. 1162.

#### "Probable Cause"

- To make an arrest means under the totality of circumstances known to the arresting officer a prudent person would conclude that is a fair probability that a suspect had committed or was committing a crime. (*Beck v. Ohio* (1989) 379 U.S. 89; *Grant v. City of Long Beach* (9<sup>th</sup> Cir., 2002) 315 F. 3d 1081)
- To take enforcement action for violating the terms and conditions of a protection order exist if:
  - The order identifies the protected person and person to be restrained and
  - The order is currently in effect (CA Family Code § 6403(a)).

[Note: without a protection order presented, law enforcement may still find probable cause to believe a valid protection order exists based on other information (CA Family Code § 6403(b)).]

#### "State"

- An Indian tribe or band is included within the definition of "state" under California law that addresses the enforcement of a "foreign" protection (CA Family Code § 6401(7))

## “Tribal Law Enforcement”

Tribes may have different levels of law enforcement, such as security officers who are charged with “observing and reporting” or other limited authority defined by the tribe.

- *Tribal Law Enforcement Officers.* Tribal police officers are employed by tribes to provide law enforcement services on tribal lands. Their authority is defined by the tribe and may include enforcement of tribal codes and ordinances. If granted arrest powers by the tribe, they may only arrest tribal members and Indians on tribal lands. If tribal police officers detain a non-Indian on reservation property, they may do so only long enough to turn the non-Indian suspect over to state or federal authorities. (*Strate v. A-1 Contractors* (1997) 520 U.S. 438; *Ortiz-Barraza v. United States* (9<sup>th</sup> Cir., 1975) 512 F. 2d 1176).
- *Tribal Law Enforcement Officers Deputized by County Sheriff’s Department Under Penal Code § 830.6(d),* a county sheriff may deputize or appoint a tribal law enforcement officer as a reserve, an auxiliary, or a reserved deputy sheriff to enforce state laws on Indian lands. The tribal officer must meet state training requirements. A deputation agreement must be entered into by the county sheriff and the tribe. Deputizing tribal police officers can better facilitate apprehension of criminal offenders who travel from one jurisdiction to another in an attempt to elude capture.
- *Federally Deputized Tribal Police Officers Deputized by the Bureau of Indian Affairs, Office of Justice Services*  
The Bureau of Indian Affairs (BIA), Office of Justice Services, can issue qualified tribal police officers a “Special Law Enforcement Commission (SLEC)”. Tribal officers with a SLEC are federal law enforcement officers with the same authority as a federal BIA officer. They are authorized to enforce federal laws (and in some cases, tribal laws) on the reservation. They may enforce federal laws off the reservation if there is a nexus between the crime and the tribe’s Indian Country; when their assistance is requested by another law enforcement agency; and in exigent/emergency situations. They may arrest Indians and non-Indians. All tribal officers must qualify for the SLEC which requires that they complete: 1) a state or federal law enforcement academy, 2) a thorough adjudication (background) process; and 3) a class on Federal Indian Criminal Jurisdiction. (25 U.S.C. § 2804). There must be a deputation agreement in place between BIA and the tribe. Tribal officers with a SLEC are also authorized to enforce state laws (See Penal Code section § 830.8).

## “Tribunal”

- Tribunal includes courts, agencies, or other entities authorized by law to issue or modify a protection order

# Frequently Asked Questions

## Domestic Violence Offenses Committed in Indian Country

### Introduction

Federally recognized tribes possess the inherent powers of a sovereign government, except as limited by Congress, treaties, statutes, and common law. These powers include the right of tribes to form their own governments; to make and enforce laws, both civil and criminal; to establish justice systems, including tribal police and tribal courts; to tax; to establish and determine membership (i.e., tribal citizenship); to license and regulate activities within their jurisdiction; to zone; and to exclude persons from tribal lands.<sup>1</sup>

When California peace officers enter tribal lands to investigate and enforce criminal prohibitory conduct they may face uncertainties related to jurisdiction, extent of court authority, and the interplay of state and tribal laws. Key to effective policing is the establishment of relationships between California peace officers and their tribal counterparts and governments which develop an understanding tribe-specific histories and cultures, and knowledge of available and appropriate services. Tribes have a strong interest in preventing crimes and apprehending those who commit them on tribal property and may be willing to work with local law enforcement in investigating and collecting needed evidence to support a prosecution.

It is worth recalling that at a domestic violence incident both tribal law enforcement and California peace officers may be conducting investigations. Each can back up the other enhancing officer safety, provide resources to victims, and take enforcement action against a suspect. These processes can be complementary. Some agencies and tribal governments have established practices and agreements to foster and support effective relationships and interactions.

Please refer to the “Practice Tips” at the end of this document for further information.

This FAQ Tool is intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department’s local city attorney, county counsel, or legal advisor.

### Jurisdiction

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<sup>1</sup> See, e.g., 55 Interior Dec. 14, 48-50 (1934) (powers of Indian Tribes). See *Merrion v. Jicarilla Apache Tribe* (1982), 455 U.S. 130, 159; *Quechan Tribe v. Rowe* (9<sup>th</sup> Cir., 1976) 531 F.2d 408.

1. *Do California peace officers have authority to act when a domestic violence crime occurs on tribal lands?*

Answer: Yes, barring any agreement that may exist between the tribe and a law enforcement agency.

Public Law 280 directs California to enforce state domestic violence crimes on all California tribal lands, including reservations, and trust and fee lands. California peace officers have the same duty to investigate and make arrests on tribal lands as they have for similar acts occurring off tribal lands.

2. *Do California peace officers have authority to make a misdemeanor arrest for a domestic violence offense such as Penal Code §243(e)(1) or §273.6 on tribal lands?*

Answer: Yes, barring any agreement that may exist between the tribe and a law enforcement agency.

California peace officers have legal authority under *Penal Code* §836 (c)(1) and (d) to make misdemeanor arrests for domestic violence offenses and matters involving domestic violence orders without a citizen's/private person's arrest even when the offense is not committed in the officer's presence as long as there is probable cause to believe the offense has occurred in the same manner as an arrest for the same offenses occurring off tribal lands. A peace officer may make the arrest on tribal lands of both Indian and non-Indian suspects.

Domestic Violence Restraining Orders: when issued under any of the following authority:

- Non-Harassment Orders issued pursuant to *Code of Civil Procedure* §527.6;
- Domestic Violence Orders issued pursuant to *Family Code* §§6200 et seq. (includes emergency protective orders except for stalking);
- Criminal Protective Orders to Prevent Victim or Witness Intimidation issued pursuant to *Penal Code* §136.2;
- Stalking Emergency Protective Order issued pursuant to *Penal Code* §646.91;
- Post-conviction orders to prevent acts of violence, threats, stalking, sexual abuse and harassment issued in domestic violence, sex crimes (*Penal Code* §§261, 261.5, and 262), crimes for which a defendant is required to register pursuant to *Penal Code* §290 (c), and elder abuse cases, issued pursuant to *Penal Code* §§1203.097(a)(2); 136.2(i)(1), and 368(l);
- Child Dependency Cases, issued pursuant to *Welfare and Institutions Code* §213.5; and
- "Foreign Orders," similar orders from another state, tribe, or territory.

Where the peace officer has probable cause to believe the suspect has knowledge of the order and has committed an act in violation of the order (*Penal Code* §836(c)(1), the peace officer may make an arrest on tribal lands. Note: *Penal Code* §836(c)(1) and *Penal Code* §13701(b) make this a mandatory arrest absent “exigent circumstances” for domestic violence (*Family Code* §§2040 et seq; 6200 et seq., or 7700 et seq.) or victim or witness intimidation orders (under *Penal Code* 136.2) on tribal lands for Indian and non-Indian suspects.

3. *Must California peace officers obtain permission to enter tribal lands from Tribal Authorities?*

Answer: No.

First responders responding to a domestic violence call are not required to obtain permission from the Tribe to enter tribal lands. Practically speaking, they may need to contact tribal representatives to find a victim or crime location; they may want to ask for tribal police back up, or they may need to speak with a tribal representative at the entrance to tribal lands.

Once the call is handled or when otherwise safe to do so, it may enhance communication and the relationship with the tribe to notify tribal authorities of the call.

If the case requires execution of search or arrest warrants or service of subpoenas, and depending on the relationship with the tribe and nature of the case, it may be helpful to notify tribal representatives in advance.

4. *Can California peace officers force entry into a residence on tribal lands to investigate a report of a domestic violence offense and to check on the safety and welfare of a reported victim?*

Answer: Yes.

The duty to investigate a domestic violence offense on tribal lands is the same as the duty to investigate a similar offense off tribal lands. If a peace officer could lawfully force entry on a domestic violence call in a city or county location, he or she can force entry on tribal lands. Side note: entry into a residence when necessary to enforce a domestic violence-related temporary restraining order is permissible. (*Henderson v. City of Simi Valley* (9<sup>th</sup> Cir., 2002) 305 F. 3<sup>rd</sup> 1052). Accordingly, peace officers may enter the premises on tribal lands to check on the welfare of a possible victim under the “emergency doctrine.”

### Seizure of Weapons, Including Firearms

5. *Can California peace officers seize firearms and deadly weapons for safekeeping at a domestic violence scene located on tribal lands?*

Answer: Yes.

Legal mandates under state law, such as seizure of weapons for safekeeping, at a domestic violence scene apply on tribal lands. Other mandates include the following duties to victims: providing a domestic violence resource card, case number and follow up information, and a victim rights' card ("Marsy card"); providing safe passage out of the residence when needed by a domestic violence victim; offering transportation to a safe location such as a shelter; offering medical care when needed; and offering confidentiality. Similarly, officer mandates including the duty to write a report documenting the suspect's sobriety, prior calls for service, and presence of weapons (*Penal Code* §13730), also apply on tribal lands.

#### Obtaining Court-Issued Warrants

6. *Can California peace officers obtain a search warrant from a state judge to search for and seize firearms and deadly weapons known to be at the scene of a domestic violence incident but for which law enforcement was unable to secure for safekeeping through plain view, consent, or other lawful means?*

Answer: Yes.

*Penal Code* §1524(a)(9) permits the state court to issue a search warrant when "property or things to be seized include a firearm or any other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in *Penal Code* §18250."

7. *Can law enforcement obtain a state search warrant for firearms located on tribal lands in the possession of a person prohibited from possessing them under a restraining or protection order?*

Answer: Yes.

*Penal Code* §1524(a)(11) provides that a state court may issue a search warrant when "the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to §6389 of the *Family Code*, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to §6218 of the *Family Code*, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law." *Penal Code* §1524(a)(9) permits issuance of a search warrant when the property to be seized is a firearm at the scene of, or at a premises occupied or

under the control of a person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault.

A person subject to a protective order issued under the *Code of Civil Procedure* §§527.6-527.8 (non-harassment, corporate/workplace violence), *Penal Code* §136.2 (criminal protective order), *Welfare and Institutions Code* §15657.03 (elder and dependent adult abuse), *Penal Code* §646.91 (stalking EPO) Family Law orders (*Family Code* §6218) must relinquish his or her firearms to law enforcement agency for that jurisdiction, sell them to a licensed gun dealer, or transfer them to a licensed gun dealer to hold for the duration of the order (*Penal Code* §§29825, 29830).

8. *Can law enforcement obtain an emergency protective order (EPO) from a state judge for a person who lives on tribal lands when an incident of domestic violence, child abuse, child abduction, stalking or elder abuse occurs on tribal lands?*

Answer: Yes.

The state court judge has jurisdiction to issue an EPO for conduct occurring on tribal lands in California, whether or not the parties are tribal members. (*Family Code* §§6240-6275; *Penal Code* §646.91). Be aware that California peace officers cannot evict a person from tribal housing, but no-contact, stay-away and related terms are fully enforceable on tribal lands.

California courts do not have jurisdiction to make orders authorizing the alienation, encumbrance, or taxation of any real or personal property belonging to an Indian or tribe that is held in trust by the Federal Government (called “trust property”) or is subject to a restriction against alienation imposed by the Federal Government (called “restricted property”).<sup>2</sup>

9. *Can California peace officers search a tribal member’s residence and/or a tribal government or entity’s office for evidence under a state search warrant?*

Answer: This is a complicated question depending on the place to be searched. Each case will present its own set of facts and circumstances. Law enforcement should work closely with its legal counsel and/or the district attorney when seeking a search warrant for tribal property and documents.

If the search warrant is for:

a. A tribal member’s residence or vehicle for a crime committed on or off the reservation:

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<sup>2</sup> See 28 U.S.C. § 1360(b). Generally the state has no authority to regulate the use of tribal lands and in particular no authority to order an individual out of tribal housing. “Where a dispute involves trust or restricted property, the state may not adjudicate the dispute nor may its laws apply.” *In re Humboldt Fir, Inc.*, 426 F.Supp. 292, 296 (N.D.Cal.1977), aff’d 625 F.2d 330 (9th Cir.1980) (see also *All Mission Indian Housing Authority v. Silvas* (C.D. Cal. 1987), 680 F. Supp. 330; and *Owens Valley Indian Housing Authority v. Turner* (9th Cir. 1999) 185 F. 3d 1029, 1032).

The answer is yes.

Under Public Law 280 the state has concurrent criminal jurisdiction to enforce state criminal laws on the reservation. This authority means that law enforcement has the same authority to investigate and collect evidence as crimes committed off the reservation. The United States Supreme Court held that a tribe lacked both “legislative authority to restrict, condition, or otherwise regulate the ability of state officials to enter tribal lands to investigate off-reservation violations of state law, [and] lacked adjudicative authority to hear respondent’s claim that those officials violated tribal law in the performance of their duty.” (*See, Nevada v. Hicks* (2001) 533 U.S. 353, 374; *Montana v. United States* (1991) 450 U.S. 544 at 564.)

- b. Tribal and/or Tribal entities’ property (such as employer records, payroll records, and tribal business records):

The answer is no.

The 9<sup>th</sup> Circuit Court has found that tribal sovereign immunity bars: (1) a state from searching tribal property and seizing tribal personnel records; and (2) federal defense counsel from subpoenaing a tribal social service agency’s patient documents. (*Bishop Paiute Tribe v. Inyo County* (9<sup>th</sup> Cir.2002) 275 F. 3d 893 (vacated and rev’s on other grounds 538 U.S. 701 (2003); and *U.S. v. James* (9th Cir. 1992) 980 F.2d 1314).

*10. Can a peace officer search a private residence located on a reservation pursuant to the subject’s probation/parole terms?*

Answer: Yes, barring any agreement between the tribe and a law enforcement agency.

*11. Can California peace officers enter tribal lands to serve an arrest warrant?*

Answer: Yes, barring any agreement between the tribe and a law enforcement agency.

But again, it is recommended that there be operating plans and agreements between state and tribal entities, that California peace officers are aware of such procedures, and that there be an agreed-upon method to notify tribal government officials when action is taken.

*12. Can law enforcement enforce a protection order for domestic violence issued by a tribal court?*

Answer: Yes.

The Violence Against Women Act (“VAWA”) and state law (*Family Code* 6403(a)) mandate that courts and law enforcement recognize and enforce protection orders from other jurisdictions



as if they were issued in their jurisdiction. These laws allow the protected person to move throughout the United States and its territories without needing to obtain new court orders. (For more detail and relevant code sections, please refer to the Glossary of Terms tool).

Foreign protective or restraining orders that are issued by a court of another state or by a tribal or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory.

Orders do not need to be registered in California or stored in a database to be valid and enforceable. (*Family Code* §6403(d)).

When enforcing a protection order, California law enforcement should determine the terms and conditions from an official source such as by reading the order or obtaining information from a state or court data base. Failure to do so may result in a false arrest raising civil liability concerns. (For more information, please refer to the Glossary of Terms tool).

*13. How do California peace officers verify that a foreign order, which includes a tribal protection court order, is current and has not been modified?*

Answer: Here are some of the ways:

1. Check in the California Department of Justice's California Restraining and Protective Orders System (CARPOS) through California Law Enforcement Telecommunications System (CLETS). The California *Rule of Court* 5.386 creates a process to enter tribal and other foreign orders into the state computer system.  
(See [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_386](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_386));
2. Check in the Judicial Council of California's California Courts Protective Order Registry (CCPOR) (See <http://www.courts.ca.gov/partners/ccpor.htm>);
3. Contact the issuing court; or
4. Contact the law enforcement agency that is responsible for entering the order.

If the above check list does not provide the California peace officers officer with the necessary information that the foreign/tribal protection order is current, California law authorizes an officer to rely on "other information", which could be the protection order itself. It is worth remembering that a protection order does not need to be registered or stored in a database to be valid and enforceable.

A foreign/tribal court protection order should be enforced if:

1. It appears to be valid on its face (identifies the protected person and the person against whom the order is issued, and is currently in effect);
2. The officer is acting in good faith;
3. There is reasonable cause to believe that the person against whom the order was issued has notice of the order. If the person whom the order is against has not been served or

notified of the order, the state officer may inform the person of the order and give him or her a reasonable opportunity to comply with the order before enforcing it; and

4. There is reasonable cause to believe that the person has violated the order.

Under state law there is no civil liability and no cause of action for false arrest or false imprisonment against the officer, if he or she acts pursuant to the above four factors and enforces a foreign/tribal protection order. (*Family Code §6405*).

### Duties to Victims

*14. If a domestic violence incident occurs on tribal lands and involves tribal members, do California peace officers officials owe specific duties to victims?*

Answer: Yes.

Victims of domestic violence whether they are tribal members or not, are owed the same duties as non-Indian victims of domestic violence. These include providing a victim rights' card (Marsy card); providing safe passage out of the residence when needed by a domestic violence victim; offering transportation to a safe location such as a shelter; offering medical assistance including transportation to a hospital, when necessary; providing police/civil standby for removal of personal property, and offering confidentiality. They are entitled to an advocate and a support person at law enforcement interviews and all other services and assistance as any other domestic violence victim.

Law enforcement shall furnish written notice to victims at the scene, including, but not limited to, all of the following information (*Penal Code §13701(c)*):

- A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
- Information about shelter services
- Information about community services
- Information about the California Victims' Compensation Program, and its contact number
- A statement informing the victim of domestic violence that he/she may ask the district attorney to file a criminal complaint.
- A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:
  - An order restraining the attacker from abusing the victim and other family members.
  - An order directing the attacker to leave the household.
  - An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.
  - An order awarding the victim or the other parent custody of or visitation with a minor child or children.
  - An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.

- An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
- An order directing the defendant to make specified debit payments coming due while the order is in effect.
- An order directing that either or both parties participate in counseling
- A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

In the case of an alleged violation of *Penal Code* §§243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

- The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, and their 24-hour counseling service telephone numbers.
- A simple statement on the proper procedures for a victim to follow after a sexual assault.
- A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
- A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

Other Information to be provided to victims:

- Information how to determine an arrested person's custodial status and release information
- Victims of *Penal Code* §§273.5, 646.9, sexual assault, child abuse, and hate crimes, shall be informed of their right to confidentiality regarding name, address, telephone number, and other contact information. (*Penal Code* §293; *Government Code* §6254(f))

Law enforcement shall also provide the victim with the report number, if available, and direct them to the appropriate investigation units.

Victims who are tribal members may be eligible to use tribal resources including tribal advocates, medical care, and emergency shelter. California peace officers should be familiar with tribal resources and offer them. If for any reason a tribal member does not wish to use tribal resources, she or he should be offered the same resources as other non-tribal victims.

*15. Are tribal members entitled to the protections of the 4<sup>th</sup> Amendment of the US Constitution to be free of unlawful search and seizure?*

Tribal members are entitled to the protections of the Indian Civil Rights Act (ICRA), 25 U.S.C. 1302) which largely mirrors the United States Constitution. Tribal governments may not violate

the “rights of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.” 25 U.S.C. 1302(a)(2). ICRA has been extended to the rights of non-Indians while on tribal lands. *See, United States v. Terry* (8<sup>th</sup> Cir., 2005) 400 F. 3<sup>rd</sup> 575 (search and seizure); *United States v. Keys* (D.N.D., 2005) 390 F. Supp. 875 (suppression of a statement after an illegal detention).

Peace officers who take action based on information from tribal representatives, including law enforcement, should assure that information, detention, and probable cause comport with California standards. Actions based on violations of ICRA violate the Fourteenth Amendment of the U.S. Constitution and can result in suppression of evidence, allegations of false arrest, and civil actions under state and federal law. *People v. Ramirez* (2007) 148 Cal. App. 4<sup>th</sup> 1464; *State v. Madsen* (S.D., 2009) 2009 S.D. 5, 760 N/W. 2d 370.

## Jurisdiction to Arrest in Indian Country

The authority over crimes committed on tribal land can potentially involve multiple law enforcement entities—tribal law enforcement, county/state law enforcement, or federal law enforcement. This chart describes these entities and their authority to detain and arrest. Because tribal sovereignty or self-governance allows for tribes to make laws and enforce them, it is incumbent on county/state/federal law enforcement to meet with their tribal counterparts and learn about the specific tribe’s law enforcement roles and capacities. Do not make assumptions about tribal authority based on tribal officer’s employment status, because a tribe may employ tribal police officers and include casino security in their duties. It would be incorrect and imprudent to assume that if they work at the casino, they are only empowered to observe and report; they may be working in the tribal public safety office and the tribe has authorized them to enforce tribal laws.

<b>Employment Status</b>	<b>Only Have Powers of Private Person</b>	<b>Authority to Enforce State Law</b>	<b>Authority to Enforce Tribal Law</b>	<b>Authority to Enforce Specified Federal Law</b>
Tribal Casino Security Officers+	Varies; tribe determines@@		Varies; tribe determines@@	
Tribal Police Officers+			XX*	
BIA/SLEC (Special LE Commission) Officers+		XX **** (Penal Code § 830.8(a))	XX	XX **
Federal Law Enforcement Officers+		XX (Penal Code § 830.8(a))		XX
CA County Sheriff+		XX		
CA Municipal Police+		XX		
CA Highway Patrol/State Police+		XX		
Tribal Police Deputized by CA County Sheriff+		XX***	XX	

@@ Authority is determined by tribe. The employing tribe may authorize a tribal security officer to cite. They may be authorized to detain a person until the proper state, federal, or tribal officials can take custody.

+ Even if there is no authority to arrest, there is authority to detain for a reasonable time to turn a person over to representatives of an agency that does have jurisdiction to arrest. For example, tribal police may detain a suspect for county or city law enforcement for violating a criminal statute. Duro v. Reina (1990) 495 U.S. 676; Oliphant v. Suquamish Indian Tribe (1978) 435 U.S. 191; United States v. Becerra-Garcia (9th Cir. 2005) 397 F. 3d. 1167; Ortiz-Barraza v. United States (9th Cir. 1975) 512 F. 2d 1176

\*May arrest for violations of tribal laws violated by tribal members, and Indians who are not members of that tribe committed on tribal lands. May also arrest non-Indians for domestic violence, stalking, and violations of protective orders if the subject is a tribal resident, employee, or spouse or intimate partner of a tribal member. (Violence Against Women Reauthorization Act of 2013; §904). Examples of offenses subject to this arrest authority include: Interstate Domestic Violence (18 U.S.C. § 2261(a)); Interstate stalking (18 U.S.C. § 2261A); Interstate Violation of a Protection Order (18 U.S.C. § 2262); and gun and ammunition violations while restrained under a protection order or with a prior qualified domestic violence misdemeanor offense (18 U.S.C. § 922).

\*\* May enforce federal crimes on and off of Indian lands where there is a nexus between the crime and tribal lands. May arrest for violations of federal law they observe off tribal lands and may conduct investigations off of tribal lands. May arrest both Indians and non-Indian suspects.

\*\*\* Extent of authority to arrest for state crimes is limited to deputation authority.

\*\*\*\*Some California counties, such as San Diego and Mendocino, recognize that tribal police officers holding SLECs who have also met POST training standards, may make arrests for violations of state law under CA Penal Code §830.8. (For more information, please contact the San Diego County District Attorney's Office and the Sycuan Tribal Police Department for copies of their MOU).

This Jurisdiction Tool is intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department's local city attorney or county counsel.

Practice Tips for California Peace Officers

Working in Indian country presents unique law enforcement challenges. Fostering and sustaining good relationships between state and tribal authorities can enhance officer safety, enhance investigation, and improve public safety.

This table may assist in determining how to handle domestic violence issues on tribal lands.

Question	Agreement*	Possible Action?
What is my role?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	First responder—handle same as any other domestic violence case. Request videotape records if relevant. Follow up—handle as any other domestic violence case but note FAQs above when dealing with warrants; request video footage if relevant Other (liaison**, back-up)
Are there any notifications I need to make?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Notification:*** <ul style="list-style-type: none"> <li>• To whom?</li> <li>• When?</li> </ul>
Am I executing a state court arrest warrant?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Follow arrest procedures in compliance with state requirements
Am I executing a state court search warrant?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Follow search procedures in compliance with state requirements
Is there a tribal search warrant that is being contemporaneously executed?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Coordinate
Am I attempting to obtain casino videotape footage where an alleged crime occurred?	Is there an agreement or MOU? <ul style="list-style-type: none"> <li>• Have I complied/followed it?</li> <li>• If not, why (e.g. emergency)</li> </ul>	Request

\* Such practices are currently in place in San Diego and Riverside Counties.

\*\*Law enforcement agencies in some communities have assigned specific members to be their liaisons with tribal governments, and have found having such contact persons beneficial for maintaining good communication with the tribe, reducing misunderstandings, preventing situations from escalating, and assuring adequate support and back up when needed by California peace officers.

\*\*\* Due to the government to government relationship between tribes and California, consideration should be given to notification of the tribe when safe and practical to do so.

These Practice Tips are intended to help clarify legal issues that arise in domestic violence cases occurring in Indian Country. If you need legal advice then please check with your tribal attorney or department's local city attorney or county counsel.



**CALIFORNIA LAW REVISION COMMISSION**

c/o UC DAVIS SCHOOL OF LAW  
400 MRAK HALL DRIVE, DAVIS, CA 95616  
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**CALIFORNIA LAW REVISION COMMISSION**

The California Law Revision Commission was established in 1953 as a permanent institution to help the Legislature modify or eliminate antiquated and inequitable rules of law and bring the law of the state into harmony with modern conditions. The Commission's agenda is controlled by the Legislature; the Commission is not permitted to study a topic unless the Legislature has authorized it do so. The statutes governing the Commission are found at Government Code Sections 8280-8297.

**BENEFITS OF COMMISSION'S WORK****Thorough Study**

In some instances, the Legislature requires a thorough legal and policy analysis of a topic before deciding how to proceed. The Legislature often refers such issues to the Commission for a detailed study and the development of a balanced legislative proposal. The Commission identifies major questions, gathers views of interested parties, and drafts recommended legislation. The Commission's detailed study enables the Legislature to focus on significant policy questions rather than concern itself with implementation details.

Recent examples of this type of work include studies of the following matters:

- The extent to which government should be able to interrupt communication services in order to protect public safety. [In progress.]
- The extent to which government should be able to intercept private communications. [In progress.]
- Whether there should be an exception to the existing law on mediation confidentiality for use of mediation communications to prove attorney misconduct. [In progress.]
- Whether any changes should be made to the standards of recognition found in the Tribal Court Civil Money Judgment Act and California's enactment of the Uniform Foreign-Country Money Judgments Recognition Act. [In progress.]

**Nonsubstantive Cleanup**

Some areas of law are so complex and are amended so frequently, that they become disorganized and difficult to use. This can lead to mistakes, the need for legal advice on routine matters, and litigation to resolve ambiguities. For those reasons, it is often beneficial to comprehensively recodify a body of law, to improve its organization and expression, without changing substantive outcomes under that law.

This kind of broad cleanup can be difficult to accomplish within the time and resource constraints of the Legislature. For that reason, the Legislature often relies on the Commission to do this type of work. Recent examples include:

- Recodification of the entire Fish and Game Code. [In progress.]
- Recodification of the Davis-Stirling Common Interest Development Act. [Commission recommendation enacted. See 2012 Cal. Stat. chs. 180 & 181.]
- Recodification of the statutes governing deadly weapons. (2006 Cal. Stat. res. ch. 128.) [Proposed legislation enacted. See 2010 Cal. Stat. ch. 711; 2010 Cal. Stat. ch. 178.]

### **Expedited Legislative Process**

The Commission follows a thorough process in preparing recommended legislation. It identifies and resolves potential problems before its recommendations are submitted to the Legislature. As a result, there is ordinarily little or no opposition to Commission-recommended bills, which the Legislature can enact expeditiously. This helps the Legislature to enact major reforms with only a small expenditure of legislative resources.

### **Legislative History**

Commission reports and recommendations are available for consideration by the Legislature and interested persons during the legislative process. These materials are published and distributed to libraries throughout state. They constitute one of the main sources of legislative history in California.

## COMMISSION PERSONNEL

The Commission is made up of 10 Commissioners. Seven are appointed by the Governor, subject to ratification by the Senate. One member is selected from the Senate, another from the Assembly, and the third is the Legislative Counsel, *ex officio*. Commissioners receive statutory per diem for attending meetings and are reimbursed for meeting travel expenses. They receive no other compensation.

The Commission's staff is comprised of the Executive Director, Chief Deputy Counsel, two Staff Counsel, a half-time administrative analyst, and a secretary.

## FURTHER INFORMATION

Further information about the Commission may be obtained from the Commission's website: [www.clrc.ca.gov](http://www.clrc.ca.gov).

5/11/16

## JUDGMENT RECOGNITION STUDY

In 2014, the Legislature enacted Senate Bill 406, establishing the Tribal Court Civil Money Judgment Act and directing the Commission to study “the standards for recognition of a tribal court or a foreign court judgment, under the Tribal Court Civil Money Judgment Act (Title 11.5 (commencing with Section 1730) of Part 3 of the Code of Civil Procedure) and the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure).”

The Commission was directed to complete its study of this topic by January 1, 2017.

### OVERVIEW OF THE COMMISSION’S STUDY PROCESS

A Commission study generally proceeds as follows:

- (1) Review background information and decide on a general approach to follow in conducting the study.
- (2) Discuss legal and policy issues at a series of public meetings.
- (3) Prepare and distribute a “tentative recommendation” to solicit public comment on a provisional reform proposal.
- (4) Consider public comment and revise the reform proposal.
- (5) Prepare and approve a “final recommendation” for submission to the Governor and the Legislature.

### **Background Information & Initial Discussion of Legal and Policy Issues**

In the Judgment Recognition study, the staff has prepared a series of memoranda presenting research findings, legal and policy analysis, and informal staff recommendations. These memoranda serve as the framework for discussion and decision making at the Commission’s public meetings.

To date, the staff has prepared the following memoranda related to this study:

- **Introduction of study.** Memorandum 2014-47 describes the scope and nature of this study and provides relevant background information. The memorandum also presents the proposed scope for the study.
- **Discussion of Issues.** Memoranda 2015-17, 2015-28, 2015-38, 2015-50, 2016-6, 2016-13, and the supplements associated with these memoranda identify and discuss specific issues for Commission consideration and decision.

All staff memoranda are posted to the Commission’s website ([www.clrc.ca.gov](http://www.clrc.ca.gov)) and distributed to an online mailing list that is open for anyone to join, at no cost.

## **Tentative Recommendation**

Once the Commission has made provisional decisions on the issues that need to be decided in the study, the staff will prepare a draft tentative recommendation for the Commission's review and consideration at a public meeting. This is where the study currently stands. The staff is preparing a draft tentative recommendation for the Commission's consideration at its June 1, 2016 meeting.

The draft tentative recommendation will include:

- A narrative "preliminary part" that explains the problem studied by the Commission and the Commission's tentative reform proposals.
- Statutory language to implement the reforms.
- An official "Comment" for each code section that would be affected by the proposed reforms.
- A deadline for public comment. That date has not yet been determined.

At the meeting, the Commission will decide whether to approve the draft, with or without changes, for release to the public. The main purpose of a tentative recommendation is to solicit public comment on the Commission's provisional decisions. The Commission can and frequently does change its proposal based on the public comment it receives.

## **Final Recommendation**

After considering public comment on the tentative recommendation, the Commission will make a final decision on which reforms to recommend. The staff will prepare a draft final recommendation for the Commission's consideration at a public meeting.

At the meeting, the Commission will then decide whether to approve the draft, with or without changes, for delivery to the Governor and Legislature and eventual publication.

A final recommendation includes all of the components of a tentative recommendation, except that there is no request for further public comment.

As noted above, the Commission drafts an official Comment for each code section that would be affected by a recommendation. Those Comments serve two important purposes:

- (1) They provide guidance to legal practitioners and the public on the derivation and intended construction of a provision. (Commission Comments are routinely reproduced by legal publishers in annotated codes and some treatises.)
  - (2) Commission Comments (and the narrative portion of Commission recommendations) are considered evidence of legislative intent.
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## Memorandum 2015-17

**Recognition of Tribal and Foreign Court Money Judgments  
(Discussion of Issues)**

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In 2014, the Legislature enacted Senate Bill 406 (Evans).<sup>1</sup> Among other things, the bill assigns the Commission<sup>2</sup> a new study:

SECTION 1. The California Law Revision Commission shall, within existing resources, conduct a study of the standards for recognition of a tribal court or a foreign court judgment, under the Tribal Court Civil Money Judgment Act (Title 11.5 (commencing with Section 1730) of Part 3 of the Code of Civil Procedure) and the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure). On or before January 1, 2017, the California Law Revision Commission shall report its findings, along with any recommendations for improvement of those standards, to the Legislature and the Governor.

At its October 2014 meeting, the Commission discussed Memorandum 2014-47, introducing this new study. Given that some time has passed since that original memorandum, this memorandum starts with a brief discussion of the relevant statutory provisions governing the recognition of foreign judgments in California.

In the earlier memorandum, the staff indicated its intention to proceed with the study by first taking “a broad look at the general legal principles that govern recognition of foreign judgments.”<sup>3</sup> In accordance with that objective, this memorandum provides a summary of the common law principles governing the recognition of foreign judgments.

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1. 2014 Cal. Stat. ch. 243.

2. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

3. Memorandum 2014-47, p. 8.

## STATUTORY LAW ON FOREIGN JUDGMENT RECOGNITION IN CALIFORNIA

The prior memorandum discusses this issue in more detail,<sup>4</sup> but a brief summary is provided here for ease of reference.

In 1962, the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission) finalized the Uniform Foreign Money Judgments Recognition Act (1962 Uniform Act).<sup>5</sup> This legislation was enacted in California.<sup>6</sup> In 2005, the Uniform Law Commission updated the Act and renamed it the Uniform Foreign-Country Money Judgments Recognition Act (2005 Uniform Act).<sup>7</sup> Again, this legislation was enacted in California.<sup>8</sup>

Prior to Senate Bill 406, California's enactment of the 2005 Uniform Act (California's Uniform Act) governed the recognition of both foreign and tribal court money judgments.<sup>9</sup> Substantively, California's Uniform Act requires recognition of judgments that fall within the scope of the act subject only to specified mandatory and discretionary exceptions to recognition.<sup>10</sup>

Senate Bill 406 enacted the Tribal Court Civil Money Judgment Act (Tribal Act). The Tribal Act primarily changed the *procedures* for recognizing tribal court money judgments.<sup>11</sup> Although the legislation restated the substantive standards for judgment recognition, that restatement was intended to be nonsubstantive.<sup>12</sup>

Since the substantive standards for recognition were intended to be unchanged, much of the analysis in this study will focus on the relevant provisions of California's Uniform Act, since those have been interpreted in court decisions in California. In addition, the case law of other states that have enacted either the 1962 or 2005 Uniform Act may also be helpful in interpreting provisions in situations when there is no California case law on point.

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4. Memorandum 2014-47, pp. 3-8.

5. See <http://uniformlaws.org/Act.aspx?title=Foreign%20Money%20Judgments%20Recognition%20Act>.

6. *Id.*, 1967 Cal. Stat. ch 503, § 1.

7. <http://uniformlaws.org/Act.aspx?title=Foreign-Country%20Money%20Judgments%20Recognition%20Act>.

8. 2007 Cal. Stat. ch. 212, § 2.

9. Compare Code Civ. Proc. § 1714 with former Code Civ. Proc. § 1714 (as enacted by 2007 Cal. Stat. ch. 212, § 2).

10. See Code Civ. Proc. § 1716.

11. Assembly Committee on Judiciary Analysis of SB 406 (June 13, 2014), pp. 4-5.

12. *Id.* at 5 (According to the author's statement, "[t]he framework [established by the Tribal Act] would not alter the legal standards that state courts apply in recognizing and enforcing tribal court money judgments, but merely clarify and consolidate the procedures for doing so into a uniform and streamlined statutory scheme."); see also Code Civ. Proc. §§ 1716 (Uniform Act), 1737 (Tribal Act).

## COMMON LAW ON FOREIGN JUDGMENTS

The 2005 Uniform Act and its predecessor, the 1962 Uniform Act, (collectively, Uniform Foreign Acts) were crafted to codify the “most prevalent common law rules with regard to the recognition of money judgments rendered in other countries.”<sup>13</sup> Thus, in order to fully understand the standards for recognition in the Uniform Foreign Acts, which the Commission has been tasked with analyzing, it may be instructive to review the common law on which the Acts are based.

Comity<sup>14</sup> is the underlying common law principle governing the recognition of foreign judgments.<sup>15</sup> The Uniform Foreign Acts only supplant comity with respect to the judgments falling within the scope of those Acts; in fact, the 2005 Uniform Act expressly recognizes comity as a ground for recognition of judgments that fall outside the scope of the Act.<sup>16</sup>

### Comity Generally

Comity is a long-standing, international law concept.<sup>17</sup> The concept of comity predates the United States’ sovereign existence.<sup>18</sup> Understanding comity’s role in

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13. See Uniform Foreign-Country Money Judgments Recognition Act, Prefatory Note, available at [http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra\\_final\\_05.pdf](http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra_final_05.pdf) (Note – the quoted language describes the 1962 Act, but the Prefatory Note also indicates that the 2005 Act “continues the basic policies and approach of the 1962 Act.”).

14. Under the U.S. Constitution, judgments from sister states are subject to full faith and credit. U.S. Const. art. IV, § 1. By statute, Congress has extended full faith and credit to the judicial proceedings of U.S. territories and possessions. See 28 U.S.C. § 1738. The overarching distinction between the full faith and credit and comity standards is that “the comity doctrine leaves the enforcing court far greater discretion than the full faith and credit model.” Robert N. Clinton, *Comity & Colonialism: The Federal Courts’ Frustration of Tribal <--> Federal Cooperation*, 36 *Ariz. St. L.J.* 1, 19 (2004).

15. See George Rutherglen & James Y. Stern, *Sovereignty, Territoriality, & Enforcement of Foreign Judgments*, in *Foreign Court Judgments and the United States Legal System* 13, 20 (Paul B. Stephan, ed., 2014); see also *id.* at Introduction, pp. 3-4; Robert E. Lutz, *A Lawyer’s Handbook for Enforcing Foreign Judgments in the United States and Abroad* 28 (2007).

16. See 2005 Uniform Act § 11; see also 1962 Uniform Act § 7.

17. Brian Pearce, *NOTE: The Comity Doctrine as a Barrier to Judicial Jurisdiction: A U.S.-E.U. Comparison*, 30 *Stan. J. Int’l L.* 525, 526 (1994) (“Comity traces its origins to the efforts of seventeenth-century legal theorists to reconcile emerging notions of absolute sovereignty within national boundaries with the ongoing practice, born of expedience, formal rules, or fairness, of applying foreign law in certain domestic cases. To solve this riddle in the conflict of laws, Ulrich Huber and his Dutch contemporaries three centuries ago introduced ‘comity’ as a principle of modest mutual accommodation by which nations would ‘recognize rights acquired under the laws of another state ... “so far as they do not cause prejudice to the power or rights of such government or of their subjects.””).

18. See *id.*

the international legal system may help shed some light on the contours of the doctrine.

It is worth noting that comity is not limited to the recognition of foreign judgments. The concept also applies to legislative and executive issues.<sup>19</sup> However, the analysis in this memorandum will generally focus on comity's role in the recognition of foreign court judgments, consistent with scope of this study.

### *Defining Comity*

Comity, as a number of commentators have suggested, is a somewhat nebulous concept.<sup>20</sup> Comity is perhaps most aptly described as a sovereign's decision to acknowledge the sovereignty of another sovereign, by recognizing and giving effect to the decisions and acts of the other sovereign.

Generally, the doctrine of comity weighs in favor of recognition and counsels judiciousness when declining to recognize the decisions or acts of another sovereign.<sup>21</sup> Comity suggests that a sovereign when faced with the decision of whether to recognize the decision of a foreign court should extend the courtesy of recognition, except when there is a good reason not to. Functionally, comity acts as a presumption in favor of recognition (this comports with the design of the Uniform Act, which also contains a presumption in favor of recognition).

### *Limitations*

Comity, however, has its limitations.

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19. See Donald Earl Childress III, *Comity as Conflict: Resituating International Comity as Conflict of Laws*, 44 U.C. Davis L. Rev. 11, 60-61 (2010).

20. Joel R. Paul, *Comity in International Law*, 32 Harv. Int'l L.J. 1, 3-4 (1991) ("Comity has been defined variously as the basis of international law, a rule of international law, a synonym for private international law, a rule of choice of law, courtesy, politeness, convenience or goodwill between sovereigns, a moral necessity, expediency, reciprocity or 'considerations of high international politics concerned with maintaining amicable and workable relationships between nations.'") (citations omitted); Robert C. Casad, *Civil Judgment Recognition and the Integration of Multiple-State Associations: Central America, the United States of America, and the European Economic Community* 16 (1981) ("The comity concept is simply too vague to serve a prescriptive function. It is more a conclusion than a premise."); Childress, *supra* note 19, at 13 ("The doctrine of international comity is one of the most important, and yet least understood, international law canons employed by U.S. courts in transnational cases.") (citations omitted); Gil Seinfeld, *Reflections on Comity in the Law of American Federalism*, 90 Notre Dame L. Rev. 1309, 1312 (2015) ("The term 'comity,' as noted already, describes a nebulous set of norms familiar from the law of international relations.") (citations omitted); Pearce, *supra* note 17, at 527 ("[C]omity has inspired a host of definitions and a wealth of academic and judicial indignation over courts' continued use of so nebulous and multifarious a term. Intolerant of comity's indeterminacy, exasperated critics continue to echo Schaffner's lament, 'How could any reasonable results be attained with an idea so infinitely vague and illegal?'" (citations omitted).

21. See generally *Hilton v. Guyot*, 159 U.S. 113, 218 (1895); see also Restatement (Third) of Foreign Relations Law of the U.S. §§ 481, 482 (1987).



Generally, in the recognition of foreign judgments, comity appears to be geared more towards resolving disputes between private parties, as opposed to disputes between a private entity and the government.<sup>22</sup> For example, U.S. courts “will not enforce the penal and revenue laws of foreign nations, nor the judgments of foreign courts based upon such laws.”<sup>23</sup> However, several commentators have questioned the ongoing utility of this distinction.<sup>24</sup>

Also, under comity, generally only final and enforceable judgments are eligible for recognition.<sup>25</sup>

A court deciding whether to recognize a foreign judgment is not simply required to accept the judgment without question. A court has the authority to ensure that the foreign judgment meets certain standards.<sup>26</sup> For instance, “[o]ne condition that is regarded as essential in all systems of judgment recognition is jurisdiction. The rendering court must have had jurisdiction to adjudicate the case.”<sup>27</sup> Generally, this jurisdictional analysis has two components. First, the rendering court must have had jurisdiction under its own standards. Second, those jurisdictional standards must be sufficiently fair to preclude, for instance, the recognition of a judgment in which “the defending party lacked significant connections to the rendering state.”<sup>28</sup>

Beyond jurisdiction, other common grounds for nonrecognition include public policy concerns, lack of notice to the defendant, inconsistent judgments, lack of reciprocity for judgment recognition, and fraud.<sup>29</sup>

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22. See generally William S. Dodge, *Breaking the Public Law Taboo*, 43 Harv. Int'l L.J. 161 (2002); see also William S. Dodge, *The Penal and Revenue Rules, State Law, and Federal Preemption in Foreign Court Judgments*, *supra* note 15, at 54-83.

23. William S. Dodge, *The Penal and Revenue Rules, State Law, and Federal Preemption in Foreign Court Judgments*, *supra* note 15, at 54.

24. See generally, e.g., Dodge, *Breaking the Public Law Taboo*, *supra* note 22.

25. See, e.g., Hilton, 159 U.S. at 166, 202-203. The precise criteria for finality differs in different nations. See, e.g., Dennis Campbell, ed., *Enforcement of Foreign Judgments* 6, 39, 73, 112, 145, 196, 222-223, 241, 246-247, 273, 353-355, 368, 384, 417 (1997).

26. See, e.g., Hilton, 159 U.S. at 202-203.

27. Casad, *supra* note 20, at 18. “‘Jurisdiction,’ as used in the Anglo-American world, also includes such matters as the form, content, and timing of the notice that is given to the defendant.” *Id.* at 19; see also Hilton, 159 U.S. at 166-167 (“Every foreign judgment, of whatever nature, in order to be entitled to any effect, must have been rendered by a court having jurisdiction of the cause, and upon regular proceedings and due notice.”).

28. Casad, *supra* note 20, at 19; see generally *id.* at 18-20.

29. See *id.* at 30-32, 39-42; Campbell, *supra* note 25, at 72, 173, 223, 249, 351-352, 442-449; see generally Hilton, 159 U.S. at 113-235.

### *Policy Justifications for Comity*

Perhaps a more important question is why a court would want to recognize the judgments of a foreign court. More broadly, what are the benefits that comity provides that justify a sovereign offering its justice system to enforce foreign judgments?

The justifications cited for comity are myriad. Comity has been recognized by courts and commentators as respecting state sovereignty, promoting international relations (between sovereigns), avoiding international conflicts, facilitating the transnational operations of businesses and individuals, promoting judicial efficiency, providing predictability, and providing finality.<sup>30</sup> Comity serves to avoid the intra-jurisdictional conflicts and inconsistencies that would invariably crop up in the absence of such a doctrine.<sup>31</sup>

Many of these policy justifications would be undermined in the absence of the limitations on judgment recognition discussed above. Simply put, recognition of a foreign judgment that is invalid, manifestly unfair, or counter to public policy would undermine the sovereignty of the recognizing jurisdiction in a manner that offsets the benefits of recognition generally.

Of course, many of the benefits offered by comity will only be fully realized if *all* nations extend comity to one another. For this reason, historically, the courts of many nations, including the U.S. Supreme Court, required reciprocity as a condition of extending comity to recognize the judgment of a foreign court.<sup>32</sup> The status of reciprocity in the American common law will be discussed later in this memorandum.

### **American Case Law on Comity**

The case law provides a more thorough explanation of the limits of comity (i.e., situations in which it would be appropriate for a sovereign to deny recognition of a foreign judgment).

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30. See, e.g., Childress, *supra* note 19, at 14; Alan Reed, *A New Model of Jurisdictional Propriety for Anglo-American Foreign Judgment Recognition and Enforcement: Something Old, Something Borrowed, Something New?*, 25 Loy. L.A. Int'l & Comp. L. Rev. 243, 274-275 (2003); Kevin J. Christensen, *Of Comity: Aerospatiale as Lex Maritima*, 2 Loy. Mar. L.J. 1, 2-3, 23 (2003).

31. See, e.g., Paul, *supra* note 20, at 54-56.

32. See Hilton, 159 U.S. at 210-229.

*Hilton v. Guyot*

The U.S. Supreme Court decision in *Hilton v. Guyot* (1895)<sup>33</sup> is still almost universally cited as articulating the common law rule of comity for recognition of foreign money judgments.<sup>34</sup> In particular, the following two passages from the *Hilton* opinion are often recited in judicial opinions and scholarly writings that describe the doctrine of comity.

“Comity,” in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.

...  
In view of all the authorities upon the subject, and of the trend of judicial opinion in this country and in England, following the lead of Kent and Story, we are satisfied that, where there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the defendant, and under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court, or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of this nation should not allow it full effect, the merits of the case should not, in an action brought in this country upon the judgment, be tried afresh, as on a new trial or an appeal, upon the mere assertion of the party that the judgment was erroneous in law or in fact. The defendants, therefore, cannot be permitted, upon that general ground, to contest the validity or the effect of the judgment sued on.<sup>35</sup>

Although the Court split 5-4 on the decision, the passages above describing comity were uncontroverted by the dissenting justices.

In *Hilton*, the majority declined to recognize a French judgment, concluding that “there is a distinct and independent ground upon which we are satisfied that the comity of our nation does not require us to give conclusive effect to the

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33. 159 U.S. 113.

34. See, e.g., *Ohno v. Yasuma*, 723 F.3d 984, 1002, 1003, 1013 (9th Cir. 2013); *Wilson v. Marchington*, 127 F.3d 805, 809-810 (9th Cir. 1997); *In re Stephanie M.*, 7 Cal. 4th 295, 314 (1994); see also *Lutz*, *supra* note 15, at 28.

35. 159 U.S. at 163-164, 205-206.

judgments of the courts of France; and that ground is, the want of reciprocity, on the part of France, as to the effect to be given to the judgments of this and other foreign countries.”<sup>36</sup> The dissent took issue with the requirement of reciprocity.<sup>37</sup>

The precedential value of *Hilton* is limited. *Hilton* was decided before *Erie Railroad Co. v. Tompkins*,<sup>38</sup> in which the U.S. Supreme Court disavowed the notion of a general federal common law and instead held that a federal court, except in matters where federal law is controlling, must apply the substantive laws of the relevant state.<sup>39</sup>

*Hilton*, however, remains persuasive authority for the general concept of comity articulated above. As perhaps suggested by the Court’s division on the issue of reciprocity, the issue of reciprocity is a controversial one.<sup>40</sup>

#### *California Common Law*

Courts applying California law have cited *Hilton* as an authority on the concept of comity generally.<sup>41</sup> California courts, however, have not embraced the reciprocity requirement established in the *Hilton* case.<sup>42</sup> California is not alone in declining to require reciprocity as a condition for foreign judgment recognition; the majority of states have similarly declined to require reciprocity.<sup>43</sup>

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36. 159 U.S. at 210.

37. 159 U.S. at 229-235 (Fuller, J., dissenting).

38. 304 U.S. 64 (1938).

39. See also Dodge, *supra* note 23, at 62-63 (“In 1938 *Erie* famously declared: ‘There is no federal general common law.’ ... And, while the Supreme Court has never squarely addressed the question, lower courts and commentators have generally concluded that the recognition of foreign judgments is also governed by state law.”) (citations omitted); Lutz, *supra* note 15, at 9 (“Under the *Erie* doctrine, state common law or the [Uniform] Act as enacted by the state legislature applies in federal court actions for the enforcement of foreign country judgments.”) (citations omitted).

40. See generally Vishali Singal, *Note: Preserving Power Without Sacrificing Justice: Creating an Effective Reciprocity Regime for the Recognition and Enforcement of Foreign Judgments*, 59 *Hastings L.J.* 943 (2008).

41. See *supra* note 34; see also *Manco Contracting Co. v. Bezdikian*, 45 Cal. 4th 192, 198 (2008); *Bank Melli Iran v. Pahlavi*, 58 F.3d 1406, 1409, 1410 (9th Cir. 1995); *Renoir v. Redstar Corp.*, 123 Cal. App. 4th 1145, 1150 (2d Dist. 2004).

42. See *Bank of Montreal v. Kough*, 612 F.2d 467, 472 (9th Cir. 1980) (“The parties have not cited, and our research has not disclosed any California cases citing reciprocity as a criterion for the recognition of foreign judgments.”).

43. See American Law Institute, *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute* 94 (2006) (“[M]ost (but not all) state courts (as well as federal courts exercising diversity jurisdiction) have declined to impose a reciprocity requirement as a condition to enforcement of foreign judgments otherwise entitled to recognition or enforcement.”); see also *id.* at 100-101.

Since 1967, California has been operating under a statutory regime for the recognition of foreign money judgments.<sup>44</sup> Thus, the recent foreign money judgment recognition cases have been decided on the basis of the statutory law as opposed to the common law.<sup>45</sup> Recognition of a foreign judgment not subject to California's Uniform Act is still decided on the basis of common law comity.<sup>46</sup>

#### FEDERAL STATUTORY EXCEPTION TO COMITY

Federal law contains a provision that precludes the states from recognizing certain foreign libel judgments.<sup>47</sup> Commonly known as the 2010 SPEECH Act, this law limits the situations in which domestic courts may recognize a foreign libel judgment.

The SPEECH Act prohibits domestic courts from recognizing or enforcing foreign judgments for defamation in any one of three circumstances:

1. When the party opposing recognition or enforcement claims that the judgment is inconsistent with the First Amendment to the Constitution, until and unless the domestic court determines that the judgment is consistent with the First Amendment,
2. When the party opposing recognition or enforcement establishes that the exercise of personal jurisdiction by the foreign court failed to comport with the due process requirements imposed on domestic courts by the U.S. Constitution, or
3. When the foreign judgment is against the provider of an interactive computer service and the party opposing recognition or enforcement claims that the judgment is inconsistent with section 230 of the Communications Act of 1934 (47 U.S.C. § 230) regarding protection for private blocking and screening of offensive material, until and unless the domestic court determines that the judgment is consistent with those provisions.<sup>48</sup>

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44. See 1967 Cal. Stat. ch. 503, § 1.

45. See, e.g., *Manco Contracting*, 45 Cal. 4th at 198 ("California adopted the [1962 Uniform Act] in 1967. Before the Legislature codified the provisions of this uniform act, the recognition and enforcement of foreign money judgments proceeded as a matter of comity. Comity remains the basis for recognizing foreign judgments not covered by the act, such as domestic relations judgments.") (citations omitted).

46. *Id.*; see also *In re Stephanie M.*, 7 Cal. 4th at 313-314.

47. 28 U.S.C. §§ 4101-4105; see also generally Emily C. Barbour, Cong. Research Serv., *The SPEECH Act: The Federal Response to "Libel Tourism"* (Sept. 16, 2010), available at <https://www.fas.org/sgp/crs/misc/R41417.pdf>.

48. See Barbour, *supra* note 47, at 10-11.

California law must comport with the 2010 SPEECH Act regarding recognition of foreign defamation judgments. Prior to the enactment of the 2010 SPEECH Act, California had amended its enactment of the Uniform Act to include a non-uniform discretionary exception to recognition and special provisions regarding personal jurisdiction for foreign defamation decisions.<sup>49</sup> Thus, it may be that California's law does comport with the 2010 SPEECH Act, to some extent.

#### OTHER RESOURCES

In the course of the staff's research on the common law of judgment recognition, the staff found that there were several resources that offer a helpful distillation of the common law principles or provide helpful, concrete analysis on the law of judgment recognition. Those resources include:

- *Uniform Foreign Acts*: The Uniform Foreign Acts were themselves efforts to "codify] the most prevalent common law rules with regard to the recognition of money judgments rendered in other countries."<sup>50</sup>
- *Restatements of the Law*: Restatements are prepared by the American Law Institute (ALI), a nonprofit organization of lawyers, judges, and law professors working to "clarify, modernize, and otherwise improve the law."<sup>51</sup> The Restatements are efforts to describe and clarify the law.<sup>52</sup> Two restatements describe the common law of foreign judgment recognition: the Restatement (Third) of Foreign Relations Law of the United States<sup>53</sup> and the Restatement (Second) of Conflict of Laws.<sup>54</sup>
- *ALI Model Statute*: In 2006, the American Law Institute (ALI) released a proposed model federal statute to govern judgment recognition.<sup>55</sup> This model statute is not an effort to simply codify the common law, but rather a judgment recognition policy reform

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49. 2009 Cal. Stat. ch. 579, §§ 1-2.

50. See Uniform Foreign-Country Money Judgments Recognition Act, Prefatory Note, *available at* [http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra\\_final\\_05.pdf](http://www.uniformlaws.org/shared/docs/foreign%20country%20money%20judgments%20recognition/ufcmjra_final_05.pdf).

51. See <https://www.ali.org/index.cfm?fuseaction=about.overview>.

52. See <https://www.ali.org/index.cfm?fuseaction=about.institute.projects>.

53. Restatement (Third) of Foreign Relations Law of the United States, §§ 481, 482 (1987).

54. Section 98 (Recognition of Foreign Nation Judgments) simply provides that "[a] valid judgment rendered in a foreign nation after a fair trial in a contested proceeding will be recognized in the United States so far as the immediate parties and the underlying claim are concerned." Restatement (Second) of Conflict of Laws (1988 Revisions).

55. See American Law Institute, *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute* (2006).

proposal. The statute has not been enacted into law, so, at this point, it simply represents scholars' considered thinking on the policies that should govern foreign judgment recognition.

These resources will be addressed in more detail, as appropriate, as the study proceeds.

#### NEXT STEPS

As indicated in Memorandum 2014-17, the staff proposes to next examine the enactments of the Uniform Foreign-Country Money Judgments Recognition Act and Uniform Foreign Money Judgments Recognition Act in other states. In this review, the staff will focus on identifying significant non-uniform provisions.

Respectfully submitted,

Kristin Burford  
Staff Counsel

## Survey Information Summaries and Next Steps

Prepared by Jenny Walter

### Links to Surveys

<https://www.surveymonkey.com/r/tribalpractitioners>

<https://www.surveymonkey.com/r/statecourts>

<https://www.surveymonkey.com/r/tribalcourts>

### State Courts (58)

- 72% responded to the survey (42 out of 58 courts)
- Of those that responded, 80% reported that they have never been asked to recognize an order from a tribal court
- Respondents that provided court identification:  
Alameda, Butte, El Dorado, Humboldt, Los Angeles, Mariposa, Merced, Modoc, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Diego, San Luis Obispo, San Mateo, Shasta, Solano, Sonoma, Stanislaus, Tehama, Tulare, Tuolumne, and Trinity.
- Respondents identified tribal court orders from the following courts:  
Shingle Springs and Redding Rancheria.
- Respondents identified the following tribal court case types:  
domestic violence and family law cases
- In response to the question, *Would you like to see a process similar to the one for civil money judgments extended to other case types?*
  - Yes for probate cases
  - Yes for trespass cases
  - Yes for conservatorship cases (two courts)
  - Yes for all types
  - Yes for contract cases
  - Yes, for family law cases
  - Perhaps. It would depend on the due process requirements of obtaining the judgments and whether the person against whom they are to be enforced has consented to Tribal Court jurisdiction. My only problem would be hearing arguments that there has been no consent or that Tribal Law differs so significantly from State law as to make the Judgments unconscionable or otherwise constitute a deprivation of significant rights. By way of example, if in a family law matter Tribal Law permits all property acquired during the marriage to be assigned to the party deemed to not be at fault for the breakup of the marriage I would have difficulty enforcing that judgment. Similar issues could arise in any area. Consent would be a key issue, perhaps the most important issue in my inquiry. This would especially include default judgments without a prior consent, say, in a contract to be bound by Tribal Law. The bottom line is that if Due Process is provided and there has been consent to jurisdiction I have no problem with enforcing any type of judgment.



- I would not oppose any case type, but there seems to be very little business from the tribal court in our county.
- No, Don't see a need.
- No, Procedures should provide for procedural due process for the Judgment debtor and a meaningful opportunity to present a defense before state court processes are used for enforcement.

### **Tribal Courts (24)**

- 30% of tribal courts responded (7 out of 24)
- Respondents that provided court identification: Chemehuevi, Colorado River Indian Tribes, Hoopa Valley, Shingle Springs, and Yurok
- Of those that responded, 100% reported that their courts have jurisdiction under tribal law to hear issues relating to civil money orders or judgments.
- 86% of respondents (6 out of 7) have issued a tribal civil money judgment.
- Only 1 respondent has experienced a challenge by a party to the recognition of the court's tribal court civil money order or judgment in California.
- In response to the question, *Would you like to see a process similar to the one for civil money judgments extended to other case types, the following case type(s) were identified:*
  - Birth Certificate
  - Conservatorships
  - Environmental
  - Guardianships
  - Small Claims
  - Trespass
- In response to the question, *Do you have any other thoughts on the topic of recognition and enforcement of civil tribal court judgments and orders?*
  - It would be helpful to have a handbook that explains to lay persons the process, forms, and how the mechanics of enforcing judgments works. Also, whether it can be used in other tribal courts, and why enforcement cannot be made against tribal entities unless sovereign immunity is waived.
  - A "How to" filing information packet for parties would be helpful.
  - The local state courts seem to have no issue recognizing tribal court orders, but the different state agencies and occasionally social security, sometimes don't know what to do with the Tribal orders.

### **Tribal Practitioners (200 surveys emailed by California Indian Lawyers Association)**

Only three respondents, two of whom reported having no experience with obtaining a tribal court civil money judgment.

# Session 2: ICWA Updates



JUDICIAL COUNCIL  
OF CALIFORNIA

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TRIBAL COURT-STATE COURT FORUM

## JUSTICE NEWS

### **Principal Deputy Assistant Attorney General Sam Hirsch Speaks About the Justice Department's Initiative in Support of the Indian Child Welfare Act at the National Indian Child Welfare Association Conference on Child Abuse and Neglect**

St. Paul, MN, United States ~ Monday, April 4, 2016

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#### *Remarks as prepared for delivery*

This is a critical time for Indian Child Welfare Act (ICWA), our nation's keystone federal law protecting Indian children. As you've already heard this morning and will hear more about during the conference, there is a lot of exciting activity in this area, at the federal, state and tribal level. Federal engagement is at unprecedented levels. But in recent years, we've also seen increasing attacks on the statute and on tribal sovereignty more generally. The need for all of us to engage on these issues has never been greater.

I'm going to talk a bit about the Department of Justice's role on Indian issues generally, and describe some of our recent work to promote implementation of and compliance with ICWA. Since the beginning of this Administration, the Department of Justice has made our relationship with Indian tribes and the safety and welfare of tribal citizens a priority. We have seen tangible results from these efforts. We're particularly proud of our progress addressing domestic violence in Indian country, most notably through the bipartisan passage of the Violence Against Women Reauthorization Act of 2013 (VAWA), which incorporated provisions recommended by the Justice Department that, for the first time in decades, empower Indian women who experience abuse by non-Native men.

That historic piece of legislation recognized tribes' inherent ability to exercise special domestic violence criminal jurisdiction over all offenders on their lands. It made clear that tribal courts are fully entitled to enforce civil protection orders. And it strengthened federal sentences for certain acts of domestic violence in Indian Country, ensuring that wrongdoers are held wholly accountable for their crimes, regardless of where they occur.

The Environment and Natural Resources Division is the part of the department tasked with defending federal laws and programs that benefit tribes and tribal sovereignty over their lands and people. It is well established that Congress can pass laws that single out Indians and Indian tribes for special treatment, in part because there is a unique government-to-government relationship between the U.S. and tribes that dates to the founding of our country. ICWA is one of those laws – it was passed by Congress to address the widespread removal of Indian children from their parents, extended families and tribal communities. Congress recognized its responsibility to protect and preserve Indian tribes and their people and understood that Indian tribes could cease to exist if their children continued to be systematically taken away.

The statute contains many important protections for Indian children, their parents and their tribes. But it is aimed mainly at state agencies and courts and does not expressly carve out a large role for the federal government. So the federal government has traditionally had some, but not a great deal, of involvement in the implementation of the statute.

In this Administration, we heard from tribes, tribal organizations and groups like NICWA that more federal engagement was needed. At the Department of Justice, we responded by creating an initiative to make sure that the department's resources, as well as the resources of other federal agencies, were being best used to

promote ICWA implementation and compliance. The initiative was announced by then-Attorney General Eric Holder in December 2014, and includes participation from many parts of the Department of Justice, including the Civil Rights Division, the Office of Tribal Justice and the Office of Justice Programs.

A top priority of the Initiative is making sure that the federal government, as a whole, is coordinating on issues surrounding ICWA implementation and compliance. As you've heard today, each of the three agencies sitting up here today works in the arena of Indian child welfare, but in different ways. Interior works extensively with tribes, including supporting tribal child welfare and other social services programs. But ICWA is primarily directed at instances where tribal children are involved in state court proceedings, and HHS has the tools and experience to work with state agencies and courts on a wide range of child welfare matters. The Department of Justice's primary emphasis is representing the U.S. in the courts, but we also have a range of juvenile justice and other programs that can intersect with ICWA work. No one federal agency can singlehandedly address implementation of and compliance with ICWA. The three agencies have recognized that we must work together to leverage the resources of each of our agencies to address these important issues.

To this end, the three departments represented here today have been engaged in extensive interagency collaboration to promote compliance with ICWA. We've been talking at all levels – from staff on the ground and in the regions, to the folks on this stage, to our bosses – about how we can creatively use the authorities and resources that each of our agency has to assess and promote compliance with this important federal law. And we've taken steps to make sure that this effort lasts beyond our time, by formalizing the agreement to continue this interagency collaboration. Just this past week, our three agencies signed a Memorandum of Understanding, in which we commit to work together on these issues, and in particular, to regularly meet as an interagency workgroup.

In our three-agency partnership, one of the Department of Justice's most significant roles is handling ICWA issues in the courts. Most ICWA issues arise in state courts – juvenile courts, and then sometimes state courts of appeal. The United States is not a party to these cases, but we can participate as an *amicus curiae*, or friend of the court, and provide the views of the United States on the proper interpretation of the law. We've been doing this with much more frequency. To highlight a few cases:

In a case that I'm sure many of you have heard about in South Dakota federal district court, *Oglala Sioux Tribe v. Van Hunnik*, we filed a brief supporting the tribes' position that the state court's policies and practices for emergency removal hearings violated both ICWA and the Due Process Clause of the constitution. The court agreed with that position. The case is still pending for the court to address one remaining issue along with the proper remedy, but it is an important first step towards securing the rights of Indian parents and children.

In a case in the Alaska Supreme Court, *Tununak II* or *Native Village of Tununak v. Alaska*, we supported the tribes' request that the Court reconsider its decision to find that an Indian child's grandmother had not taken formal enough steps to seek to adopt her grandchild and thus avail herself of ICWA's placement preferences. We argued that states should diligently seek out potential preferred placements, provide those extended family and tribal members with enough information to avail themselves of the preference, and that states should have clear standards for what is required to seek to adopt an Indian child. Although the Court did not reverse its decision in that case, the case prompted significant change within the state of Alaska. After working with the Alaska Federation of Natives, the state promulgated emergency regulations which allow for a simple request by a relative, tribal member, or other Indian family in court or to the state agency to constitute a proxy for a formal petition for adoption.

We've also filed a brief in the California Supreme Court supporting the importance of a court considering whether ICWA applies at each stage of a child's case (*In re Isaiah W.*) And a little over a week ago, the Alaska Supreme Court announced an important decision affirming and strengthening tribal sovereignty over child welfare matters, *Alaska v. Central Council Tlingit and Haida Tribes*. We filed a brief supporting the tribes

and arguing that tribal courts retain inherent, non-territorial jurisdiction to rule on child support issues for children who are members of or eligible for membership in the tribe. The Alaska Supreme Court agreed and went on to determine that tribal courts retain this authority even if the case involves a parent who is not a member of the tribe. Although this case is not technically an ICWA case, as it deals with child support issues, the Court repeatedly cited provisions of ICWA – as we had in our briefing – to demonstrate that Congress understands that tribal authority over family law matters is integral to tribal self-governance.

We're reviewing lots of other cases for potential participation. One thing we have observed is that "hard cases make bad law" – and so many cases involving decisions about what is best for children are hard. We all need to be strategic about our arguments. The core protections of the statute should be noncontroversial – that children should be kept or reunified with their parents when possible; that when this isn't possible, children should be placed with extended family or within their tribal community if possible; and that tribes have the opportunity to be involved in decisions about the welfare of their citizens. But sometimes unusual fact patterns or an overly aggressive argument for application of the statute leads appellate courts to limit application of ICWA in ways that have negative spillover effects on other cases.

The department is also handling lawsuits challenging the constitutionality of ICWA itself, as well as BIA's guidelines interpreting the statute. I can't talk in detail about pending litigation, but it is important to note that the claims in these cases are broad attacks on ICWA and go to the heart of Congress' authority to pass legislation to benefit Indian tribes and Indian people. These cases could potentially have repercussions for other laws benefiting Indian tribes and their members.

The popular press accounts have a similar theme. There is no recognition of the sovereignty of tribes, the significance of tribal citizenship, or the legal and moral framework that underlies federal policy in this area. What we are seeing in the court cases and in the press is the notion that ICWA harms, rather than helps, Indian children and their families. We need to collectively tell the stories of how this law is valuable and benefits our country. We can't rest on the knowledge that ICWA is the law; we must persuade our fellow citizens, lawmakers and judges that it is an important law that must be maintained and should be adhered to.

I'm certain that all of you have an example of a child who has benefited from this law. A child whose parent was, with some help, able to provide a safe and loving home. Or a child who was able to live with her grandmother, or aunt and uncle, instead of a stranger. A child who was able to grow up in a home suffused with Indian culture and traditions and carry these roots with her into adulthood. A child who was able to maintain her ties to her tribal community and government, and is growing up to be a valuable citizen to that tribe and to our country. We need you to tell those stories and explain to others how ICWA works; how tribes protect children; how children are benefited by growing up knowing their tribal culture. We need you to tell your stories to your local communities, to judges, to the press.

This is a critical moment for Indian children. At the federal level, we are rising to the challenge. But we also need your help—tribes, social workers, child welfare attorneys—to ensure that Indian children, families and tribes continue to enjoy the protections of this important federal law. We want to hear your stories and ideas. Your views will inform how we do outreach, conduct training, set standards, and present our arguments in court. We're available at this conference, or you can always reach out to us at [icwa@usdoj.gov](mailto:icwa@usdoj.gov).

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**Topic:**  
Indian Country Law and Justice

Environment and Natural Resources Division  
*Updated April 4, 2016*



OFFICE OF THE SECRETARY  
**U.S. Department  
of the Interior**

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# News Release

## **Office of the Assistant Secretary – Indian Affairs**

FOR IMMEDIATE RELEASE  
April 4, 2016

CONTACT: Nedra Darling  
202-219-4152

### **Interior Announces Interagency Partnership With Justice and HHS to Strengthen ICWA Implementation and Compliance**

**ST. PAUL, MINN.** – In keeping with President Obama’s commitment to supporting Indian families and fostering resilient, thriving tribal communities through his all-of-government approach, acting Assistant Secretary – Indian Affairs Lawrence S. Roberts today announced that the Departments of Interior (DOI), Justice (DOJ), and Health and Human Services (HHS) have entered into a collaborative agreement to ensure more robust compliance with and implementation of the Indian Child Welfare Act (ICWA) of 1978 (Public Law 95-608). The agreement, in the form of a Memorandum of Understanding (MOU), brings three federal agencies together in partnership to strengthen federal oversight of the Act. The [MOU](#)’s effective date is April 1, 2016.

“This MOU marshals the appropriate focus and resources of Interior, Justice and HHS to ensure that Congress’s intent in protecting Indian children and families is carried out,” said Roberts. “We want to assure Indian families and tribal leaders that the Obama Administration’s dedication to ICWA’s goals remains an enduring policy for Indian Country. Focused implementation and compliance of ICWA protects Indian children and families, strengthens the social fabric of tribal communities, and ensures that tribes are able to serve their citizens for generations to come.”

Roberts made the announcement while speaking at the National Indian Child Welfare Association’s 34<sup>th</sup> Annual Protecting Our Children National American Indian Conference on Child Abuse and Neglect taking place April 3-6 in St. Paul. According to NICWA’s [website](#), its annual conference is the largest national gathering dedicated to Native American tribal child welfare advocacy.

Congress enacted ICWA based on hearings which confirmed that an alarmingly high percentage of Indian families had been broken up when public and private agencies subjected Indian

**-Continued-**

## **Page 2 – Indian Child Welfare**

children to unwarranted removal, most of who were eventually placed in non-Indian homes. Congress recognized this was a tragedy not only for American Indian and Alaska Native families and their children, but for tribes, as well, because they suffered from losing generations of their future members and leaders.

ICWA set forth a federal framework for maintaining American Indian and Alaska Native children with their families, including extended families, and deferring to tribal courts on matters concerning the custody of tribal children. Through ICWA, Congress also sought to carry out the United States' trust responsibility for protecting Indian children and for the stability and security of American Indian and Alaska Native tribes and families.

To further ICWA's purpose and the Nation-to-Nation relationship between the United States and federally recognized Indian tribes, and to promote improved outcomes for Indian children in foster care and child welfare proceedings, the federal partners will collaborate on matters related to implementing the letter and spirit of ICWA.

The purposes of the MOU are:

- To memorialize the partners' commitment to the continued importance of ICWA and its implementation for the health and well-being of Indian children, families, and communities;
- To formally establish the ICWA Interagency Workgroup to promote the purposes of ICWA and the partners' mutual interests in ensuring ICWA implementation and compliance;
- To promote communication and collaborative efforts on federal activities that support ICWA implementation and compliance; and
- To establish structures and procedures to ensure that the Workgroup operates effectively and efficiently.

The principal co-chairs of the ICWA Interagency Workgroup are the DOI Assistant Secretary – Indian Affairs, the HHS Assistant Secretary for the Administration for Children and Families; and the DOJ Assistant Attorney General for the Environment and Natural Resources Division. Each agency will designate a senior staff member to serve as a staff co-chair of the Workgroup.

The Workgroup will meet monthly at a staff level, with principal-level meetings at least twice a year, and will identify priorities, goals and tasks, as well as establish committees to carry out its work. It also will seek input from and conduct outreach to federally recognized tribes and other stakeholders via existing federal tribal advisory groups, stakeholder groups, tribal consultations, listening sessions, and public meetings.

The acting Assistant Secretary – Indian Affairs oversees the Bureau of Indian Affairs (BIA), which is headed by a director who is responsible for managing day-to-day operations through

**-Continued-**

### **Page 3 – Indian Child Welfare**

four offices – Indian Services, Justice Services, Trust Services, and Field Operations. These offices directly administer or fund tribally based infrastructure, economic development, law enforcement and justice, social services (including child welfare), tribal governance, and trust land and natural and energy resources management programs for the nation’s federally recognized American Indian and Alaska Native tribes through 12 regional offices and 81 agencies.

The Office of Indian Services Division of Human Services administers the BIA’s ICWA regulations at 25 CFR Part 23 and *Guidelines for State Courts*. For more information, visit <http://www.indianaffairs.gov/WhoWeAre/BIA/OIS/HumanServices/IndianChildWelfareAct/index.htm>.

For more information about the Department of Justice’s Environment and Natural Resources Division, visit <https://www.justice.gov/enrd>.

For more information about the Department of Health and Human Services’ Administration for Children and Families, visit <http://www.acf.hhs.gov/>.

**-DOI-**




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## JUSTICE

# Why A Conservative Legal Organization Is Desperately Trying To Kill The Indian Child Welfare Act

BY JOSH ISRAEL & BRYAN DEWAN APR 8, 2016 8:00 AM

CREDIT: ANTON FOLTIN/SHUTTERSTOCK/DYLAN PETROHILOS

"May 2013: The Spirit Lake Sioux tribe used the Indian Child Welfare Act (ICWA) to remove Laurynn Whiteshield and her twin sister from the foster family that had raised them for two years. They were sent to live on the reservation."

Those words, along with ominous chords and images of a maroon sky over North Dakota's Spirit Lake Indian Reservation, begin a nearly [11-minute video](#) on the [EqualProtection.org](#) website. Moments later, accompanying images of a smiling child, we learn the young girl's fate: Just 37 days after her return to the reservation, "Laurynn was dead."

Whiteshield's step-grandmother [told the FBI](#) she pushed the almost three-year-old down an embankment to her death, citing depression. But, the video argues, the real culprit is the Indian Child Welfare Act (ICWA), a law they claim undermines the constitutional rights of Native American kids and treats the child as a "pawn in terms of maintaining the enrollment numbers of the Indian tribe."

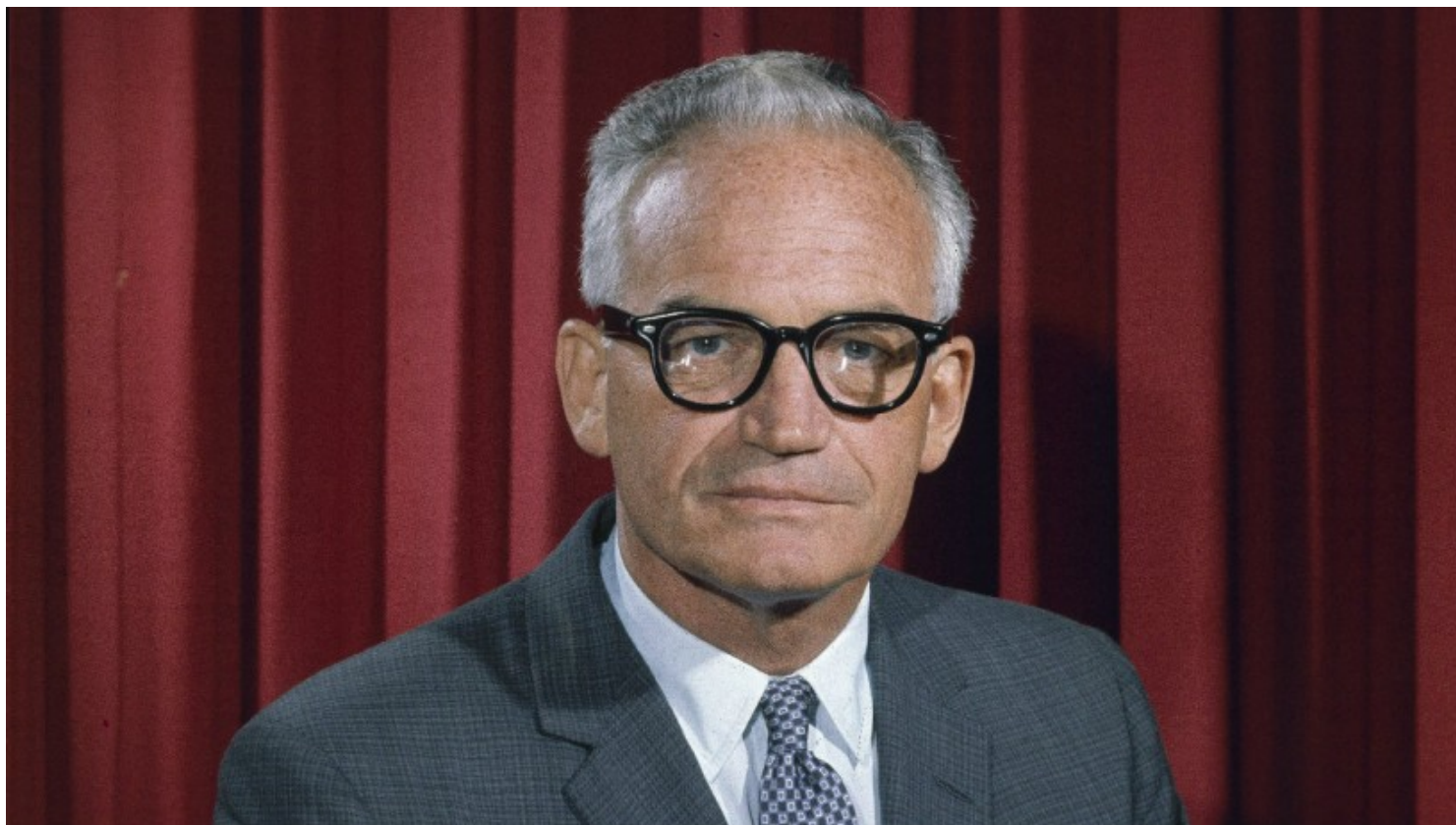
Despite what the URL might indicate, the video and site do not belong to an organization with a long history of pushing to expand civil rights protections to minority groups. Rather, they are part of a campaign by the Goldwater Institute — a conservative legal organization mostly known for its anti-government and pro-property rights work — aimed at eliminating ICWA, a 1978 federal law designed

to protect Native American kids from more than 100 years of government-mandated assimilation. That legislation established tougher requirements for removing Native American children from their biological families and gave federally recognized tribes control over the adoption and custody processes for their citizens' kids.

## **A National Leader For Constitutionally Limited Government**

The nonprofit — officially the Barry Goldwater Institute for Public Policy Research — was created in 1988 in honor of libertarian/conservative Sen. Barry Goldwater (R), whose son serves on its board. The organization, which is located in Goldwater's home state of Arizona, describes itself as a "national leader for constitutionally limited government." It has an annual budget of about \$5 million and donors including foundations connected to hedge fund millionaire Robert Mercer, petrochemical billionaire Charles Koch, and the late Walmart founder Sam Walton.

The tax-exempt conservative legal organization is best known for its work against government regulations on businesses and for private property. It successfully sued to overturn Arizona's clean elections law, pushed to ban public sector unions, worked to kill renewable energy standards, and sought to overturn a 142-year-old precedent to stop state governments from prohibiting unsafe "fish pedicures."



Sen. Barry Goldwater (R-AZ) CREDIT: CREDIT: ASSOCIATED PRESS

Last July, however, the Goldwater Institute waded into a very different area: Indian law. It did so in the form of A.D. v. Washburn, a federal class action challenge to ICWA, claiming it violates the Fifth

Amendment's equal protection and due process guarantees, the Fourteenth Amendment's equal protection and substantive due process clauses, the First Amendment's freedom of association, and the Tenth Amendment's limits on congressional power, among others.

In short, they argue that ICWA treats people differently based on their race and that this treatment actually hurts those children. Goldwater Institute attorney Aditya Dyer told ThinkProgress that the law provides "separate, unequal, and substandard treatment" for Native American children.

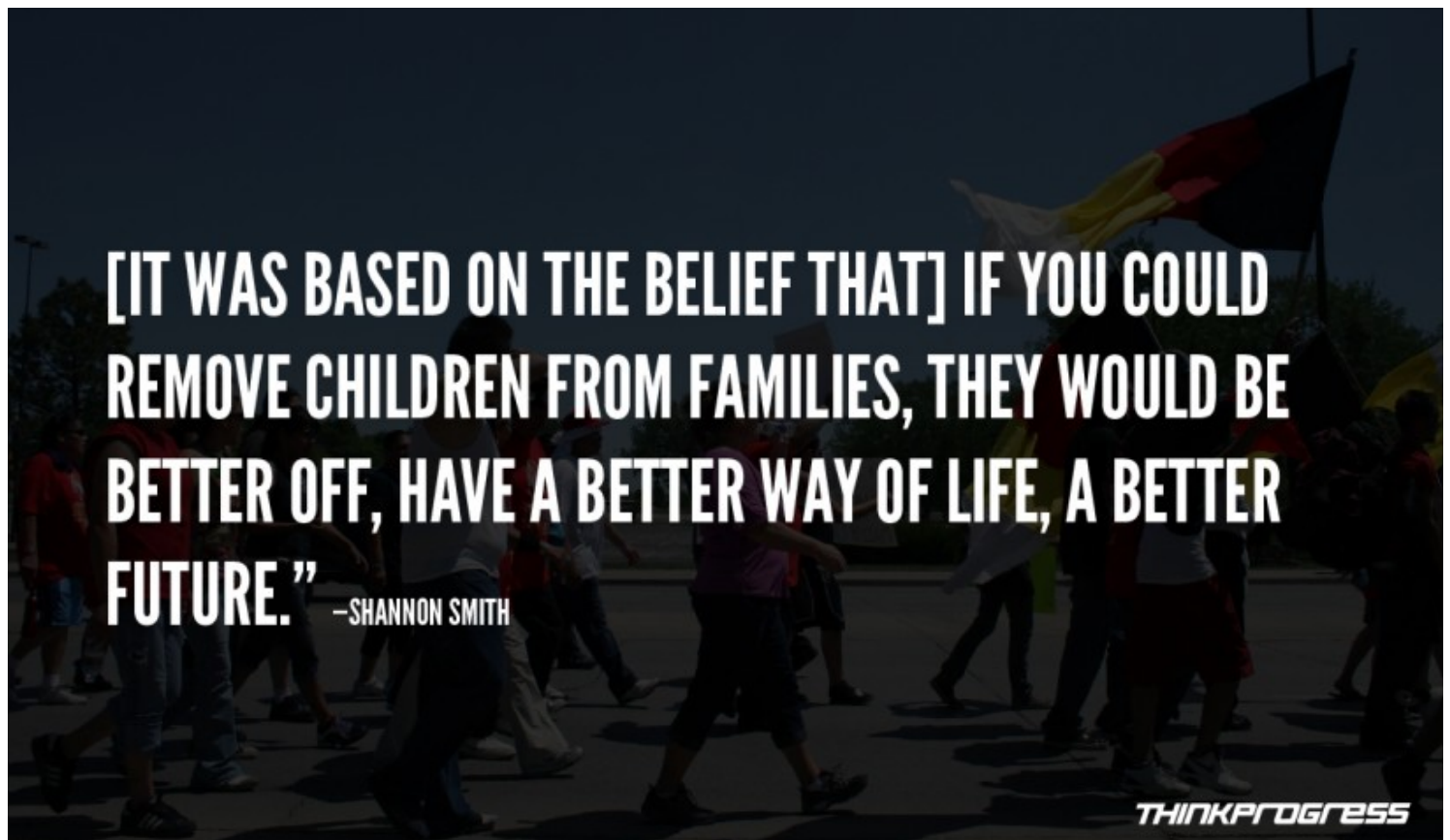
The irony, supporters claim, is that Goldwater himself supported the law. "He'd be rolling over in his grave," Robert A. Williams Jr., faculty co-chair of the Indigenous Peoples Law and Policy Program at the University of Arizona College of Law and a former Pascua Yaqui Indian Tribal judge, said, if he knew his namesake organization was fighting against ICWA.

## **Kill The Indian, Save The Child**

Shannon Smith, executive director of the ICWA Law Center in Minneapolis, explained that the law was created in the wake of devastating "kill the Indian, save the child" practices designed to "educate the Indian out of a child." Beginning in the 1860s, this was accomplished through government-run boarding schools for Native American kids. The goal of the schools was to "deprive [Indian kids of their] language, cultural practices, and spirituality," so they could be assimilated into mainstream American society. By the 1880s, more than 6,000 Native American students were enrolled in these schools.

In the 1950s, the federal government and nonprofit groups joined forces to move hundreds of Native American children into the homes of white families. This so-called Indian Adoption Project was rooted in the same culturally destructive belief as the boarding schools, Shannon Smith said: "If you could remove children from families, they would be better off, have a better way of life, [and] a better future."

Not only were Native American kids losing their language, customs, and cultural heritage, but tribes were losing their future members. "By 1978, tribes recognized these practices were destroying the ability of tribes to continue to exist," she added.



CREDIT: AP PHOTO/KRISTI EATON/DYLAN PETROHILOS

The Goldwater Institute's Dwyer agrees that this historical context was devastating. "There were certainly abuses, particularly abuses by the federal government," he said. "There is a lot of evidence that, proximate to federal boarding school policies, those policies had serious consequences."

These abuses and consequences were very much on the minds of members of both parties in Congress in 1977 and 1978, when they enacted the Indian Child Welfare Act.

They spelled out their findings in the text of the law itself, affirming that protecting Native American children is "vital to the continued existence and integrity of Indian tribes," and that "an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions."

Smith says Congress was making it clear that "things needed to change." The law recognized that "for tribes, the children were their most valuable resource," but also that "it was in the best interest of Indian children to have a connection with their families and tribes."

But the Goldwater Institute takes issue with the way ICWA set standards for "the removal of Indian children from their families and the placement of such children in foster or adoptive homes." It applies specifically to unmarried minors who are either members of federally recognized tribes or are the biological child of a member of a tribe (and are thus "eligible for membership" themselves).

The act gives tribes exclusive jurisdiction over child custody for most Native American children living

on reservations, mandates that placement of Native American children be with extended family, other members of the child's tribe, or other Native American families when possible, and requires that "active efforts" to remedy a situation be made before an Native American child is placed in foster care or parental rights are terminated.



## Equal Protection for Indian Children

from **Erik Merkow** PLUS

10:46

Matthew L.M. Fletcher, who directs the Indigenous Law and Policy Center at the Michigan State University College of Law says the key function of ICWA is that it "gives tribes a chance to have a say in what happens to their kids." He notes that the due process requirements it provides have been held up by child welfare advocacy groups as "the gold standard for child welfare decisions for all children."

Angel Smith, a seventh-generation Cherokee tribal citizen from Oklahoma boundary, has experienced the life-changing ramifications of ICWA first-hand. As a young child, her birth parent was unable to care for her and left her at a private agency shelter. For the first several years of her life, she was placed with a non-Native American foster family. Though she very much liked her foster family, the Indian Child Welfare Act allowed the tribe to block them from permanently adopting her. Returned to her biological family, she ended up living with her maternal grandparents, who helped her understand her identity, culture, and heritage.

"The connection with my Cherokee family absolutely was critical and is for me," she said. "It's informed pretty much every part of my life, being Cherokee."

While the law was initially created to right grievous historical wrongs, Smith and many of ICWA's other proponents argue the protections remain a necessity today. Native American children only make up a small portion of the total U.S. population, but they are more likely to be impacted by adoption and foster care policies than their peers in most other demographic groups. More than 800 Native

American children were adopted in 2012. American Indian and Alaskan Native children are over-represented in the nation's foster care system. As of September 2014, 9,517 Native American children were in foster care. While this number represents only two percent of the foster care population, the number of Native American children in the system is disproportionately higher than the expected level.

Some states see even higher ratios. In Oregon, between 2009-2011, Native American children represented 2.8 percent of the state's children, but 6.9 percent of all children in foster care. In South Dakota and Alaska, more than half of all children in foster care are Native Americans.

Native American children are also more likely to experience hardship in these circumstances. According to the Pew Charitable Trusts, Native American children are more likely than children of other races/ethnicities to be identified as victims of neglect (65.5 percent) in the foster care system. Child abuse among American Indian and Alaskan Native children occurs at a rate of 16.5 children per thousand, which is greater than the percentages for white (10.8 per thousand), Hispanic (10.7 per thousand), and Pacific Islander (16.1 per thousand) children.

While these statistics point to the work that still needs to be done, advocates say they've seen substantial improvement from just a generation ago, when public policy affirmatively sought to separate Native American families.

If that's the case, then why is the Goldwater institute hell-bent on overturning it? And what would happen if they succeeded?

## **Taking ICWA To Court**

Baby A.D. is a one-year-old in Arizona, born into the Gila River Indian Community. From the time of her birth, she was placed with a married couple who are not Native Americans as foster parents. After a state court terminated her birth family's parental rights, the couple petitioned to legally adopt her. But her tribe soon indicated it would seek to transfer jurisdiction over her custody proceedings from the state court to a tribal one.



A 2013 rally in support of the biological father in the *Adoptive Couple v. Baby Girl* case CREDIT: AP PHOTO/SUE OGRICKI

The Goldwater Institute, representing the couple and others in similar situations, says the tribal court could prevent A.D. from being adopted by her foster parents — the only family she has ever known. Their class action challenge to the law is currently pending before a federal district court in Arizona.

Three years ago, a different ICWA challenge — *Adoptive Couple v. Baby Girl* made it all the way to the U.S. Supreme Court. In that case, a child’s birth father — a member of the Cherokee Nation — invoked ICWA months after he had signed papers relinquishing his parental rights and the birth mother had placed her with another family. After the South Carolina Supreme Court awarded him custody of the then-27-month-old girl, based on its interpretation of the law, the adoptive couple appealed the ruling to the nation’s highest court. In addition to challenging the application of the law, they argued that it unconstitutionally gave the birth father “preferential custodial rights based on his blood heritage.”

Although the Goldwater Institute was not involved with *Adoptive Couple*, another big name in the conservative legal movement was: Former George W. Bush administration Solicitor General Paul D. Clement represented the guardian ad litem assigned to the baby girl. He argued that the application of the law raised “constitutional concerns of the highest order.”

That case, which was the subject of a RadioLab episode and covered by some national news outlets,

resulted in a victory for the adoptive couple — on a technicality.

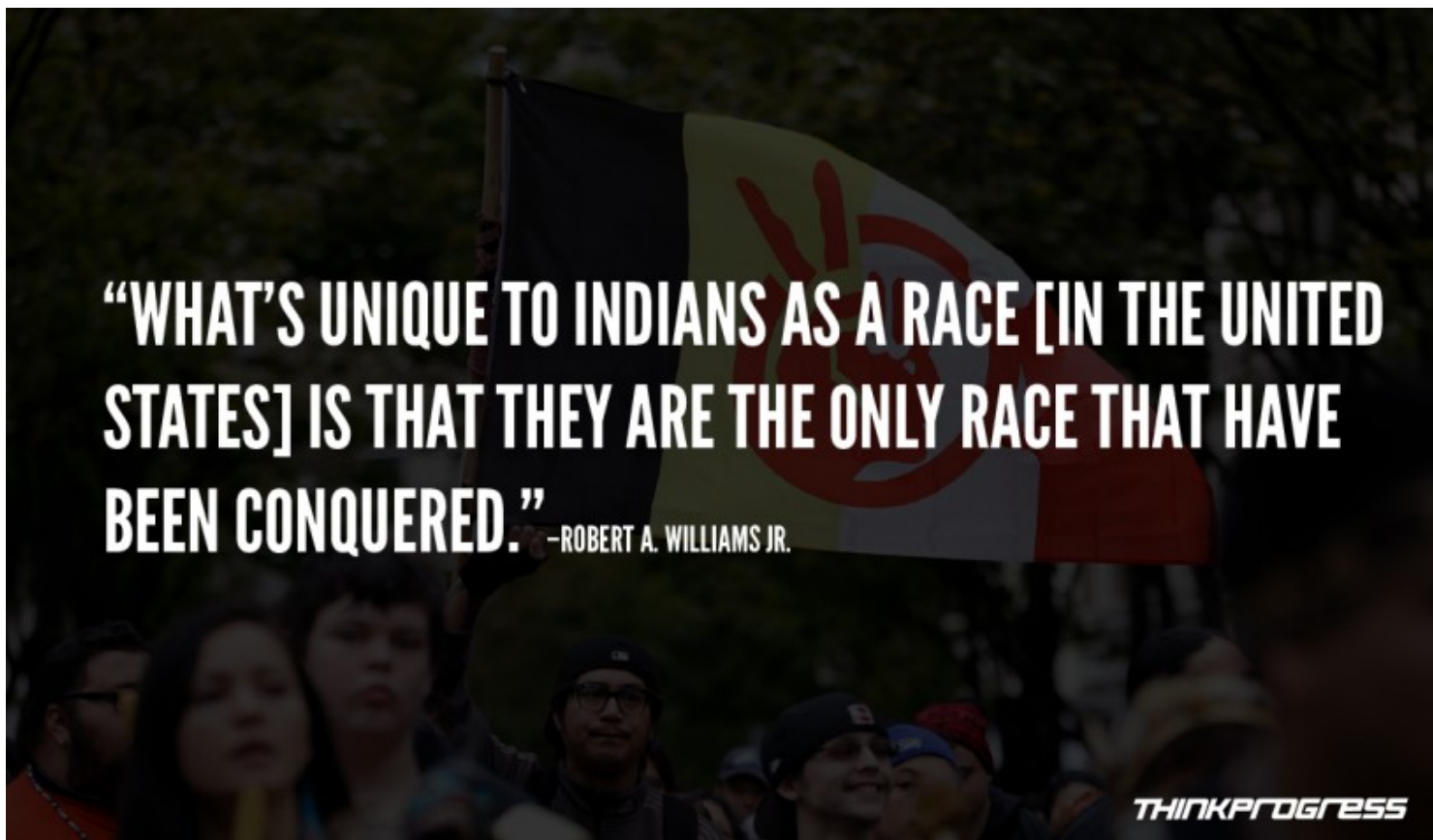
The high court's majority sidestepped the constitutional question, determining that ICWA did not apply to this particular case, and passed on a chance to examine what would happen if it did. Still, Justice Clarence Thomas wrote that the case had presented "significant constitutional problems," and Justice Samuel Alito suggested that a similar case could conceivably force them to strike ICWA down.

Barbara A. Atwood, professor of law emerita at the University of Arizona's James E. Rogers College of Law, said that language is what caught the Goldwater Institute's interest. In choosing to represent plaintiffs in a similar, but not identical, position, they are "basically responding to an invitation from the Supreme Court," she observed.

Since the ratification of the Fourteenth Amendment in 1868, the U.S. Supreme Court has, for the most part, gradually expanded its definition of equal protection. Laws that discriminate on the basis of race are examined with the most rigorous level of "strict scrutiny," allowing them only when there is a compelling government interest. Laws that discriminate against other protected groups receive intermediate scrutiny. Laws discriminating on some other grounds — such as whether a person has a college degree or has training as a dentist — must only be rooted in rational basis. As such, an adoption law that created a different set of rules for African American kids than for white kids would be very hard to justify.

But one's membership in a federally recognized tribe has long been treated as a political classification, rather than a racial one — so, for the most part, the Supreme Court has deferred to Congress when it makes laws relating to Native American tribes. Christopher R. Deluzio, a New York attorney who has written about tribes and race says this is because they are "quasi-sovereign." Because federally recognized tribes have a government-to-government relationship through treaties, he says, the high court has viewed Congress' power to legislate tribal matters as "nearly plenary." What's more, Article I, Section 8 of the Constitution contains what is known as the Indian Commerce Clause, a provision that explicitly gives Congress the power to regulate commerce "with the Indian tribes."





CREDIT: AP PHOTO/ELAINE THOMPSON/DYLAN PETROHILOS

The Goldwater Institute does not believe that clause applies here. Timothy Sandefur, the organization's vice president for litigation, compared it to congressional power to regulate commerce with foreign countries: "Imagine if you said, If you have a single drop of Chinese blood..." he suggested. "It would be obviously a violation of the Fifth Amendment."

Williams thinks that Goldwater is unlikely to convince the Supreme Court to treat Native American tribal affiliation as a racial category, based on its previous rulings. "There is no African American Commerce Clause. There is no Jewish Commerce Clause. There is an Indian Commerce Clause, as the founders singled out Indians as a discrete type of racial 'problem'... What's unique to Indians as a race [in the United States] is that they are the only race that have been conquered."

## **A Job Well Done?**

Since ICWA passed, proponents and critics of the law generally agree that most states no longer intentionally remove Native American kids from their homes without cause — but they disagree on whether the law is still needed.

"In this case, there has been no evidence for the past 30 to 40 years that states have willfully disregarded the equal protection and due process rights of Indian children. If anything, states are extremely careful," Goldwater's Dyner said.

But while they suggest that ICWA has already done its job, the numbers seem to contradict that. In [Alaska](#), for example, Alaska Natives make up only 20 percent of the youth population, but constitute

63 percent of the children in foster care and state custody.

Kathryn E. Fort, who works with Fletcher at MSU's Indigenous Law and Policy Center, agrees. "I think what ICWA has done is given a backstop, in many ways, to the worst abuses," she said. But recent problems in South Dakota, for instance, are proof that there are "still counties where they're just not following the law." Last March, a [federal judge found](#) that state officials had improperly removed scores of Native American children in one county from their parents' custody, failing to follow ICWA's procedure.

If the Goldwater Institute's challenge is successful, not only will the strongest tool to stop those kinds of discrimination be taken away — so might a whole host of other laws.

## The Latest Front In A Larger Battle

In recent years, the conservative legal movement and the Roberts Court have been working to strike down laws that were created to remedy discrimination.

In 2013's [Shelby County v. Holder](#) case, the Supreme Court's majority [claimed](#) that while minority voters were once disenfranchised, "our country has changed, and while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions." As such, protections like the preclearance provisions of the Voting Rights Act are no longer constitutional. In 2007, it [struck down](#) an enrollment plan aimed at desegregating the Jefferson County, Kentucky public school system.

In December, it heard arguments in [Fisher v. University of Texas at Austin](#), a case that could end affirmative action in university admission. Though the court [punted](#) in the same case in 2013, at least [one justice](#) made clear that he was prepared to strike down an earlier ruling upholding affirmative action in very limited situations.

Among those supporting both efforts: the Goldwater Institute. The University of Arizona's Barbara Atwood notes that "the Goldwater Institute has been very involved in promoting anti-affirmative action provisions across the country and were supporters of [Arizona's constitutional amendment](#) banning preferences on the basis of race or gender in public institutions. I think this does fit into that policy orientation."

The organization also [filed a brief](#) in the Voting Rights Act case, opposing key provisions of the law, and argued in a [press release](#) that, "now that active state-sponsored racial discrimination has obviously waned, preclearance only encases politics in the very racial and ethnic divisions it was designed to prevent."

But Michigan State University's Fort sees this case as part of the broader effort to eliminate protections for minority groups that was gaining steam prior to Justice Antonin Scalia's death. "If you can make Indians just like any other race-based group and you're already getting rid of all remediation for race-based groups," they can wipe out a whole array of laws. This strategy, many experts pointed out, may be harder on the current eight-member court or one with a fifth Democratic

appointee.

The University of Arizona's Williams said the high court would have to upend "an entire body of law — federal Indian law," in order to strike down ICWA. He points to a 1974 case in which the Supreme Court held that in order to apply equal protection to Indian law, it would also have to throw out "literally every piece of legislation dealing with Indian tribes and reservations, and certainly all legislation dealing with the [Bureau of Indian Affairs]."



*Could the Oneida Indian Nation's Turning Stone Casino and others be impacted by a potential Supreme Court ruling against ICWA?* CREDIT: AP PHOTO/MIKE GROLL

The Goldwater Institute's Sandefur dismissed suggestions that its case could have a huge impact on other Indian law. "We're talking about a statute that applies due to eligibility for membership, as opposed to actual membership. Other cases all make clear that we're talking about a law that only addresses people who have chosen to be members of tribes."

But if the Supreme Court accepts the organization's argument that it must treat Native American tribes as a racial classification, other Indian laws could be subjected to renewed scrutiny. For example, Indian Gaming Regulatory Act of 1988, which gives tribes special legal protections for their gambling casinos, could be newly vulnerable to challenge.

And that could be a financial motivation for some ICWA opponents. For instance, a ThinkProgress review found that former Solicitor General [Clement](#) argued on behalf of a corporate client in another 2013 case that the Indian Gaming Regulatory Act violated the Equal Protection Clause — the same year he raised similar arguments in the *Adoptive Couple* case. (Clement did not respond to a ThinkProgress inquiry.)

But Timothy Sandefur said the Goldwater Institute's motive is not financial, but personal. "We have friends who are foster parents, [including] several people at the Goldwater Institute," he explained, "and it doesn't take very long in those circles until you're told, basically to your face, that if you adopt an Indian child, the law doesn't [protect the best interest of the child]."

Goldwater's Dyner is optimistic that this challenge will be successful. He notes that the Supreme Court did not strike down the bulk of the Voting Rights Act until the second case it heard on the topic — and that the *Adoptive Couple* majority seemed open to doing the same in a future ICWA case.

But most of the experts ThinkProgress spoke with believe the law is constitutional and still necessary. Now an attorney specializing in helping Native American kids, Angel Smith believes that law is vital to protect her clients' "basic and inherent right to their family and tribal nation."

"This is why I do what I do," she explained, "for the sacred center of our Nations, our children. I am ICWA, and I support ICWA."

*An earlier version of this story incorrectly stated the number of Native American children in foster care in South Dakota and Alaska.*

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**UPDATE** APR 8, 2016 1:15 PM

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November 12, 2015

Dear Tribal Leader:

Following a recent series of meetings with tribal leaders and tribal advocates, we in the California Department of Justice have realized a need to convene an ICWA Compliance Task Force (Task Force).

The first of the meetings took place as a part of the California's annual ICWA summit on June 10th and 11th, where tribes shared their ICWA compliance issues with both myself and Bureau of Children's Justice Director Michael Newman. In light of the issues elucidated there, many of which had devastating consequences for the children and tribes involved, we convened a listening session on July 29, 2015 to hear tribal concerns about compliance with ICWA and state law. The Task Force was born out of this listening session.

The first actual Task Force meeting was held on September 8, 2015 and focused on initial logistics. In preparation for a more substantive October 27, 2015 meeting of the task force, an invitation to attend was sent to all federally recognized California tribes. The meeting on October 27th solidified the mission of the task force and the process by which the task force will operate.

The mission of the Task Force is to generate recommendations for DOJ's review of systemic failures impacting Indian children and their families in as timely a manner as possible, with a soft deadline of February 1, 2016. The Task Force will accomplish this goal independent of the DOJ. It is an autonomous body that will operate under the direction of tribal leader co-chairs. We very much look forward to receiving the recommendations of the Task Force and thank the Task Force Co-Chairs for their commitment to addressing ICWA enforcement gaps in California.

If you have any questions, do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Olin Jones", written over a circular stamp or mark.

OLIN JONES  
Director  
Office of Native American Affairs

For KAMALA D. HARRIS  
Attorney General

OJ:

# **I. Summary of Task Force Recommendations**

In an effort to assist the Bureau of Children's Justice and to address the shortfall of remedies for Cal-ICWA violations, the Task Force proposes the following as new remedies for consideration:

## **1. Competence of Counsel and Agency Personnel**

The minimum qualifications to practice law in dependency court pursuant to CRC5.660 must include substantive, procedural, and cultural competence of Cal-ICWA as part of the standards of representation. Competence requirements should apply to all attorneys representing parties in ICWA cases, including county counsel, and competence standards must also apply to social workers. . It bears repeating, that agency leadership, managers and supervisors, must be highly trained and knowledgeable on Cal-ICWA and ICWA in order to fully and adequately supervise and provide guidance to staff. CDSS could require proof of competency much like court administrations do (via declaration) and failure to comply would result in a disciplinary action against the employee.

## **2. Consolidated courts**

The model where all ICWA cases are heard in a single department, and by a single bench officer, creates an economy of scale and expertise that benefits everyone. It may not be feasible in all counties, particularly small counties, but it could be limited to counties which annually reach a threshold number of ICWA cases (tracked using the data collection remedy discussed further below). With respect to social workers, a consolidated ICWA unit within the agency, similar to the consolidated court approach discussed here, would be a realistic solution, with specially-qualified social workers handling all ICWA cases.

## **3. Appointed counsel**

Welfare & Institutions Code §317 provides for appointment of legal counsel for parents or Indian custodians, and guardians who cannot afford an attorney. It also compels appointment of counsel for children in every case, subject to limited exceptions, which was an expansion over the pre-2001 rule that allowed counsel when it would benefit the child. Even de facto parents are allowed appointed counsel under Cal. Rule of Court, Rule 5.534(e)(2) at the discretion of the trial judge. The Agency is always represented by one or more attorneys.

The absence of a corresponding provision for appointment of attorneys for Tribes, even though many appellate reversals could have been avoided if Tribes had legal representation at the early stages of those cases, is a significant breach of the mandates of due process. The multitude of errors in ICWA cases is a cost on the entire system, and could be minimized if Tribes were afforded the same right to counsel as other parties.

For Tribes with resources to retain their own legal counsel, tribal attorneys could substitute into a case, as is done with other proceedings, but there would not be a gap in representation that invites error.

#### 4. Attorney's fees

If tribes are not provided counsel as suggested above, an alternative is to create clear statutory authority for recovery of attorney's fees where a party is able to demonstrate a violation of the Cal-ICWA (similar to prevailing party provisions set forth in the Code of Civil Procedure). The Legislature has made it plain that compliance with the Cal-ICWA is a matter of public policy,<sup>1</sup> yet at present the tribe is the party most often seeking to prevent or correct Cal-ICWA violations and is the only party paying for legal representation themselves.

#### 5. Sanctions

Juvenile judges are empowered with the same authority to impose monetary and other sanctions on parties and counsel who do not follow substantive and procedural rules. A continuing problem is the failure of agencies to give notice to tribes, serve documents and provide discovery, and to file timely reports. Because there are no filing fees in dependency actions, and county counsel

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<sup>1</sup> Welf.&Inst. § 224(a)(1).

is not required to sign and verify pleadings (including proof of service), the normal checks and balances of court procedure do not apply equally.

Two ways that this could be remedied are: (i) to impose monetary sanctions on social service agencies that file late reports, or neglect to serve tribes; and (ii) to require the agency's legal counsel to sign and verify pleadings or reports in the same manner as other court proceedings. By shifting responsibility to counsel, the court could ensure that an officer of the court has reviewed documents before they are filed, and in cases where the agency does not follow rules, monetary sanctions would be a tangible disincentive. Any monetary sanctions would be paid directly to the tribe and not into a court or other common fund.

#### 6. Receiverships under existing statutes

Agencies which regularly fail to meet the requirements of Cal-ICWA, state-appointed receivers could be brought in to oversee operations and make necessary changes to achieve compliance.

#### 7. Binding Pre-Dispositional Agreements

Welfare and Institutions Code §241.1 requires agencies to implement a jointly developed written protocol to ensure coordination between Probation and Social Services in designating whether a minor will be supervised by the delinquency court or dependency court. Some of the written protocols allow joint supervision, but the old model would not permit a child to have dispositions under both systems simultaneously.

For example, Los Angeles County's protocol provides that dual status assessments and case plan creation are overseen by a Multidisciplinary Team (MDT) which consists of representatives of probation, child welfare, mental health, and the education unit of child welfare. Case plans are developed at a post-dispositional planning meeting attended by the youth, the caregiver, the attorneys, and the probation officer and social worker on the case. At the meeting the MDT gets input from all present with the goal of achieving consensus on the specifics of the plan. After completion of the meeting a post disposition hearing is held in each court to ensure that the youth, the caregiver, the probation officer, and the social worker understand their obligations.

This model could easily be adopted for ICWA cases and include Tribes, Tribal Social Services, and Tribal Providers as members of the MDT. If a pre-dispositional meeting and agreement were required for ICWA cases, the agreement is binding, and a prerequisite to placement and removal from an Indian home, this would facilitate tribal involvement at the earliest stages.

8. Foster Care Bill of Rights amendment

Welfare and Institutions Code §16001.9 codifies the rights of foster care minors as the policy of the State of California. Included are the rights to: (i) attend religious services and activities of his or her choice (§16001.9(10)); (ii) to attend school and participate in extracurricular, *cultural*, and personal enrichment activities (§16001.9(13)); (iii) to have fair and equal access to *all available services*, placement, care, treatment, and benefits, and not to be subjected to discrimination or harassment bases on *race, ethnic group* identification, or *ancestry* (§16001.9(23)); and (iv) to have caregivers and child welfare personnel who have received instruction on *cultural competence* and sensitivity... (§16001.9(24)). When applied together these rights include, but do not expressly state, an Indian foster child has the right to participate in culturally-appropriate tribal services, placements, and benefits, and be able to enforce the ICWA as a foster child right.

The Bureau of Children's Justice should advocate, and obtain, an amendment to the foster care bill of rights that unequivocally codifies ICWA enforcement and application as a foster care child right.

9. State monitoring/oversight

In conjunction with recognizing Cal- ICWA enforcement as a foster child's right, the Office of the Foster Care Ombudsman should be specifically empowered to investigate and negotiate mandates for compliance to imposed in specific cases and specific Counties where compliance with state mandates are systematically ignored. The director and staff of the Office of the Ombudsman must complete and certify they have received competent and ongoing training on Cal-ICWA and ICWA.

10. Placement Records

Counties must be required to keep detailed records of efforts to comply with the Cal-ICWA's placement preferences, thus providing a court or an outside investigating agency to determine whether active efforts to comply with the Cal-ICWA placement requirements occurred and what the barriers to Cal-ICWA compliant placements may be.

#### 11. Data collection

The current data system utilized by the California Department of Social Services and every California County (CWS/CMS) to track child welfare cases and systems contains inadequate data and system functionality regarding ICWA eligible children. While the majority of the problem is likely a result of inadequate inquiry regarding children's tribal affiliations, overall, the system fails to include data sets essential to tracking ICWA compliance. This lack of data makes it much more difficult for Tribes to guide policy and budget allocation processes to ensure Cal-ICWA is complied with.<sup>2</sup> One step that must be taken is the addition of a drop down mandatory field to enter tribal affiliation when known. Implementation of such a data field would increase compliance because the data would be more routinely sought and failures to enter tribal affiliation could be tracked. Next, UC Berkeley Social Welfare's Center for Social Services Research, which maintains the California Child Welfare Indicators Project (CCWIP) should create a whole data set specifically for American Indian Dependents which would provide for data collection outside of that which is collected via Agency reporting, in order to create a data system that can accurately reflect the population of American Indian, Cal-ICWA eligible dependents.

Further, every county and the State are required to complete reporting to support and justify their annual funding allocations (e.g. CFSPs, APSRs). Fortunately, the various tools required to evaluate counties and states to justify their federal funding increasingly require information and narrative descriptions regarding how counties, the State and Tribes are working co-operatively. Unfortunately, these reports often misrepresent the level of collaboration and consultation occurring with the Tribes. A forensic review of represented ICWA compliance as stated in these reports should be completed and discrepancies should be addressed. Each county

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<sup>2</sup> See the California CFSP, page 72-73 [http://www.childsworld.ca.gov/res/TitleIV-B/CFSP\\_2015-2019.pdf](http://www.childsworld.ca.gov/res/TitleIV-B/CFSP_2015-2019.pdf)

would be publically rated for ICWA compliance and each county's successes and failures noted. Counties with high compliance ratings would be eligible for additional state funding.

12. Tribal access to records

Legislative recognition of tribe's right to access records to other areas to overcome HIPAA and other confidentiality prohibitions. Despite the amendments to Welf. & Inst. §827 designating tribes, Tribal Representatives and tribal attorneys as "parties" the practice of denying routine paperwork, pleadings, and minutes to Tribes remains. The costs of preventing access to court filings and discovery should be enforced by the Court, but if, after notice, an Agency or county counsel continue to deny production then monetary sanctions should be mandatory. In addition, the Rule of Court should be amended to clarify what "intervention" means, and what rights and privileges are afforded Tribes that intervene as a party, as well as the corresponding sanctions for parties failing to treat tribes as equal parties to the litigation.

13. Counties should contract with culturally-appropriate services

Counties, not Tribes, receive funding for social services; and those services should be representative of the client community – where a percentage of the children in care are Native American, a corresponding percentage of the services should be targeted at that populations. Such services might include Positive Indian Parenting, cultural mentors, trauma based services addressing intergenerational trauma, etc.

14. ICWA Units In Agencies

Designated social services personnel within each county agency that specializes in cases involving Indian children and families will allow for the development of expertise and relationships between tribal social workers and county social workers.

15. Lower case counts for with Cal-ICWA cases.

Cases involving active efforts are intended to take additional resources, for example transporting a parent to services, rather than providing a bus pass or a simple referral. For case count purposes, ICWA cases should count as 1.25 or 1.5 cases to allow social workers the ability to provide active efforts.

16. CDSS Office of Native American Affairs

Having an office of Native American Affairs within CDSS would assist tribes in communicating concerns to CDSS. Additionally, there is no longer one unit within CDSS that is targeted at tribal issues and concerns, therefore, it is also recommended that one person is designated within each unit to act in this capacity.

CDSS has oversight authority and as such must be involved and assist with protocols and agreements being negotiated between tribes and counties. When conflicts arise in a particular county, CDSS must become involved to assist as a neutral entity to assist with problem solving and resolution of issues.

16. CDSS share federal block grants with tribes, as occurs in other states.

CDSS receives federal block grant funds as part of the social services funding budget process. A portion of these funds should be allocated to Tribes or Cal-ICWA related programs to fill in gaps where Cal-ICWA compliance is under resourced.

17. State funding for placement recruitment should be shared with Tribes

18. Counties must make active efforts to conduct criminal background exemptions (Julian B.)

The system for granting exemptions for placement where a proposed placement has a criminal history must become more robust, timely and accessible. Counties often dismiss requests for exemptions without true consideration of the individual's history.



19. Expert Witnesses

Civil Procedure Code §2034.210 - §2034.310 sets forth the procedure for designating expert witnesses for trial, including identifying their qualifications, area of expertise, and documents relied upon in forming their opinion. One remedy to enhance Cal-ICWA compliance would be to treat “qualified expert witnesses” analogously to experts in civil cases; experts would be identified by the County twenty (20) days in advance, including identifying each and every document relied upon by the expert in forming their opinion, and making discoverable any communications made to the designated expert by the Agency or County Counsel, including emails or phone notes. As part of the process, Tribes and the courts could inquire about other cases that the expert has testified in, and for whom. If requested, the qualified expert could be deposed in advance of the hearing so that a protracted voir dire is not necessary. This is particularly critical where a County intends to submit expert testimony by written declaration. If the county intends to use a *paper expert* then they should be required to submit the proffered testimony and *all* supporting documentation at least ten (10) days before a dispositional hearing (or termination of parental rights hearing), or else the testimony is excluded. Any delays or requests for continuances should be enforced by sanctions.

20. Periodic Reports and Agency Filings—Inclusion of Tribal Contacts

Most Agency reports include a detailed narrative of every event that occurred leading up to a filing, including any referrals, assessments, or voluntary plans. After jurisdiction is taken, the Agency includes a diary of events, commonly including detailed statements of the parents’ actions, comments, and compliance. However, nothing in the rules requires the Agency to identify and document the efforts it has made to contact and involve Indian tribes. Specifically, we recommend that the Social Service Agency be required to narrate in detail, the nature and type of communications the worker has had with the tribe or tribal agency, and what documents or reports have been submitted by the tribe for court consideration, or which were rejected by the Agency and not included in their report. If the Agency is required to document its ongoing Active Efforts, Placement Preferences, and Culturally Appropriate Services, including input

from the Tribe (or Tribes) then future reports will develop a baseline for measuring Agency interaction with tribes and compliance with the Act.

### 23. Pleadings Signed by County Counsel

In most cases a pleading must be reviewed and signed by an attorney, which is an implied acknowledgment that a legal review by an officer of the court has occurred. Though this may seem obvious and basic, pleadings filed in Dependency court are not always reviewed by an attorney, and not always signed off by legal counsel. The practice varies from county to county. But, if legal counsel (in Dependency cases it is County Counsel) were required to sign off on all pleadings and accept responsibility for the allegations and content, including consequences for improperly filed documents, this would go a long way toward enforcing compliance of the Cal-ICWA.

Attorneys by nature are detail oriented, and will not allow a substandard document or pleading to be filed with their name attached. Instead of delegating the legal filing to social workers, the court should require legal counsel to vouch for the accuracy and content, as is done in all other court cases.

### 24. Complete CDSS Tribal Consultation Policy.

Executive Order B-10-11 was signed by the Governor in 2010 and mandated that each department of the state government develop a Tribal Consultation Policy. In 2013 a Tribal Consultation Policy development process was commenced as a joint effort between Tribes, Tribal community stakeholders and the CDSS, Children and Family Services Division, the division which has the majority of responsibility for Cal-ICWA compliance on a state level. To date that process has not been completed and CDSS, and the CFSD continue to operate without a Tribal Consultation Policy as mandated by the Governor's Executive Order. CDSS must dedicate resources to completing a Tribal Consultation Policy which includes remedies that Tribes can access in the event consultation is not available consistent with the Executive Order.

### 25. Judicial Competency.

Bench officers must be competently trained to preside over Cal-ICWA cases and understand ICWA cases are different from other dependency cases. Judicial training must be uniform throughout California, which will result in the uniform application of the law. This training must be legislatively mandated and include both introductory training for new bench officers and periodic training for existing bench officers.

Chart Summarizing Draft Task Force Recommendations  
Proposed Policy, Education, Partnership Considerations

Prepared by J. Walter

Task Force Recommendation	Authority	Policy	Education	Partnerships
<p>Legal and Cultural Competency Training for Judges, Lawyers, Social Workers</p>	<p>25 U.S.C. §§ 1901-1923, 1903(i)</p> <p>Cal-ICWA- SB678 (2006, Ducheny)</p> <p>Prob. Code, §§ 1459.5(a), 1516.5(d);</p> <p>Cal. Rules of Court, rule 5.480</p>	<p>Rule 5.40 (Judges)</p> <p>(1) Add competency standards</p> <p>Rule 5.660 (Attorneys)</p> <p>(1) Prepare and distribute model local rule</p> <p>(2) Add competency standards for attorneys re: ICWA (beyond purview without legislation)</p> <p>(3) Add for CASAs</p> <p>Legislation</p> <p>(1) Add competency standards for judges and all who appear in juvenile court</p> <p>(2) For judges, follow Gov. Code 68555 (domestic violence training) for ICWA</p> <p>CDSS</p>	<p>Adopt ICWA-specific competence standards and training across disciplines</p>	<p>CIP grant application to pilot adoption of national curriculum and standards adapted for California</p>

		(1) Add All County Letters and All County Information Notices		
<p>Continuances/Delays</p> <p>“Unfortunately, the practice of delaying adjudications and other required hearings has not resulted in greater specificity in identifying Indian children; the delay does not result in greater due diligence and better notice to Tribes. Instead, the prolonged delays have created bonding issues and conflicts with placement preferences, that are, to an extent preventable.”</p> <p>Adoption and Safe Families Act (ASFA)- Statutory Timelines/ICWA Timelines</p>	<p>Strict statutory timelines for holding hearings</p> <p>&amp;</p> <p>Use of sanctions (WIC § 213 and CCP § 1218)</p> <p>Authority to grant continuances WIC § 352, Fam. Code §§7668, 7871</p> <p>Cal. Rules of Court, rule 5.550(a)(4)</p>	<p>Courts</p> <p>Delays in holding hearings due to late reports, failure to provide discovery or notice should trigger sanctions against agency or attorney</p> <p>Legislation Reconciling ASFA and ICWA timelines</p>		<p>CIP grant proposes use of ICWA compliance measures and pilot court to test use of sanctions</p>
<p>Sharing Information</p> <p>The Legislature has made clear a Tribe’s right to access the juvenile case file with no court order is required and on-going.</p> <p>Access to the caseworker’s notes</p>	<p>Forum-initiated Legislation</p> <p>WIC § 827(f)</p> <p>Cal. Rules of Court, rule 5.552(c)</p> <p>SB 1460 and SB 430 approved tribes can conduct their own criminal background checks</p>	<p>Counties- including in county policy manuals how to implement this statute—full disclosure early and often to tribal representatives is essential for</p>	<p>All- More education to improve adherence to statute-- sharing information, including prior contacts with the Indian parents or Indian custodian, homes studied, criminal histories, protective custody</p>	

<p>may be crucial in cross-examining him or her on potential cultural bias, inappropriate conclusions about Indian people, or ICWA requirements.” (CEB, California Juvenile Dependency Practice §9.38.)</p>		<p>compliance with ICWA</p>	<p>warrants, information necessary for tribes to place children in homes, and maximizing culturally relevant services.</p> <p>Courts: Update ICWA benchguide with information on the court’s role in enforcing tribal’s statutory right to access and agency’s obligation to produce discovery</p>	
<p>Active Efforts</p>	<p>25 U.S.C. § 1912(d)</p> <p>Cal-ICWA- SB678 (2006, Ducheny)</p> <p>Fam. Code, §§ 177(a), 3041(e); Prob. Code, § 1459.5(b); WIC, § 361.7</p> <p>Cal. Rules of Court, rule 5.484(c)</p>	<p>(1) Counties: Contract with Indian Health Service clinics and providers, Tribal TANF, tribal service providers for provision of culturally appropriate services.</p> <p>(2) Legislation: Definition of active efforts should be developed for the whole family</p> <p>(3) Legislation: all case plans to include tribal input in case plans and sanctions for failing to do so.</p>	<p>(1) Involve tribes in all aspects of child welfare services, including informal supervision, safety plans, investigations and ongoing reunification services</p> <p>(2) Include working with tribal spiritual leaders and providers and participate in cultural events and ceremonies.</p> <p>(3) Active efforts should be documented prior to removal and provided to the family.</p>	

		(4) Active efforts finding must be on the record and include recitation of the evidence of tribal participation in the case plan and the services to be provided to the child and parents	(4) More educational materials needed to assist counties and courts so findings are based on case plans that document active efforts informed tribes	
Inquiry and Notice	<p>25 U.S.C. § 1912(a)</p> <p>Cal-ICWA- SB678 (2006, Ducheny)</p> <p>Fam. Code, § 177(a); Prob. Code, §§ 1459.5(b), 1513(h); WIC, § 224.3</p> <p>Cal. Rules of Court, rule 5.481</p> <p>BIA Guidelines The court ask each party to the case (including the guardian ad litem and the agency representative) to certify on the record whether they have discovered or know of any information that suggests or indicates the child is an Indian child. (80 Fed. Reg. 10152, B.2(b)(1))</p> <p>In requiring this certification, the court may require</p>	Policy revisions (see Policy Chart)	<p>Adopt ICWA-specific competence standards and training across disciplines</p> <p>Promulgate promising practices and train on these practices regarding:</p> <ol style="list-style-type: none"> <li>1) Initial inquiry and follow-ups</li> <li>2) Providing complete and accurate information</li> <li>3) Sending notice to correct person/address of all appropriate tribes</li> <li>4) Understanding potential membership in multiple tribes</li> <li>5) Understanding how to assess the evidence triggering the</li> </ol>	<p>CIP grant application to pilot adoption of national curriculum and standards adapted for California.</p> <p>CIP grant application to pilot partnership courts to collect ICWA compliance measures and track improvements.</p>

	<p>the agency to provide:</p> <p>(i) Genograms or ancestry charts for both parents,</p> <p>(ii) The addresses for the domicile and residence of the child, his or her parents, or the Indian custodian and whether either parent or Indian custodian is domiciled on or a resident of an Indian reservation or in a predominantly Indian community. (80 Fed. Reg. 10152, B.2(b)(1))</p>		<p>notice requirement</p>	
<p>Jurisdiction and Transfer</p>	<p>25 U.S.C. § 1911(a), (b)</p> <p>Cal-ICWA- SB678 (2006, Ducheny)</p> <p>Fam. Code, § 177(a); Prob. Code, § 1459.5(b); WIC, § 305.5</p> <p>Cal. Rules of Court, rule 5.483</p>	<p>Legislation following WIC 241.1 that would require the county social services agency to meet with its tribal counterpart, and adopt a joint case plan—as a prerequisite for maintaining jurisdiction.</p>	<p>Increase awareness and confidence in tribal courts by increasing collaboration between state and tribal courts.</p>	<p>CIP grant application to pilot partnership courts to follow dual jurisdiction approach under WIC 241.1 and/or replicate the concurrent jurisdiction model in El Dorado County.</p>
<p>Tribal Intervention/ Participation</p>	<p>25 U.S.C. §§ 1911(c), 1914</p> <p>Cal-ICWA- SB678 (2006, Ducheny)</p> <p>Fam. Code, §§ 175(e), 177(a); Prob. Code, §§ 1459(e), 1459.5(b); WIC, §§ 224(e), 224.4</p>	<p>Amend the Foster Care Bill of Rights to include the rights of Indian children.</p> <p>CDSS to issue policy announcements requiring inclusion of tribes, parents, Indian</p>	<p>More education on tribal intervention/ participation though tribal representative who does not need to be a lawyer</p> <p>All care providers should receive training on providing foster</p>	<p>CIP grant application to pilot partnership courts to facilitate remote access by tribes as is currently the practice in Los Angeles</p>



	Cal. Rules of Court, rule 5.482(e) and 5.534(i)(2)	custodians, tribal service providers and Indian children, if of age, in the new 2016 Team Decision Making.	care to an Indian child.	
Qualified Expert Witness (QEW) Testimony	25 U.S.C. § 1912(e)  Cal-ICWA- SB678 (2006, Ducheny)  Fam. Code, §§ 177(a), 3041(e); Prob. Code, § 1459.5(b); WIC, §§ 224.6, 361.7(c);  Cal. Rules of Court, rule 5.484(a))	CDSS to issue policy announcement that agency cannot use a county employee and must seek input from the tribe	Courts: Update ICWA benchguide with current caselaw on QEW and the limited use of waiver	
Placement Preferences	25 U.S.C. § 1915  Cal-ICWA- SB678 (2006, Ducheny)  Fam. Code, § 177(a); Prob. Code, § 1459.5(b); WIC, § 361.31  Cal. Rules of Court, rule 5.484(b))  ACL 14-10 (January 31, 2014)	CDSS Policy announcements regarding burden to assist funding necessary repairs to make home suitable for placement (not shifting to tribe)	Courts: Update ICWA benchguide with BIA Guidelines and case law (bonding that occurs due to placements of Indian children in violation of ICWA should not be considered- See Mississippi Choctaw and Desiree F.)  Counties: More education on how to document placement recommendation	Partnership needed to increase the number of therapeutic homes available to all children, including Indian children  Partnership needed because agencies have a lack of trust and confidence in tribally approved homes.
Permanency-Culturally Relevant Options for Permanence Needed  Tribal Customary Adoption (TCA)	Assembly Bill 1325 (Cook; Stats. 2009, ch.287)  Fam. Code § 8600.5 and WIC § § 294, 358.1, 361.5, 366.21, 366.22, 366.25,		More Education on <a href="#">TCA</a>	

	366.26, 366.3, 16120, 16508, and 16508.1  ACL 10-47			

DRAFT

## California Department of Social Services State ICWA Workgroup

### ACCOMPLISHMENTS 2002 – 2009

As part of the California Department of Social Services' (CDSS) long-standing commitment to making improvements on Indian Child Welfare Act (ICWA) compliance, the following list chronicles the accomplishments of the partnership between California Indian tribes and the CDSS via the ICWA Workgroup since the re-establishment of the ICWA Workgroup in 2002.

#### **Children and Family Services Division (CFSD) ICWA Workgroup**

Because of the complex nature of ICWA issues and the strategies being considered by the CDSS, the CFSD established an ICWA Workgroup to focus on ICWA issues. CDSS staff consults with the workgroup to identify problems that exist and develop recommendations and solutions for tribes, counties and the State in order to achieve greater understanding and compliance of the ICWA.

Today, the ICWA Workgroup continues to expand its membership and now consists of over 86 tribal ICWA workers/advocates, 43 county child welfare and probation representatives, 20 CDSS staff and 25 state/university representatives and other interested parties. The ICWA Workgroup continues to meet bi-monthly. The agenda for ICWA workgroup meetings is set in accordance to issues and topics that have emerged from discussions in the workgroup or in discussions as CDSS staff consults with tribal and county representatives throughout the state.

A summary of accomplishments of the Workgroup include:

- Assisted in the development of the Scope of Work for CDSS' ICWA Specialists;
- Assisted in defining the role of the Workgroup as it relates to consulting with CDSS on ICWA-related issues;
- Assisted in the development of CDSS' basic ICWA (101) training curriculum, and advanced ICWA training curriculum;
- Made recommendations for revisions to CDSS' child welfare services regulations (California Code of Regulations, Division 31) regarding ICWA;
- Made recommendations for the development of an All County Frequently Asked Questions Information Notice regarding ICWA;
- Participated with the General Accounting Office in the recent (2004-2005) national study regarding the implementation of ICWA;
- Working with CDSS and the Judicial Council of California in the establishment and continuation of the ICWA Initiative Project through CDSS funding and interagency agreement; in January 2009 the CDSS released an ACIN informing counties, tribes and other interested parties regarding the resources available via the ICWA Initiative Project; see [http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2009/I-06\\_09.pdf](http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2009/I-06_09.pdf);
- Assisted with the development of new CDSS form (SOC 820) to improve the ICWA noticing process; subsequently the Judicial Council of California - ICWA Initiative Project, revised all

forms pursuant to Senate Bill (SB) 678 (Ducheny) Chapter 838, Statutes of 2006. These forms are now the JV 010(A); 020(A) and 030. Other forms and information such as “Why Is Notice Under The Indian Child Welfare Act (ICWA) So Hard To Get Right?” on page <http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/ICWANoticingIssues.pdf> and “Indian Child Welfare Act Inquiry Interview” form, etc. on <http://www.courtinfo.ca.gov/programs/cfcc/programs/description/jrta-ICWA-JobAids.htm>;

- Provided input regarding the development and release of an All County Letter regarding SB 678, see: <http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl08/08-02.pdf>;
- Establishing a sub-workgroup to consider the issue of Permanency for Indian Children and Youth including discussion regarding Customary Adoption; and the release of an All County Letter regarding Adoptions Policy and ICWA, see <http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2009/09-28.pdf>;
- Establishing a sub-workgroup to consider the issue of Tribally Approved Foster Homes. Guidelines were released in the early Fall 2008 regarding this issue via an All County Information Notice, see [http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin08/l-86\\_08.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin08/l-86_08.pdf);
- Establishing an ICWA Training Committee, made up to tribal and county representatives including the State Training and Education Committee of the California Social Work Education Center, to review and update ICWA training curriculums for county workers and to help develop a curriculum for Tribal ICWA Workers.

### **State ICWA Positions**

CDSS sought and received approval to establish an ICWA Specialist position in Fiscal Year (FY) 2001-2002. In FY 2006-2007, the CDSS received approval to establish and fill a half-time analyst position for the purpose of assisting the ICWA Specialist. CDSS also supports the ICWA work through the oversight of Indian Child Welfare issues by the management of the Office of Child Abuse Prevention.

The ICWA Specialist is viewed as CDSS’ main point of contact for addressing ICWA concerns and a primary resource for county child welfare and probation agencies, Indian tribes and tribal organizations. Feedback from numerous tribes and tribal representatives indicates that the assistance provided by the ICWA Specialist has made a difference for Indian children and their families.

### **Tribal/State Agreements**

The CDSS is continuing to facilitate the consideration of tribal/state, which will allow for the pass-through of Title IV-E funds to tribes. These funds will provide tribes with foster care funding for Indian children.

On March 14, 2007, the CDSS and the Karuk Tribe of California signed the first ever Tribal/State agreement in California. State staff is continuing to provide training and technical assistance to staff of the Karuk Tribe to prepare them for the implementation of the agreement. CDSS and the Karuk Tribe secured technical assistance through Region IX and the National Resource Center for Organizational Improvement (NRCOI) to provide assistance to the Karuk Tribe in the development of the tribe’s Child Welfare Services Plan. The tribe’s CWS Plan has been finalized, approved by

**California Department of Social Services**  
**Tribal Consultation Policy**

**Tribal Consultation Policy - Provisions and Organization**

Sections:

1. Purpose
2. Scope
3. Philosophy
4. Definitions
5. Establishment of Tribal/State Workgroups and/or Taskforces
6. Tribal Liaison
7. Areas of Consultation
8. CDSS Budget Formulation
9. Process and Procedure
10. Parties to Consultation
11. Conflict Resolution
12. Performance, Transparency, Evaluation, Recording and Reporting
13. Amendments

**Background**

In addition to the input and support provided by the Statewide ICWA Workgroup, a Tribal Consultation Policy Committee (TCPC) consisting of Tribal Council members and designees as well as representatives from urban Indian communities/consortiums was formed in 2014 to guide the development of a Tribal Consultation Policy (TCP). The work of the TCP resulted in development of a draft policy for the California Department of Social Services' (CDSS) Child and Family Services Division (CFSD) that broadly accommodated consultation with both Federally recognized tribes and other stakeholders. In late 2015, work to finalize the document was stalled by issues relating to the focus and scope of the policy.

**Policy Re-direction**

In response to focus and scope issues, Director Lightbourne provided the following direction requiring modification of the draft:

1. The Tribal Consultation Policy will be developed as a single policy that is applicable to *all* of CDSS as a department, rather than to a particular division.

2. The Tribal Consultation Policy should address government-to-government consultation between CDSS and Federally recognized tribes *only*.
3. A Tribal Consultation Policy prescribing consultation with Federally Recognized Tribes does not preclude continuation of the Statewide ICWA Workgroup or other stakeholder engagement mechanisms. However, these efforts do not constitute Tribal Consultation which must occur as a discrete process.

### **Current Status**

- The draft Tribal Consultation Policy has been revised consistent with the following drafting approach:
  - CDSS is subject to a number of statutory Tribal consultation requirements which the TCPC believes warrants the approach taken. To honor the work of the TCPC, to the fullest extent practical, the approach and format developed through the work of the committee has remained.
  - Given the expanded scope of the policy to incorporate all division of the department, increased emphasis has been placed on the mechanics of tribal engagement with state processes.
  - The document has been drafted consistent with that of the department's parent agency, the California Health and Human Services Agency (CHHS).
- The CDSS TCP will not be finalized until after CDSS's parent agency, the CHHS finalizes its policy.
- The CHHS policy expressly requires a Tribal Liaison and advises that the Tribal Liaison be at the executive level *or a designated representative of the executive team*. Director Lightbourne has agreed to serve as the Tribal Liaison, with the support of a designated staff liaison appointed from among branch management staff.
- Kelly Winston is taking the staff lead on the TCP and will work with department executives to develop an implementation plan for finalizing the TCP, including distribution to the TCPC and CDSS Divisions for review and comment.

- While formal consultation is focused on Federally recognized tribes, the Department has stakeholder engagement mandates and practices that warrant effort to clarify and institutionalize the work of the Statewide ICWA Workgroup as a highly valued advisory body for CDSS policy development and program operations. Some provisions of earlier drafts of the TCP will be incorporated into an operating document for the ICWA Workgroup.

### **Statewide ICWA Workgroup Organization Document**

As specified in the 2015 ASPR:

The purpose of the State ICWA Workgroup is to identify problems that exist and develop recommendations and solutions for tribes, counties and the state in order to achieve greater understanding and compliance with the law and spirit of ICWA.

In light of the shift in the TCP and staffing changes, the Department proposes to develop a statement of Workgroup operations. The CWS-NS Tribal Consultant developed a Draft *ICWA Workgroup Operational Statement* that initially identifies existing functions and operations and sets them out in a writing which will serve as a working document for a Workgroup committee to develop recommendations for any modifications, as well as recommendations for a process to solicit input and finalize the document.

**California State Department of Social Services (CDSS)**  
**ICWA WORKGROUP**  
**January 12, 2016 • 1:00pm to 3:30pm**  
*(Hosted by CDSS)*

**Meeting Notes**

<b>SUMMARY OF ACTION ITEMS</b>
<ol style="list-style-type: none"><li>1. Sara Rogers and Kendra Elmendorf will follow up on Tribal child welfare agencies access to CWS/CMS.</li><li>2. Sara Rogers is soliciting for tribal engagement in the Continuum of Care Reform with a 6 month time frame for STRTC regulations and feedback/input on impact of tribal communities</li><li>3. Kendra will send the workgroup a working draft of the RFA directive.</li><li>4. Celeste Hinojos is soliciting subcommittee members for Tribal Customary Adoptions regulations.</li><li>5. The tribal representatives are requesting a CDSS office of Tribal Affairs, ICWA point person, and point of contact list for various program areas within CDSS.</li><li>6. Tribal representatives are interested in a PowerPoint/webinar/call for the release for the Tribal Consultation Policy.</li><li>7. Jennifer Buchholz will follow up on a write up for the Humboldt Cultural training for the workgroup to view.</li><li>8. Add Federal Grants for ICWA programs as a standing item to the Workgroup Agenda.</li><li>9. Workgroup members requested mediation by CDSS between counties and tribes for negotiating MOU's.</li></ol>



**Welcome/Introductions**

**Review Agenda and Minutes:** Nancy Curry chaired this meeting. Participants and callers introduced themselves to the group. Participants reviewed the minutes.

**Amendments to November Minutes:** None.

Other tribal news/amendments to agenda: Added a 5-minute presentation on the new ICWA curriculum.

**CDSS Statewide Assessment:** Dave McDowell reported on this. The CDSS is beginning the statewide assessment review on the federal outcome measures that ACF put out last year. This is the Child and Family Services Review (CFSR). The information from the assessment, case review, and quantitative data will be compiled into a federal report that forms the basis of the Program Improvement Plan (PIP). Next January negotiation for the Program Improvement Plan for CFSD with ACF will begin. The review contains specific questions related ICWA compliance. The case review involves record review and engaging



with the participants within the case (family, tribal reps, social workers, etc). Additionally tribal representatives are encouraged to participate in the whole statewide assessment through focus groups and other activities.

## **CDSS Updates**

***Division 31 Regulations:*** Kelly Winston and Melinda Iremonger gave this report. The Regulations were submitted for public comment last summer and CDSS has been diligently working to incorporate suggestions and respond to comments.. Many comments suggesting incorporation of the BIA guidelines were included to the extent that they were aligned with state law and would not trigger a requirement for new public comment period which would further delay implementation. The revisions are currently routing through internal CDSS processes and will require a 15-day re-notice. Further comments may be made to the new changes during that time. If there are no additional changes necessary, the regulations go through internal approval again and then to the Office of Administrative Law (OAL). The OAL reviews the text to be sure that the text is legally valid and has final approval. Once OAL approves, the regulations are considered final and will be updated on the CDSS website. While this is a significant benchmark in improvement to the regulations, additional changes are anticipated when the BIA finalizes the regulations proposed last year.

***SB 1460 – Criminal Background Checks:*** Vevila Hussey and Jennifer Buchholz gave this report, focusing on Tribal agencies access to criminal background checks. The DOJ is obtaining information for the CDSS to inform the pending ACL that will provide guidance for the implementation – also waiting for internal program input. Vevila is providing technical assistance and she is the point of contact for this.

***Continuum of Care Reform:*** Sarah Base gave this report. This new addition to child welfare reform and the CDSS is focusing on congregate care, creating accountability, changing licensing standards, and an opportunity to change CA child welfare service provision. Short Term Residential Treatment centers and Core standards and services – what are those services and what does it look like? Including cultural measures for these deliverables are provided. Currently working on the program statement for group home and FFA's and their intent/aims – want this to be utilized as an oversight/accountability document that has a quality improvement process – will be a condition of licensure. January 20<sup>th</sup> stakeholder workgroup (initial one),

***Resource Family Approval (RFA):*** Kendra Elmendorf gave this report. The most recent focus for the RFA is on the written directives/statute for ICWA compliance and sensitivity to Native American children and families as it relates to RFA.

***Transitional Age Youth ACL update:*** Susan Zimny gave this report. At the November workgroup this program requested a subcommittee, unfortunately did not receive any volunteers. Due to time constraints the letter is moving forward and going through the internal CDSS County Letter Process and should be going out by the end of Jan.

***Tribal Customary Adoption:*** Regulation update – Celeste Hinojos – Solicited for subcommittee participants.

**Tribal Title IV-E Agreements:** Kelly Winston announced changes in the oversight of the Tribal IV-E agreements. Work to implement the agreements will be coordinated by the FCARB Bureau. Rebecca Aguirre and Stan Cagle will be coordinating the IV-E agreements currently held by the Karuk and Yurok tribes. The CDSS is working to try to develop a standardized process for entering into IV-E Agreements that is more streamlined than what tribes have experienced thus far. The Department is also attempting to change the way that CDSS organizes workload related to activities concerning tribes. This movement is part of an effort to better ensure that knowledge of ICWA and tribal interests are better understood throughout the CFS Division and, in coordination with tribes, incorporated into new policy development and program planning.

**Federal Grants for Tribal-State ICWA Programs:** Erin Thuston gave this report. One Federal Grant will be released in June – There is an established subcommittee

- Let Erin know if you know of any other Federal Grants.

**Tribal Consultation Policy:** Jennifer Buchholz provided this report. Currently with the Chief Deputy Director for review. The policy will have a coordinated release date with Agency. It will be a department wide policy and needs to be vetted through the other departments Deputy Directors before release. .

- **ICWA WG Operational Status:** Mary R updated the group. She has begun writing a statement for the workgroup and finding the history of the WG establishment. It is not ready to be released in draft form yet and needs more information.

**Proposed BIA Regulations & ICWA Lawsuits:** Delia Parr reported out on this. Regulations should come out early march or end of April; already identifying changes. The DOJ was successful in dismissing Virginia litigation and addressed future legislation through this dismissal..

**CWS Project update:** Mary Risling gave this update. The new system has shifted and has now changed to an agile process – it breaks the RFP into smaller sections that allows for the modules to build on one another to then replace the CWS/CMS system. Allows for flexibility in building and vendors. Two RFP's are already out for the technical application interface for the intake process

### **County/Tribe Updates**

**CQI** – Sylvia Deporto -looking for a representative for the advisory committee.

**CWDA** – could county directors attend WG meeting instead of tribal representation at the CWDA meeting?

**Humboldt Cultural Training** – Michelle & Stephanie & Jennifer – It was training as part of the CAPP program, focusing on the historical trauma and extrapolated to make it specific to Humboldt County. It was a tremendous experience/training and there could be elements used statewide but it was specific to the area. Not only specific for the practice model, but a cultural cathartic experiential training.

## **Next ICWA Workgroup Meeting Discussion**

### ***Statewide ICWA conference Pala 2016***

Tentative dates for the conference are: June 6, 7, and 8<sup>th</sup> 2016. Currently tribal representatives are putting together an ICWA conference committee. Will be doing workgroup information sessions – taking requests and presenters

BIA ICWA notice changes as a requested information session presented by Michelle Deason.

### **Added Agenda Item**

**CORE 3.0:** Tom Lidot gave this presentation. A pre and posttest has been added to the curriculum. The curriculum has been sent to CalSWEC for review – state processes – will roll out in June 2017 – LA may be piloting in June 2016

**Next meeting** – Potentially hosted in Northern since southern is hosting conference -

### **Adjournment**

This meeting adjourned at 3:58 pm .

## TRIBAL/ICWA LISTS

### STATE OF CALIFORNIA

**Governor's Tribal Advisor/Native American Heritage Commission** (CHHS draft Tribal Consultation Policy directs use of this list for Tribal Consultation.)

1. *2015 California Tribal Government's Directory*, includes
  1. Federally Recognized Calif Tribes
  2. Non-Federally Recognized Tribes (55 groups listed)
2. *CA Tribes Online* (109 Tribes)

Corresponds to federally recognized portion of published directory, provides an online form to provide updated info. Unclear how frequently it is updated.

<https://docs.google.com/spreadsheets/d/1MFardFCehETfxFEA5WGDXYklvQVAFxmGQRoYqh7CK4Y/pub?output=html>
3. California Tribal Consultation List (presumably corresponds to directory list, including nonfederally recognized tribes, but it is not on line.)

"For purposes of consultation with tribes, as required by Government Code Sections 65352.3 and 65562.5, the Native American Heritage Commission (NAHC) maintains a list of California Native American Tribes with whom local governments must consult. The NAHC's "California Tribal Consultation List" provides the name, address, and contact name for of each of these tribes; and telephone, fax and email information if available. The tribal contact list is developed and maintained by the NAHC, under authority granted in Government Code Sections 65092, 65352 and 65352.3. Prior to initiating consultation with a Tribe, the city/county must contact the NAHC for a list of Tribes to consult with.

Request Form specifies: "Native American Tribal Consultation lists are only applicable for consulting with California Native American tribes per Government Code Section 65352.3."

### **CDSS**

4. CDSS Website: *California Department of Social Services (CDSS), FEDERALLY-RECOGNIZED TRIBES, ICWA CONTACTS FOR SERVICE OF NOTICE*
  - i. "If corrections are needed, please contact CDSS at ICWA@dss.ca.gov. Please be aware that this CDSS Tribal Government Listing is NOT to be used in lieu of the official federal Bureau of Indian Affairs' (BIA) List of Designated Tribal Agents for Service of Notice of court proceedings under the Indian Child Welfare Act (Federal Register/Notices), but rather it should be used in conjunction with the BIA's list in order to comply with federal regulations while seeking to ensure the most current address is used."
  - ii. TRIBAL AFFILIATION and TRIBAL GOVERNMENT are listed.

iii. Appears in CDSS search as “Tribal Affiliation”

<http://www.childsworld.ca.gov/serp.html?q=California+Tribes&cx=001779225245372747843%3Aajwxgn2wzmmw&cof=FORID%3A10&ie=UTF-8>

## II. CWS/CMS

### 5. Tribal Affiliation list

Generally appears to correspond to the BIA list of historic tribal affiliations (but is undefined and CMS staff indicates it cannot be said it contains the same groups)

### 6. Tribal Organization list

Generally appears to correspond to the BIA list of federally recognized tribes (but is undefined and CMS staff indicates it cannot be said it contains the same groups)

## BUREAU OF INDIAN AFFAIRS

### 7. Federal Register Publication *DEPARTMENT OF THE INTERIOR, Bureau of Indian Affairs, Indian Child Welfare Act; Designated Tribal Agents for Service of Notice*

Annual list of designated Tribal agents for service of notice (that takes months to process). <http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm>. BIA Pacific Regions confirms the annual list includes ALL federally recognized tribes. If no agent is designated, the BIA lists the Tribal Chairperson. If a tribe does not update information with the BIA, prior information is carried forward.

### 8. Indian Child Welfare Act; Designated Tribal Agents for Service of Notice - Listing of Tribes by Historical Affiliation <http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm>.

### 9. Federal Register Notice of *Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*

1. The official listing of all federally recognized tribes in the U.S. pursuant to Section 104 under the Federally Recognized Indian Tribe List Act of 1994 (Pub. L. 103-454, 108 Stat. 4791-4792). The most recent Notice was published in the Federal Register, 80 Fed. Reg. No. 9 (January 14, 2015).

### 10. *BUREAU OF INDIAN AFFAIRS TRIBAL LEADERS DIRECTORY*

The Directory is not an official listing of the federally recognized tribes; however, it should be used in conjunction with the federal register notice. It is posted on the Bureau of Indian Affairs website at the following Internet address:

<http://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/index.htm>

## III. Needed lists/contact protocols

1. Address of record for ICWA Notice = BIA List of Designated Agents (#7)
2. More current address list for service of notice. (Stated intent of #4 and addresses in #6.)
3. Tribal contacts for Tribal Consultation. (#2 – if follow direction of CHHS.)
4. List of unrecognized Tribes? (Use of #2 problematic, but WIC 306.6 groups?)
5. List of Tribal Providers/officials to contact relative to emergency response and/or placement and services inquiries. (Distinct from community based service providers.)



REGISTER (HTTP://WWW.TYLERTECH.COM/TYLER-REGISTRATION?  
 RETURNURL=HTTP%3A%2F%2FWWW.TYLERTECH.COM%2FSOLUTIONS-  
 PRODUCTS%2FODYSSEY-PRODUCT-SUITE%2FCASE-MANAGER)  
 LOGIN (HTTP://WWW.TYLERTECH.COM/TYLER-LOGON?  
 RETURNURL=%2FSOLUTIONS-PRODUCTS%2FODYSSEY-PRODUCT-  
 SUITE%2FCASE-MANAGER)



(<http://www.tylertech.com/>)

Solutions & Products (<http://www.tylertech.com/solutions-products>) / Products (<http://www.tylertech.com/solutions-products/products>) / Odyssey Product Suite (<http://www.tylertech.com/solutions-products/odyssey-product-suite>) / Case Manager (<http://www.tylertech.com/solutions-products/odyssey-product-suite/case-manager>)

## Odyssey Case Manager — the Leader in Court Software

*Organize and protect mission-critical data for improved interoperability.*

Secure and manage your highly sensitive data about court cases and the people involved in them with Tyler's Odyssey Case Manager. As the heart of the Odyssey software suite, Case Manager is highly configurable and adaptable to evolving with local and legislative requirements. Whether functioning as a single case-type system — or as the hub of a unified and highly [integrated courts and justice](/solutions-products/odyssey-product-suite/odyssey-integrated-justice) software solution — you control who has access to information on your system. That means you have the flexibility you need to not only secure your data — but to also improve workflow and maximize efficiency.

Tyler's case management software is:

- **Straightforward:** Intuitively navigate the system quickly and easily.
- **Efficient:** Eliminate duplicate data entry.
- **Flexible:** Customize to fit your court's specific needs.
- **Seamless:** Integrate document management and workflow.
- **Secure:** Protect sensitive data.

### Track All Aspects of Your Court

No matter the size or scope of your court's requirements — from the most basic functions to the most advanced case management abilities — Tyler's Odyssey Case Manager has the scalability and flexibility to meet your needs.

Tyler's case management software combines advanced functionality with ease-of-use. You can manage complete case histories, process documents and handle cash/bond transactions, all the while benefitting from comprehensive security and auditing functions. Simply stated, Odyssey Case Manager can track all aspects of court management.

With Tyler Case Manager, you can:

### RELATED

- [Odyssey Product Suite \(/solutions-Applications & Product Information \(/solutions-Attorney Manager \(/solutions-Case Manager](/solutions-Applications & Product Information)
- [Check Manager \(/solutions-Content Management \(/solutions-ePayment Manager \(/solutions-File & Serve \(/solutions-Financial Manager \(/solutions-Guide & File \(/solutions-Index \(/solutions-products/odyssey-Jail Manager \(/solutions-Jury \(/solutions-products/odyssey-Jury Management \(/solutions-Law Enforcement \(/solutions-Public Access \(/solutions-SessionWorks \(/solutions-Supervision \(/solutions-](/solutions-Content Management)

### CLIENT SERVICES

- [Client Services Overview \(/the-tyler-Consulting \(/the-tyler-experience/client-Disaster Recovery \(/the-tyler-Implementation \(/the-tyler-Support \(/the-tyler-experience/client-Training \(/the-tyler-experience/client-](/the-tyler-Consulting)

### GET MORE INFORMATION

- Manage all aspects of court administration.
- Locate case information and attach multiple file types.
- Create and view dockets in various ways.
- Generate forms, letters and a variety of reports with advanced tools.
- Calculate fees, fines and distribute payments automatically.
- Search data fast using many different criteria.

## ODYSSEY SUPPORT SERVICES



Download the  
Odyssey Support  
Services brochure  
»

[\(/productsheets/odyssey/OdysseySupp](/productsheets/odyssey/OdysseySupp)

## WHAT CLIENTS SAY

### Fort Bend County, Texas

Fort Bend eliminated 22 systems and saved \$100,000 annually by sharing a system between multiple courts and offices »  
[\(/SuccessStories/Courts-Justice/Fort-Bend-County.pdf\)](/SuccessStories/Courts-Justice/Fort-Bend-County.pdf)

### Miami-Dade County, Florida

*Miami-Dade County decreases dependence on paper and saves hundreds of hours a week »* [\(/SuccessStories/Courts-Justice/Miami-Dade.pdf\)](/SuccessStories/Courts-Justice/Miami-Dade.pdf)

## Odyssey Client Experiences

Discover our clients success with Odyssey by learning more about a variety of statewide and county implementations »  
[\(/successstories/courts-justice/Odyssey-Client-Experiences.pdf\)](/successstories/courts-justice/Odyssey-Client-Experiences.pdf)

## GET MORE INFORMATION

Download the Odyssey Case Manager  
brochure » [\(/productsheets/odyssey/OdysseyCaseManager.pdf\)](/productsheets/odyssey/OdysseyCaseManager.pdf)



## CONTACT US TO LEARN MORE

Online Contact Form » [\(/solutions-products/odyssey-product-suite/contact-us\)](/solutions-products/odyssey-product-suite/contact-us)  
[cjsales@tylertech.com](mailto:cjsales@tylertech.com) (<mailto:cjsales@tylertech.com>)  
800.431.5776

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Unified Case  
Management

PAGE 4

Innovative New  
Capabilities

PAGE 7

# Odyssey<sup>®</sup> Case Manager

Streamline business processes with  
integrated document management  
and automated workflow

Electronic  
Filing

PAGE 8

Robust  
Reports

for real-time  
decision-making

PAGE 14





Tyler's Odyssey<sup>®</sup> product suite is a comprehensive, end-to-end court case management solution that will empower you to ...

- Track cases from e-filing to e-disposition
- Seamlessly integrate document management
- Automate workflow processes
- Securely manage highly sensitive data about court cases
- Eliminate paper and improve productivity

# Let Our Experience Lead to Your Success

Tyler Technologies' Odyssey product suite has become the most powerful case management software in the market today. Tyler continues to deliver robust, unified case management software that meets the needs of both individual counties and statewide court systems. Odyssey Case Manager provides a comprehensive view of party and case records that result in greater efficiencies and better decisions. For more than a decade, Odyssey has provided comprehensive courts and justice solutions used in more than 600 counties in 21 states, including 11 statewide implementations — serving more than 100 million citizens. Odyssey sets the standard by delivering software that evolves with you and stands the test of time.



# The Backbone of Case Management Software — Shared Data and Integrated Workflow

Shared data is the essence of Odyssey’s power, fueling core applications with unified case management, integrated document management and improved workflow processes. Odyssey Case Manager is the heart of the Odyssey solution that meets the needs of small and large organizations. Every document and piece of data — party information, events, warrants, fees and charges — is organized, managed and protected by Case Manager. You can easily track cases from filing through disposition via Odyssey’s powerful and robust case management capabilities. And you have total control of who has access to which information on your system, all from one unified, secure source.

Document management is critical to your organization and serves as a vital component of Case Manager. Document management is integrated seamlessly with case data, resulting in a more streamlined process that consolidates all important information into one centralized location. Odyssey document management enables distributed document storage for remote offices while images are routinely uploaded to central servers for backup. Utilizing Optical Character Recognition technology to make the image of a scanned document text searchable allows users to search for specific words or phrases that will increase efficiency and move offices toward a paper-on-demand business. Microsoft’s Windows Workflow Foundation is embedded within Odyssey to support customizable business processes that push documents and tasks to the system or to users at the “right time”.



*Odyssey’s integrated structure enables information sharing across all justice partners — courts, attorneys, the public and justice agencies.*

## Unified Case Management Leads to Better Decision-Making and Greater Efficiencies

Whether functioning as a single case-type system or as the hub of a unified case management system, Odyssey Case Manager provides a comprehensive view of party and case records that result in greater efficiencies and better decision-making. As a “party-based” system, Odyssey tracks and manages both party records and case records, and allows a party record to be associated with multiple cases. This means Odyssey provides a birds-eye view that shows demographic data and a “Cases” tab enables users to easily view all the cases associated with the person of interest. These robust capabilities provide users with a single, unified source to see all case data that results in better decision-making, streamlined workflow processes and improved efficiencies.

### **Case Manager efficiently manages and tracks all aspects of court operations, including:**

- Locating critical case information and attaching multiple file types
- Creating and viewing dockets in various ways
- Generating forms, letters and a variety of reports with advanced tools
- Calculating fees and fines, and distributing payments automatically
- Searching data quickly using many different criteria

“We don’t believe in having multiple systems to perform different functions. We believe in having one system that’s fully integrated that does the work of the court.”

— Tom James, Chief Information Officer of the Clerk of Courts for Miami-Dade County

# Key Capabilities

Odyssey helps both the clerk's office and the court become more efficient. Here are a few examples of how they benefit from Odyssey's robust capabilities.



The **clerk** benefits from the following capabilities:

- Track cases from filing through disposition via configurable time standards that enable you to adhere to statutory and local rules
- Create configurable financial assessments; for example, assessing at case initiation or at sentencing, and utilize integrated cashiering for a variety of financial transactions
- Generate appeal records from imaged documents, including a configurable index



The **court** benefits from the following capabilities:

- Utilize integrated calendaring and scheduling, including configurable hearing notices and printed calendars, using Microsoft® Word
- View court sessions through the Web-based Odyssey Portal, anytime and anywhere
- View essential case information right from the bench via an easy-to-use touch screen, resulting in more streamlined processes and a paperless courtroom



Both the **court** and the **clerk** benefit from the following capabilities:



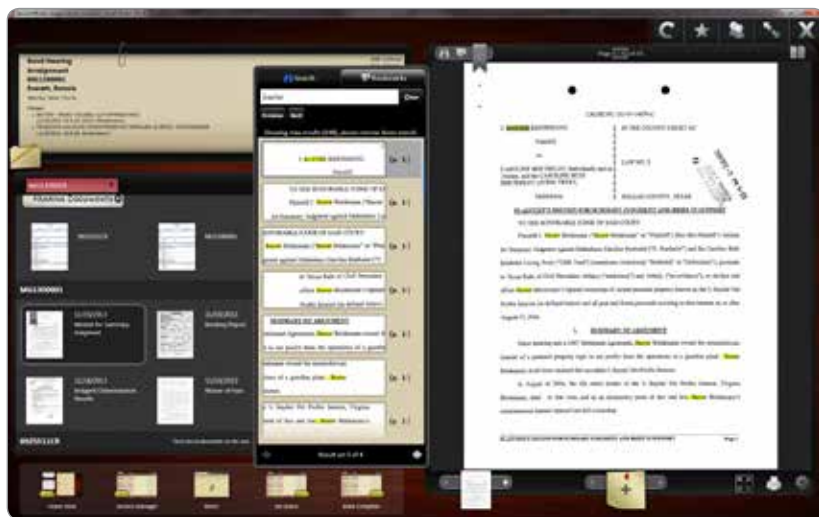
- Automatically create court-generated documents via a powerful forms engine using Microsoft Word
- Track status for bonds, warrants and protective orders on cases via intuitive icons
- Enable distributed document storage for remote offices and easily capture every piece of information associated with a case, including pictures and video with Odyssey's integrated document management
- Provide the public and justice partners access to court documents via a secure Web portal that supports any device, including iPhone® devices, Android™ devices, tablets and PCs/Macs
- Leverage full support of searchable PDFs
- Gain integrated signature capability
- Utilize a flexible workflow customized to the business processes of the court and the functions of the user

# Innovative Solutions Drive Efficiencies

## *Odyssey's constantly evolving capabilities move you toward an end-to-end electronic transaction — from initiation to disposition*

Tyler's team of experts designed the Odyssey product suite so that it easily integrates the latest technology and is flexible enough to adjust to all types of courts and justice environments. Our seasoned experts have more than 30 years of court experience — they know courts inside and out. We use this knowledge, combined with input from thousands of courts nationwide to continually improve Odyssey. The result is innovative capabilities that eliminate paper, save time, decrease costs, increase information accessibility and streamline workflow processes.

## Creating an electronic courtroom for judges and for clerks with Odyssey SessionWorks



**Odyssey SessionWorks Judge Edition** is a revolutionary, easy-to-use touch screen that allows judges to quickly access essential case information right from the bench. With Judge Edition, judges can work with multiple defendants or cases simultaneously and search text inside of court documents to easily find what they need.

If you're still burdened by mounds of files and paper, we've made it easy to become electronic.

**Odyssey SessionWorks Clerk Edition** is designed to work hand-in-hand with SessionWorks Judge Edition. Both applications are completely integrated with Odyssey Case Manager.

Designed specifically for the high-volume courtroom, SessionWorks Clerk Edition enables you to rapidly access and enter data right in the courtroom — replacing hand-written forms and dramatically increasing efficiency. Data entry via SessionWorks Clerk Edition is not a wasted effort. Once forms are auto-filled and printed in the courtroom, information is uploaded back to Odyssey Case Manager, eliminating the need to re-enter data after the court session has concluded.

In the latest version of SessionWorks Clerk Edition, a new data entry mode called Minute Orders allows clerks to record the outcome of the hearing and build court orders simultaneously. The Minute Order module allows the clerk to drag and drop the data entry to reorder it, which updates the Minute Order document in return. This module saves time, reduces errors and increases efficiencies.

### Minute Order module



# Odyssey File & Serve (OFS)

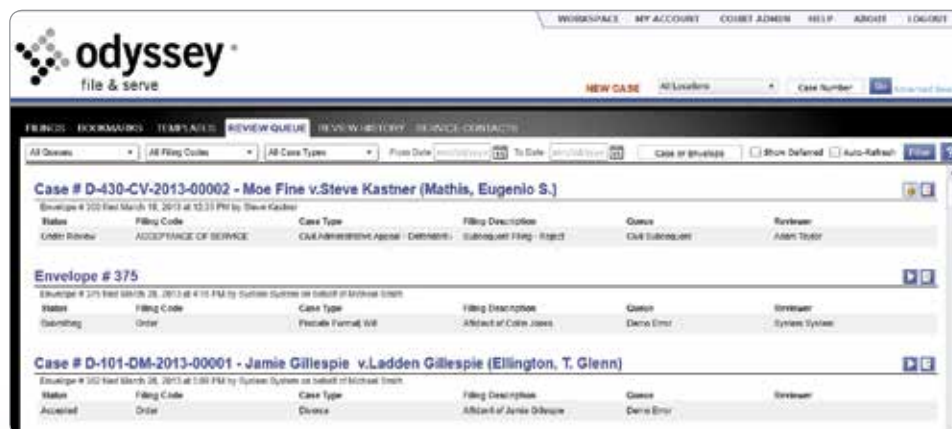
## *Eliminates paper and streamlines the e-filing process*

Accessed securely via the Web, Odyssey File & Serve enables registered users from the legal community to easily file documents online. This highly automated system streamlines the e-filing process, allowing users to automatically submit documents to the court in real time, with only a few mouse clicks. Odyssey File & Serve is a tipping point to eliminating paper, creating efficiencies for courts and attorneys, removing unexpected delays and reducing costs.

Odyssey File & Serve can seamlessly integrate with Odyssey Case Manager, enabling any document submitted to be automatically populated into Odyssey once accepted by the court, cutting out the need for manual data entry. Once a filing submission is accepted in the Review Tool, it can seamlessly populate the appropriate data in the case management system and/or document management system, and can also create the appropriate docket entry with the related file stamped document image.

### Major components of OFS include:

- **Odyssey File & Serve Filer Interface** – Provides end users with the ability to submit filing data and any associated documents directly to the court via the Web. Filers may also elect to electronically serve other parties on the case.
- **Odyssey File & Serve Review Tool** – Allows court staff to receive and review electronically filed submissions. The Review Tool provides the reviewer with the ability to stamp, annotate, accept, reject and communicate reason for return or rejection back to the filer.
- **Fee Collection** – OFS utilizes a fully integrated payment processing service that enables users to pay via credit cards, debit cards and checks for any court processing and fees assessed.



Odyssey File & Serve has been implemented statewide in North Dakota, New Mexico and Minnesota, and in various courts in Pennsylvania, Nevada and Michigan. Additionally, Tyler has active statewide implementation projects in Maryland, Oregon (eFileOR), South Dakota and Texas (eFileTexas). Multi-county implementations of OFS have been deployed in California, Nevada (eFileNV) and Georgia (eFileGA).

“Once we moved to Odyssey, we were able to scan documents and get them electronically visible on the case management system. Now with e-filing, everything is seamless. We’ve cut out the processing of physical paper.”

- Diem Le, former civil division administration specialist for Clark County, Nevada



# Odyssey Guide & File

## *Providing access to justice for self-represented litigants via the Internet*

Odyssey Guide & File enables courts to create Web-based interviews that apply the court's business rules. This easy-to-use solution makes courts more efficient, while simplifying the process for pro se litigants by leading them through the process of completing court forms and filing cases via the Internet. Divorces, evictions, small claims cases and more can be filed by self-represented litigants (SRLs) — without waiting in long lines or visiting the court's counter.

The Odyssey Guide & File suite of tools enables court staff to author self-guided interviews, which present a streamlined set of questions and educational information directly relevant to the SRL's situation, guiding the novice to a court filing in accordance with local rules of civil procedure. Each court can create their own interviews or the court can leverage a library of existing interviews from other jurisdictions, making it quick and easy to create Web-based interviews for constituents. Interviews can be published and accessed from your website, providing flexibility for self-represented litigants to complete anytime, from anywhere, and enabling courts to better serve the needs of this growing group of self-represented litigants.

The Odyssey Guide & File solution is part of Odyssey File & Serve, expanding the Odyssey case management and e-filing systems. Filings submitted via Guide & File seamlessly utilize Odyssey File & Serve's capabilities associated with presenting fees, establishing new cases and parties, and submitting filings for electronic processing. Case information in File & Serve can also be accessed during interviews for subsequent filings; for example, to verify the case number. Once in File & Serve, the clerk reviews the filing and case information originally collected during the interview is populated into the jurisdiction's Case Management System (CMS), which gives both the court and self-represented litigant access. This translates to a greater number of filings entering the court electronically and results in the elimination of paper, decreased erroneous filings and frees up court resources for other priorities.

ACCESS TO JUSTICE



*The Odyssey Guide & File suite of tools enables content creators in your court to draft and manage interview components — informative content, legal PDF forms and author interviews.*

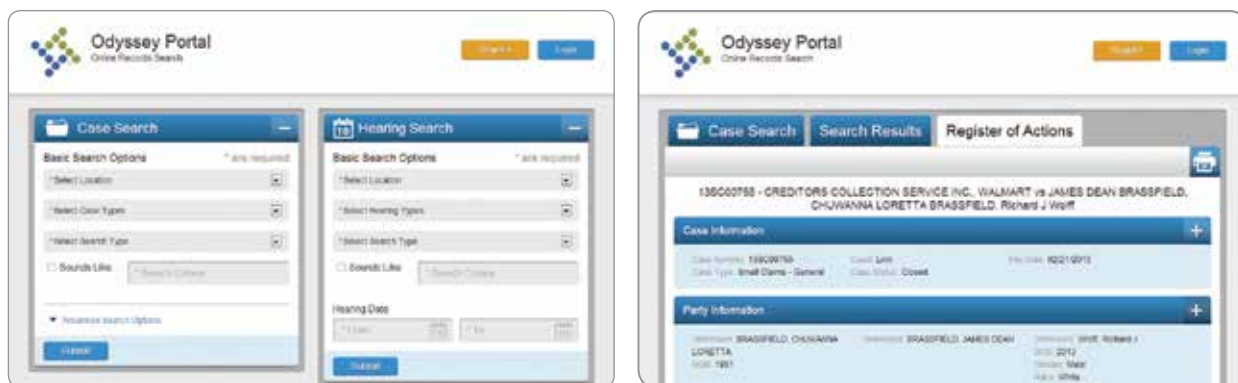


# Odyssey Portal

## *Provide the public, court staff and other agencies direct access to essential court and judicial information*

Setting the bar for citizen's ease-of-use, Odyssey Portal provides the public, as well as judges, attorneys, court staff, jailers and other agencies with access to essential case, calendar and party information via the Internet, from anywhere and at any time. You control what content the public can query and view. When authorized, users can get the information they need in seconds, without waiting in lines or unnecessary trips to the courthouse or justice agency. This could include registers of action, calendars, judgments and orders, and notices prepared by the court. Using protected accounts, registered users can access crucial court case data 24/7 from anywhere. The Odyssey Portal also provides integrated electronic payments with PCI-compliant credit card processing. By providing your community with a way to easily access public information online, you reduce time spent by your staff and encourage your citizens to empower themselves.

PUBLIC  
ACCESS



## *Access court information instantly from your mobile device*

Information accessibility is important for everyone, whether you are a judge, an attorney, a clerk, or the general public. Odyssey provides secure access to case information on all mobile devices — Apple® iPhone and iPad, Android, Windows Mobile devices and Mac/PC. And you don't need to download an extra app to run on your device because we've designed it using "responsive design" and HTML5, which should be natively supported on all modern devices. Essentially, the website will recognize the device and OS that is connected and adjust accordingly. The Odyssey Portal detects the screen size of the device that you are using, so regardless of the device's brand or operating system, the interface adjusts for optimal viewing. Adjustments can include resizing text, removing graphics to make room for vital information, and even reorganizing the layout itself. Even if the user is viewing the Odyssey Portal from a small smartphone, they will see all of the data without needing to pinch and resize the screen, and buttons and links remain large enough to accurately click using your finger.



# MyOdyssey Workspace

***A customized dashboard provides a better way to see detailed information with a single click***

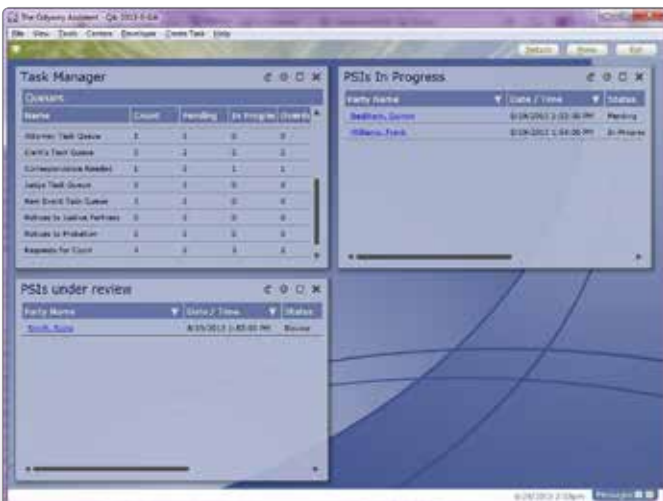
This enhanced workspace personalizes and streamlines any work being done within Odyssey. MyOdyssey Workspace allows each user to easily customize the way they view data using graphical interfaces called widgets. Users personalize the way they see information and modify it so that they only see the data that is most important to them. The user can customize how many widgets they have on their workspace and how the widgets display. Also, from a widget, you can easily navigate directly to the right place in Odyssey and take action on the data you are reviewing. MyOdyssey Workspace shows information like Work Queues, Upcoming Hearings or a Process Checklist, and appropriately presents information as a list to the user.

## Automated Workflow and Task Manager

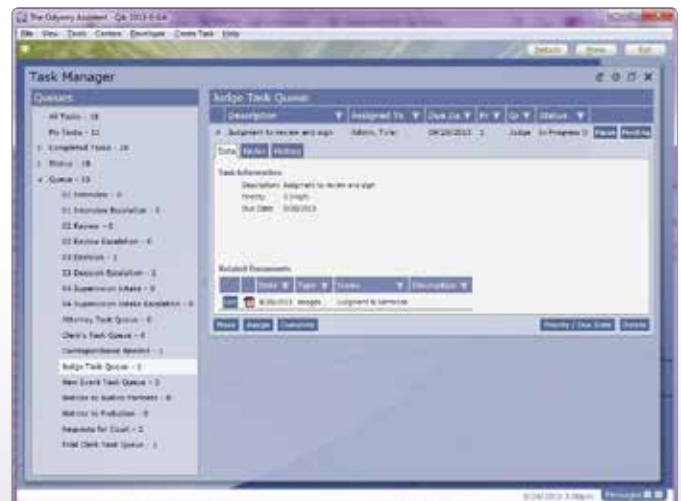
The task management functionality automates workflow via powerful features:

- Tasks can be added automatically or manually.
- Tasks can be assigned due dates.
- The Task Manager widget gives supervisors full access to tasks and queues.
- The Data tab can be customized to link to the case or a specific tab of the case in Odyssey.
- Users can share notes on a specific workflow item.
- History is tracked on an item, including the timestamp and the user who worked the item.

CUSTOMIZE  
WORKFLOW



MyOdyssey Workspace



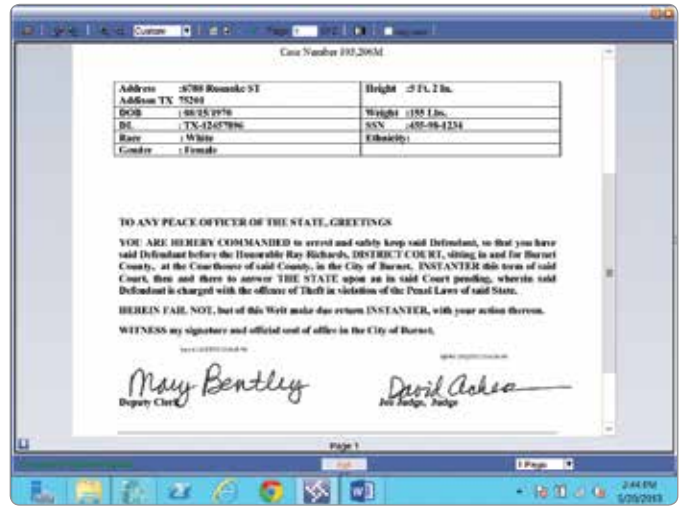
Example of a task queue for clerks

# Electronic Signatures

## *Streamline court processes by easily capturing an electronic signature on forms*

Electronic Signatures streamline office processes and empower users to effortlessly capture an electronic signature on forms that are generated from within Odyssey. Users can merge forms using Odyssey's integration with Microsoft® Word and send those forms to judges' or clerks' Odyssey queues for insertion of electronic signature(s). Once electronically signed, the documents are converted to PDF or TIFF for permanent storage, which can then be automatically docketed on the case.

When an electronic signature pad is used, non-Odyssey users can sign existing documents associated with cases. Users can specify the area in the document to be signed, resize and move the signature, accept or decline the signature, and then save the document to make the signature permanent. In addition, electronically filed PDF documents, such as proposed orders, can be annotated and electronically signed.



# Financial Manager

## *Control court financial tasks, while keeping your information secure*

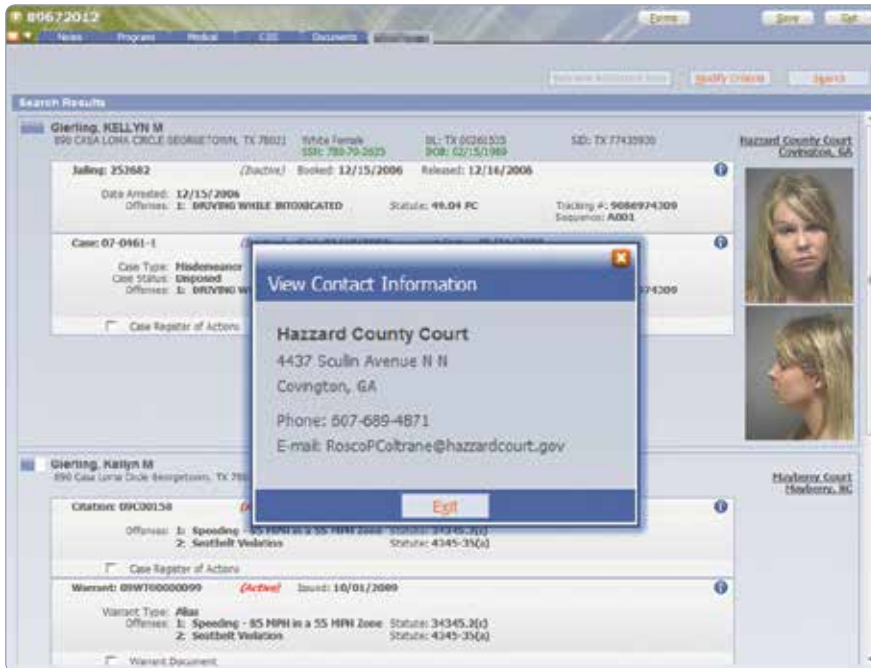
From account management to financial transactions and check processing, the Financial Manager application manages the entire transaction audit trail and will keep your information secure with fully auditable transaction listings in real time. This configurable application efficiently centralizes complex court financial transactions, streamlines financial management and eliminates redundant data entry. Users can print checks, balance checking accounts and produce a summary of financial activity that is viewable via a Chart of Accounts. Users can easily create and view robust reports on account activity, account balances, daily cash balances and more. Integrated with Odyssey Case Manager, Check Manager, Jail Manager and Supervision, Financial Manager enables multiple checking accounts to be combined or separated depending on your needs.



# Tyler dataXchange

***A game-changing application that allows Tyler clients to securely share information with each other with just a few keystrokes***

With dataXchange, you can easily access and securely share critical information at key decision points throughout the justice enterprise — across a group of jurisdictions (counties, states and municipalities), as well as across agencies — jails, county and municipal courts and law enforcement. Tyler dataXchange allows users to access a wide variety of information, including, but not limited to party and case data, citations, vehicles, jailings and incidents, warrants, cases, electronic documents, as well as property details, utility billing and appraisal values. DataXchange allows users to share this data, and increase and improve interactions with other participating agencies across city limits, county lines and state borders, as well as with other agencies in their jurisdiction that are using Tyler products. Unlike other shared data warehouses where the user must perform a separate search, with dataXchange simply click on the tab and the search is done for you. With dataXchange, Odyssey clients save time by accessing information in real time from within Odyssey, eliminating the need to access another system, make a phone call or send an email.



**DATA SHARING  
BETWEEN JURISDICTIONS**

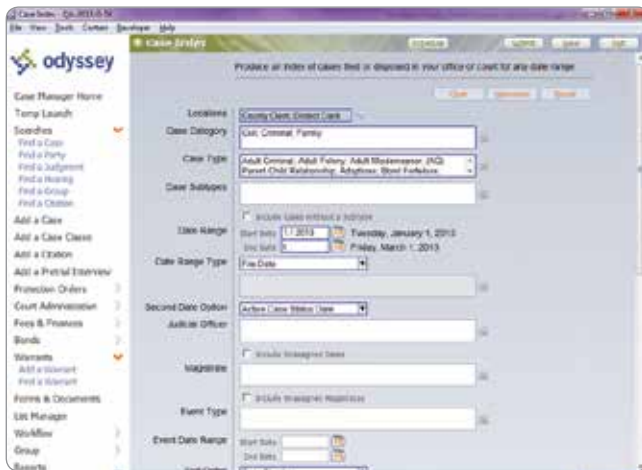
“There will be no more guessing or calling large-bordering counties like Hays County or Williamson County to figure out where the person of interest is or what is happening with the individual. DataXchange will make this process more efficient. If the participating agency has matching data on the individual of interest, the data can be accessed immediately by clicking a tab in dataXchange, which presents all the possible matches. The process takes only seconds.”

— Katherine McAnally, first assistant county attorney for Burnet County, TX

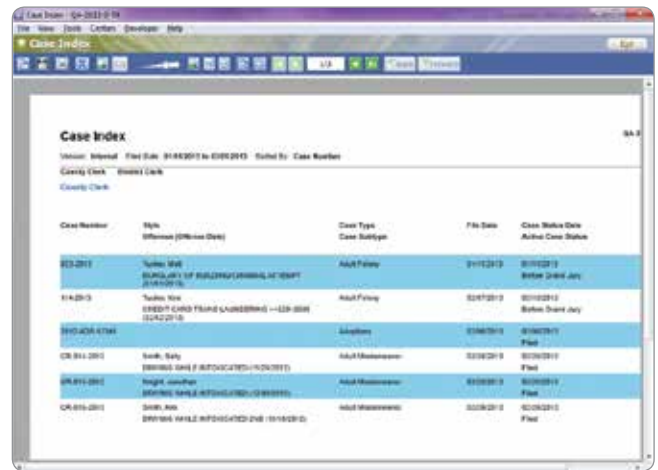
# Robust Reporting Enables Real-Time Decision Making

*Up-to-date reports enable better decisions and improved caseload management*

Configure reports and data analysis for specific needs with a simple click of your mouse.



Report parameter screen allows you to view an index of cases for any date range.



Report example

## Standard Reports

Odyssey Case Manager offers a comprehensive collection of reports to support clerk and court functions, including caseloads, statistics, event activity, time standards and more.

Reporting capabilities are an integral part of Case Manager rather than a bolted-on, third-party solution. As a result, they are extremely robust and flexible, allowing for easy modifications to report parameters, online previews, scheduled processing, and automatic emailing to one or more parties.

## Enterprise Custom Reporting (ECR)

Enterprise Custom Reporting (ECR) provides an intuitive, easy-to-use mechanism to create ad hoc, custom reports (using Microsoft® SQL Reporting Services) without the added expense or time requirements associated with an external report writer. This enables real-time decision making by enabling the creation, management and delivery of reports for printing and ad hoc data exploration. You can save and publish these reports in CSV or PDF formats for future use. Reports and hard-copy documents can also be converted to TIFF image files for long-term storage and easy access.

## Why Odyssey Case Manager

Odyssey Case Manager is an integral part of the most comprehensive courts and justice software system available in the market today, brought to you by the industry leader in public sector software solutions. The Odyssey solution's integrated structure enables information sharing across multiple applications and jurisdictions, giving you the complete picture and creating greater efficiencies for your office. We continue to deliver robust, industry-leading unified case management software that meets the needs of both individual counties and statewide court systems. That's why Odyssey is used in more than 600 counties in 21 states, including 11 statewide installations — serving more than 100 million citizens. And we enjoy a 98 percent client retention rate.

## Let Our Experience Lead to Your Success

At Tyler, we want to be your partner in success, not just another vendor. For more than 30 years, we have enjoyed collaborative relationships with our clients and aspire to continue partnering with clients for life. We have a proven track record as the market leader in courts and justice software, and providing an outstanding client experience is our top priority. Tyler's 30-year experience with courts, personal touch and corporate maturity make Odyssey a great choice.

We love what we do — creating innovative software and service solutions so our clients can make a difference to the communities they serve.



## Software that thinks like you do.

Tyler Technologies (NYSE: TYL) is a leading provider of end-to-end information management solutions and services for local governments. Tyler partners with clients to empower the public sector — cities, counties, schools and other government entities — to become more efficient, more accessible and more responsive to the needs of citizens. Tyler's client base includes more than 11,000 local government offices in all 50 states, Canada, the Caribbean, the United Kingdom and other international locations. Forbes has named Tyler one of "America's Best Small Companies" seven times and the company has been included four times on the Barron's 400 Index, a measure of the most promising companies in America. More information about Plano based Tyler Technologies can be found at [www.tylertech.com](http://www.tylertech.com).

[info@tylertech.com](mailto:info@tylertech.com) | 1.800.772.2260 | [www.tylertech.com](http://www.tylertech.com)



**Empowering people who serve the public®**





## Create a Report

1. Select Reporting (ALT+R) from the Case Manager Home page or select Reports from the navigation menu.
2. Select one of the report categories listed, depending on the information you want or need.
  - a. Case Analysis Reports:
    - 1) Case Management – Event, case exception, under advisement, citation disposition bulletin, case index, offense code listing reports
    - 2) Court Administration – Calendar and resource reports
    - 3) Workflow Reports – Queue status reports
  - b. Financial Reports:
    - 1) Cash Management – Receipt journals and till balance reports
    - 2) Financial Activity – Receivable and delinquent account reports
    - 3) Registry and Trust – Trust account journal and registry accounts with balances
  - c. Bonds:
    - 1) Bond activity and outstanding bonds
  - d. Warrants:
    - 1) Warrant activity and outstanding warrants
3. Select the specific report from the list on the right.
4. Complete the data fields based on your needs and requirements for the specific report.
5. Schedule or submit the report..

## Memorize Report Settings

To save time, you can memorize reports that you request on a regular basis. This feature allows you to easily run the same report without having to complete all of the requested data fields each time.

1. Complete the fields and options you want to save on the report page or dialog box.
2. Leave blank any fields whose value may change each time you run the report (for example, dates).
3. Click **Memorize** (ALT+M) to access the Save Current Report Settings dialog box.
4. From this dialog box, use the Name to Save field to enter a name for the setting you are saving (e.g., the dates for the report).
5. Click **Save** (ALT+S) to store the new report setting in Odyssey

## Generate Memorized Report You Created

1. Select a report category and report.
2. From the report page or dialog box, click **Recall** (ALT+R) to access the Load Report Settings dialog box.  
Note: The Recall button is located above the data fields where you specify report parameters.
3. Scroll through the list, and select the name of the report you would like to generate.
4. The report parameter page for the report displays the memorized settings.
5. Complete any blank data fields with the appropriate data for the report.
6. Click **Submit** (ALT+U) or **Schedule** (ALT+H).

## Generate Memorized Report Created by Another Individual

1. Select a report category and report.
2. From the report page or dialog box, click **Recall** (ALT+R) to access the Load Report Settings dialog box.
3. Click next to the User Name field.
4. Complete the fields on the Select Users dialog box, and click **Search**.
5. Select the name of the person who created the report. The Load Report Settings dialog box displays that user's memorized reports.
6. Scroll through the list, and select the name of the report you would like to generate.
7. The data entry page for the report shows the memorized settings.
8. Complete any blank data fields with the appropriate data for the report.
9. Click **Submit** (ALT+U) or **Schedule** (ALT+H).

## Update Memorized Report

You may want or need to change the settings on a memorized report, or memorize a report based on a similar report that you have already created.

1. Click **Recall** (ALT+R).
2. Make any needed changes.
3. Click **Memorize**.
4. Enter the report name in the Name to Save field

## Rename Memorized Report

1. Click **Recall** (ALT+R)
2. Right-click the report you want to rename, and select **Rename**.
3. Type a new name for the report.
4. Click **Save** (ALT+S).

## Delete Memorized Report

1. Click **Recall** (ALT+R).
2. Right-click a report, and select **Delete**.

## Submit Report

1. Generate a new report or recall an existing report.
2. Complete the data fields based on your needs and requirements for the specific report.
3. Click **Submit** from the parameters page.
4. Complete the Add E-mail Notification Recipients dialog box by entering the e-mail addresses of recipients in the To, Cc, or Bcc fields.
5. Select the Attach Any Files Generated by Job check box to have the final report added as an attachment to the e-mail that is sent. Leave the check box blank to have the report sent to a print queue where you can retrieve it later. You are notified by e-mail when the report finishes.
6. Click **Finish** (ALT+F)

## Schedule Report to Run One Time

You can schedule reports to run once at a specific time.

1. Create a report or recall an existing report.
2. Complete the fields based on your needs and requirements for the specific report.
3. Click **Schedule** (ALT+H) at the top of the page.
4. Complete the Add Job Schedule Entry dialog box as follows:
  - a. Enter the Start Date.
  - b. Enter a Start Time.
  - c. Enter any comments about the report.
  - d. Click **Save** (ALT+S).
5. Complete the Add E-mail Notification Recipients dialog box by entering the e-mail addresses of recipients in the To, Cc, or Bcc fields.
6. Select the Attach Any Files Generated by Job check box to have the final report added as an attachment to the e-mail that is sent.
7. Leave the check box blank to have the report sent to a print queue where you can retrieve it later. You are notified by e-mail when the report finishes.
8. Click **Finish** (ALT+F).


## Schedule Report to Run at Regular Intervals

You can also schedule reports to be run at set times.

1. Create a report or recall an existing report.
2. Complete the fields based on your needs and requirements for the specific report.
3. Click **Schedule** (ALT+H) at the top of the page.
4. Click in the Job Definition header.
5. Complete the Add Job Recurrence dialog box as follows:
  - a. Enter the Start Time for when this report should begin running each time.
6. Use the options in the "How often does this job recur?" section to specify at what intervals this report will be generated.
  - a. Use the options in the "When does this recurrence start and end?" section to specify the day that the first report will run and what day (if any) the report should stop running.
7. Click **Save** (ALT+S).

## View Scheduled Report Job

You can view scheduled reports from the View Job Schedule page.

1. Click **Administration** on the navigation menu. Click **View Job Schedule** in the Job Processing section.
2. Locate the report on the queue.
3. Click  (listed after the date) to view recurring parameters entered for this report.
4. Click **Exit** (ALT+X) to exit the job schedule

## Delete Scheduled Report Job

1. Click **Administration** on the navigation menu. Click **View Job Schedule** in the Job Processor section.
2. Navigate the list in order to view the scheduled report.
3. Right-click the specific report entry, and select **Delete**.  
If the report was only scheduled to run one time, the report is deleted. If this is a recurring report, you are prompted with the Delete Recurring Item dialog box where you can select to either **Delete this occurrence only** or **Delete the series**.

## Retrieve Report from Job History

If you did not select the Attach any files generated by this job check box when scheduling the report, you will receive an e-mail indicating that the report is finished and that you should view the job history for the report.

1. Click **Administration** on the navigation menu. Click **View Job Schedule** in the Job Processing section.
2. Select the report from the list of scheduled events. The Modify Job Schedule Entry dialog box is displayed.
3. Click **View Output** to view the full report.
4. Click the printer icon to print the report.
5. Select a printer.
6. Click **Exit** (ALT+X) to return to the Job History page.
7. Either select another report to print, or click **Exit** (ALT+X) to exit the Job History page.

### ODYSSEY Access

1. Double-click the Odyssey icon on your Windows desktop.
2. Type your user ID and password.
3. Click Sign On.

### Signing Off

1. Click the File menu at the top of the Odyssey window.
2. Select Sign Off.




### Online Help

1. Click **Help** from the File Menu or press the **F1** key.
2. The viewing pane displays the help topic that corresponds to the Odyssey screen you are currently working with.
3. Most help screens will provide additional hyperlinks to related topics
4. Use the **Contents Outline** on the left-hand side to navigate to additional help topics.
  - a. A **plus** icon indicates that a section can be expanded to display additional topics.

Odyssey Online Help also allows you to search for specific help topics.

5. Click the **Searches** tab to perform a search for a help topic by keyword or phrase.
6. Once you have located the help item you wish to work with from the search results list, **double-click** on the topic to display it in the viewing pane.

### Identifying and Correcting Mistakes

1. **Critical Errors**
  - a. You cannot save the record until the error is corrected
  - b. The field changes to red
  - c. Indicated by the  icon in the list
2. **Warnings**
  - a. You can save the record by pressing save a second time after reading the message
  - b. The field changes to green
  - c. Indicated by the  icon in the list
3. **Informational Messages**
  - a. You can save the record by pressing save a second time after reading the message
  - b. Does not change the color of a field
  - c. Indicated by the  icon in the list
4. Click on the error message in the message window
5. Or use **F3** to navigate through each error and **SHIFT + F3** to navigate backwards through each error

### Date Shortcuts

<b>T OR T</b>	Today's date
<b>T + OR - NUMBER</b>	Today's date plus or minus that number of days (e.g., t+3, t-3).
<b>W + OR - NUMBER</b>	Today's date plus or minus that number of weekdays (e.g., w+2, w-2).
<b>BEG</b>	First day of the current month
<b>END</b>	Last day of the current month
<b>ABBREVIATIONS</b>	fri – Friday of the current week last mon – Monday of the last week next tue – Tuesday of the following week

### Color Cheat Sheet

1. **Cases**
  - a. Find a Case
    - 1) Active Cases- BLUE
    - 2) Inactive Cases- BLACK
  - b. In the Party Record (Cases Tab)
    - 1) Active Cases- RED
    - 2) Inactive Case- BLACK
2. **Events**
  - a. Case events- BLUE
  - b. Hearing Events- BLACK
  - c. Service Events
    - 1) Un-served- RED
    - 2) Served- GREEN
  - d. Disposition Events- MAROON
  - e. Interim Conditions- LIGHT BLUE
3. **Warrants/Bonds**
  - a. Active warrant/bond- RED
  - b. Inactive warrant/bond- BLACK


- c. **Bond Icons**
  - 1) Freestanding- BLUE
  - 2) Non- freestanding- GREEN
4. **Hearings (in hearings tab)**
  - a. Past hearings- BLACK
  - b. Current hearings- GREEN
  - c. Future hearings- BLUE
5. **Court Sessions**
  - a. Available Sessions- GREEN
  - b. Closed Sessions- BLACK
  - c. Overbooked Sessions- RED
  - d. Cases- BLUE HYPERLINK
6. **Financials**
  - a. Add Adjustments- YELLOW
  - b. Post a charge- RED
  - c. Create and invoice- GRAY
  - d. Enter a payment- GREEN
  - e. Enter a credit- BLUE
  - f. Enter a charge reduction- BLACK

### Hot Keys

Button and Hot Key	Result
Back (ALT+B)	Views the previous results
Clear (ALT +L)	Clears all search criteria
Exit (ALT +X)	Exits or returns to previous page. You can also use the ESC key.
Next (ALT +N)	Views the next results
Refine(ALT +R)	Returns to the search page to refine the search
Save (ALT +S)	Saves any changed information
Search (ALT +S)	Searches using the criteria entered
ALT +C	This hot key has multiple common functions: <ul style="list-style-type: none"> <li>• Continues to the next step when the Continue button is available.</li> <li>• Cancels a procedure when the Cancel button is available on a dialog box.</li> </ul>
ALT +L	This hot key has multiple functions: <ul style="list-style-type: none"> <li>• Clears all of the search criteria that have been entered when the Clear button is displayed.</li> <li>• Jump to the Last Name field in the Search by Party Information section on the Find a Case page.</li> </ul>
ALT +N	This hot key has multiple functions: <ul style="list-style-type: none"> <li>• Views the next set of results when the Next button is displayed.</li> <li>• Jumps to the Case Number field in the Search by Case Information section on the Find a Case page.</li> </ul>
ALT +R	Returns to the search page to refine the search criteria when the Refine button is displayed.
ALT +S	This hot key has multiple functions: <ul style="list-style-type: none"> <li>• Saves information when the Save button is displayed.</li> <li>• Proceeds with a search when the Search button is available on a dialog box.</li> </ul>
ALT +U	Toggles back and forth between the simple and advanced search options on the Find a Case page.
ALT +X	Allows you to exit the current screen or dialog box when the Exit button is displayed. <ul style="list-style-type: none"> <li>• Exits without saving when the Exit button is displayed with the Save button.</li> <li>• Returns to the search page when the Exit button is displayed on a search results page.</li> </ul>


### Function Keys

Key Definition

F1	Accesses the Help file. Odyssey is configured to utilize context-sensitive Help features. This means that a help topic has been written specifically for almost every dialog box, page, and tab in Odyssey. In some instances, you may have access to site-specific (customized) help files. If so, press ALT+F1 to access these help files.
F2	Saves information on your current page or dialog box.
F3	Moves forward through the messages in the message list area so you do not have to click them. SHIFT+F3 moves backward through the messages.
F4	Launches associated dialog box, such as the code listing dialog box that shows the available codes for the options displayed. The dialog box displayed depends on the search control associated with the field.
F9	Moves back one page.
F10	Moves forward one page.
F11	Toggles full screen mode (expand and restore Odyssey window).
F12	Calls the current context menu. For example, when  is displayed on a case or party record where to access the list of all of the available tabs.

4. Enter the first name
5. Click the USE SOUNDEX checkbox
6. Click SEARCH
7. Return shows each spelling type

### Viewing Calendars

1. From the Court Administration page click View Calendar  
NOTE: View Calendar is also an option under Court Administration in the navigation menu.
2. If this is the first time a calendar has been accessed, the Select Calendar dialog box displays.
3. Select the View (weekly or monthly) from the drop-down box
4. Click the  icon by the Owned by Location box and choosing the calendar location (with appropriate rights)
5. Use the RIGHT and LEFT arrows to expand/collapse the node that is currently highlighted
6. Use the UP/DOWN arrows to vertically move between nodes
7. Use the SPACEBAR to select/deselect the current highlighted node.
  - a. In multi-node, tapping the spacebar twice consecutively will select/deselect the current node and all of its child nodes
  - b. This functionality can also be accomplished with the left mouse button.
  - c. Use the ENTER key to continue to the appropriate function.
8. Choose the Calendar name from the drop-down box
9. Click the CONTINUE button (ALT+C) to view the calendar

### Simple Search – Find a Case

1. Select **Find a Case** from the Quick Links or click **ALT +S**
2. The Find a Case screen displays
  - a. Can search by **Case, Party or Attorney** information
  - b. **SEARCH OPTIONS**
    - 1) On right of screen
    - 2) Can include **INACTIVE** Cases or cases with security groups
    - 3) Can limit number of returns
  - c. **CASE CATEGORIES**
    - 1) Can limit search to specific courts

#### Search by Case Number

3. Enter appropriate search information in fields
  - a. **CASE NUMBER** for example
4. Click Search
  - a. Can click **Clear** to clear the search fields.

#### Search by Party Name

5. Enter party names in appropriate fields
  - a. Must use both **FIRST** and **LAST** names
  - b. Can also use nickname or business
6. Click **Search**.  
**NOTE:** If multiple records display can click **NEXT** or **BACK** on top of screen or select **REFINE** to modify search

### Advanced Search

1. Advanced Search option (ALT+U) provides more options to narrow the search
2. Show selection buttons on right of screen
3. Displays multiple additional search fields
  - a. You Can search by **LAST NAME** only
  - b. Can search by Party Judicial Officer
4. Enter desired search criteria
5. Additional **Case Types** available
  - a. Can uncheck types as needed
6. Can set Advanced Search as default search as well as any settings by clicking the **SAVE MY SETTINGS** link

### Wildcards

1. Perform wildcard searches by entering the first letters of the name and an asterisk (\*).
  - a. Can use wildcards in the Last Name, First Name, Cross Ref, State ID, and Other Agency fields.
2. When searching for case, party, or other records, you have the option to enter names as part of your search criteria.
  - a. When entering names as part of a simple search, you are required to enter a first and last name.
  - b. When using an advanced search, you can search for a first or last name only.
  - c. When you do not know the complete first or last name or are unsure of the spelling, you can search using wildcards (asterisks).
3. The following rules **must be followed** when using wildcards to perform a search:
  - a. When entering a last name, you must enter at least the three beginning characters before entering the asterisk.
  - b. When entering a first or middle name, you must enter at least one beginning character before entering the asterisk.
  - c. Asterisks can only be inserted as wildcards at the end of a name.
    - 1) They cannot be inserted in the middle of a name or at the beginning.
  - d. A name of any length without an asterisk is assumed to be an exact search.
4. In event the search returns a main name that doesn't match the search criteria – remember that the search looks at the entire party record – it may be an alias.








### Soundex

1. **USE SOUNDEX** – use if unsure of spelling and want a sound like
2. Can't be used with a wildcard
3. Enter the last name as close as you can to the spelling

### Calendar Capacities

1. In the monthly view, court session text is displayed in different colors to easily tell the capacity status:
  - a. Green court sessions are available for scheduling hearings (e.g.: 0 of 100)
  - b. Black sessions are full or closed (e.g.: 100 of 100, or manually closed by the calendar's administrator)
  - c. Red sessions are over capacity (e.g.: 6 of 5)
  - d. Blue sessions are unavailable for scheduling (for example, a holiday)

### Calendar Icons

	Print hearing notices
	Print the calendar or resource schedule
	Go to another date
	View a monthly calendar with the current day displayed in the first week
	Go to the weekly calendar view
	Go to the monthly calendar View
	Displays the Select Multiple Days dialog box for choosing non-sequential days to view in a calendar

Indian Child Welfare Act: Updated Guidelines & Proposed Regulations

Implications for law & practice in California

Subject area	Guideline & Reg.	CA statute or rule	Consistent? Yes/no	summary of issue
Application	Guideline A.2 definitions – Regulation 23.103 - child custody proceeding. Guideline A.3 Application – (a) delinquency; (b) no existing Indian family exception <sup>1</sup> ; Guideline A.3 (d) – whenever there is “reason to believe” the child is an Indian child, ICWA should be applied until there is a final determination that ICWA does not apply. <sup>2</sup> Court cannot consider various forms of political and cultural connections in deciding whether to apply.	WIC 224.1 contains definitions. Probate code 1459.5(a)  Rule of Court 5.480	Currently under determination by CA Supreme Court in <i>Abbigail A</i> case whether we should apply ICWA whenever there is reason to believe.	California Supreme court pending case in <i>Abbigail A</i> issue is what to do in cases where children have potential tribal membership, but neither child nor parent is currently a member.
Delinquency cases	Guideline A.3; Regulation 23.103 (a) – applies to	WIC 224.1 (a) & (c) Rule of Court 5.480	Inconsistent with <i>In. Re W.B. decision.</i>	New guidelines and proposed regulations

<sup>1</sup> The guideline then gives a list of factors which should NOT be considered in determining whether ICWA applies: the extent to which the parent or Indian child participates in or observes tribal customs, votes in tribal elections or otherwise participates in tribal community affairs, contributes to tribal or Indian charities, subscribes to tribal newsletters or other periodicals of special interest in Indians, participates in Indian religious, social, cultural, or political events, or maintains social contacts with other members of the tribe; the relationship between the Indian child and his/her Indian parents; the extent of current ties either parent has to the tribe; whether the Indian parent ever had custody of the child; and the level of involvement of the tribe in the State court proceedings.

<sup>2</sup> “(d) If there is any reason to believe the child is an Indian child, the agency and State court must treat the child as an Indian child, unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.”

	status offenses or proceedings resulting in the need for foster care or adoptive placement. <sup>3</sup> Guideline A.3 (e)(2) – does not apply to placements based upon an act which would be a crime if committed by an adult.			appear to say ICWA applies in delinquency cases involving criminal conduct if child is placed in foster care. The California Supreme court has interpreted federal and California law more narrowly with regard to delinquency cases.
Indian parent	Guideline A.2 definitions – defines “continued custody” in reaction to Baby Veronica. Defines “parent” to clarify what unwed father needs to do to come within ICWA. <sup>4</sup>	WIC 224.1		
Inquiry	Regulation 23.107 Guideline A.3 (c) – must ask in every case and “conduct an investigation into whether the child is an Indian child.” Even when no removal. <sup>5</sup> Guideline B.2 – agencies must ask in all cases. If there is reason to believe child is Indian they must	WIC 224.3; CRC 5.481	Generally consistent except for timing.	California law and practice is generally consistent with the inquiry requirements of the proposed regulations and new guidelines except for timing. California law ties the requirement for inquiry to the filing of a petition. Guidelines and proposed regulations

<sup>3</sup> Guideline A.3 (a) “(a) ICWA applies whenever an Indian child is the subject of a State child custody proceeding as defined by the Act. ICWA also applies to proceedings involving status offenses or juvenile delinquency proceedings if any part of those proceedings results in the need for placement of the child in a foster care, preadoptive or adoptive placement, or termination of parental rights.

<sup>4</sup> Need only take “reasonable steps to establish or acknowledge paternity. Such steps may include acknowledging paternity in the action at issue or establishing paternity through DNA testing.”

<sup>5</sup> When there is an investigation, family maintenance etc. “...agencies and courts should follow the verification and notice provisions of these guidelines.”

	obtain “verification” in writing from all possible tribes affiliated as to child’s status. Court must also ask at the start of each proceeding if there is reason to know, and ask parties to certify on the record. May also require various information like genograms. Court must ensure agency has worked with tribes re membership.			require inquiry from agency at investigation stage. Also new requirement to require parties to certify on the record re inquiry. Also final regulations regarding “investigation” may require changes.
Reason to know	Guideline B.2 (c) – there is “reason to believe” if any party or agency informs the agency or court; if any agency has discovered information suggesting the child is an Indian child; if the child says something to give reason to believe; or if domicile or residence of parents or child is Indian country.	WIC 224.3 CRC 5.481 (b)	Generally consistent.	Depending on the final language of the regulations we may need some modifications to the “reason to believe”, “reason to know” language to align with federal regulations.
Notice	Regulation 23.111 Guideline B.4 – agency must notify all potential tribes when child is involved in child custody proceeding. Notices must be sent to each tribe for “each proceeding” by registered	WIC 224.2 CRC 5.481	Generally consistent	Issues may include – whether certified mail continues to be acceptable; When “notice” vs. “contacts” with the tribe need to be made; Whether notice is required for each hearing

	<p>mail return receipt requested.</p> <p>Guideline B. 6 - Sets out information and documentation to be included.</p>			<p>or only certain types of hearings (language in regs is each "proceeding").</p>
Determination of Status	<p>Regulation 23.108</p> <p>Guideline B.3 – only the tribe(s) can make a determination of status. There is no requirement for blood quantum, degree of contacts or enrollment.</p>		consistent	
Active efforts	<p>Regulation 23.106 (a)</p> <p>Guideline A.2 Definitions– more than reasonable efforts; no bypass; 15 specific examples.</p> <p>Guideline B.1 – active efforts must begin as soon as the agency contacts the family. Must occur during investigation &amp; while determining child’s Indian status (if there is reason to know).</p> <p>Regulation 23.120</p> <p>Guideline D.2 – addresses requirement that active efforts be shown to have been made prior to removal and that they were unsuccessful. Active efforts</p>	<p>WIC 361.7</p> <p>CRC 5.484</p>	May be certain issues	<p>California case law holds that there is no real difference between reasonable and active efforts and that active efforts can be bypassed. This is inconsistent with guidelines and proposed regulations.</p> <p>California rules of court require “active efforts” to enroll a child if possible, but those provisions are under appeal in Abbigail A. although they are consistent with guidelines and proposed regulations.</p>

	must be documented in detail.			
Qualified Expert Witness	Regulation 23.122 Guideline D.4 – states that the QEW should have specific knowledge of the specific Indian tribe’s culture and customs; establishes a clear hierarchy for who should be sought out as an expert.	WIC 224.6; 361.7 CRC 5.484	California laws and practice did not require specific tribal knowledge. Did not clearly establish a hierarchy.	Amendments may be required to reflect requirement for specific tribal knowledge and the hierarchy of who should be chosen to testify.
Placement Preferences	Regulation 23.128 – 23.130 Guideline F.1 – clarifies when the placement preferences apply (all foster care or adoptive placements); establishes what agency must do to comply, including providing notice of opportunity for placement to all relatives and extended family and sets stringent requirements on evidence that must be maintained.	WIC 361.31 CRC 5.484	This is not routinely done.	Issue include whether placement preferences apply at emergency removal and detention, or only at disposition; Documentation that must be maintained and efforts that must be made re meeting the placement preferences.
Good cause to deviate	Regulation 23.131 Guideline F.4 – limits what can be considered as “good cause” to deviate from placement preferences, and specifically states that “...good cause determination does not include an independent consideration of the best interest of the Indian	WIC 361.31 CRC 5.484	Inconsistent	California law and practice permits a court to apply an independent “best interests of the child” consideration and to consider whether bonding has taken place. This is inconsistent with guidelines and proposed regulations.



	child...” Also specifies that “good cause” does not include ordinary bonding or attachment that might have occurred as a result of a placement or the fact that the child has for an extended amount of time, been in another placement that does not comply with the act.			
Evidentiary Standards	Regulation 23.121 Guideline D.3 (c) – the clear and convincing evidence must demonstrate a causal relationship between conditions in the home that are likely to cause serious emotional or physical damage to the particular child. Evidence that simply shows general poverty, crowded or inadequate housing, substance abuse or nonconforming social behavior does not by itself constitute clear and convincing evidence.	WIC 361.7; 366.26(c)(2)(B) CRC 5.484	More specific and limited than existing California law and practice which generally allows this “clear and convincing evidence” standard to be met by proof of parental substance abuse, etc.	California law and practice does not require the evidence of the specific connection that is required in the guidelines and proposed regulations.
Jurisdiction	Guideline B.5 – court must dismiss an action if it lacks jurisdiction due to domicile of child or pre-existing tribal court action.	WIC 305.5 CRC 5.483	Consistent	

Transfer	<p>Regulation 23.115; 23.116, 23.117 &amp; 23.118</p> <p>Guideline C – transfer request can be made at any stage; state court should provide all records to tribal court; C.3 sets limits on considerations of “good cause” specifically court cannot consider if case is at an advanced stage or whether transfer would result in a change of placement of the child. Creates a presumption that transfer is in the child’s best interest.</p>		<p>Inconsistent with California law and practice which allows the court to consider whether the case is at an advanced stage when the transfer request is made and courts often consider the effect that the transfer might have on child’s placement and stability. California courts look at general “best interest” when determining whether or not to transfer.</p>	
Emergency removals	<p>Regulation 23.113</p> <p>Guideline A.2 Definitions – defines “imminent physical damage or harm” to limit use of emergency removal provisions.</p> <p>Guideline B.8 – limits use of emergency removals (ie. no ICWA compliance required) to situations of “imminent physical damage or harm to the child.” Stipulates emergency removals can generally last no more than 30 days without fully ICWA compliant hearing.</p>	WIC 305.5	<p>Inconsistent with CA practice which allows emergency removals (ie. no ICWA compliance) in wider set of circumstances and generally does not require an ICWA compliant hearing (ie QEW, proof of active efforts, etc.) till disposition which can often be 60 days or more.</p>	<p>California rules of court and statutes would need to be revised to reflect these limitations and the 30 day time limit.</p>

Voluntary Proceedings	Regulation 23.123 – 23.127 Guideline E.1 – specifies that courts and agencies must inquire and give notice to tribes in voluntary proceedings; E. 2 - clarifies procedures for valid parental consent to TPR or foster care placement; E-3 – sets out documentation that must be maintained; E.4 – establishes how consent can be withdrawn for foster care placement; E.5 – establishes how content may be withdrawn for consent to adoption.	WIC 16507.4		Revisions may be required to comply with the detailed requirements in the guidelines and proposed regulations concerning voluntary proceedings.
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# CALIFORNIA INDIAN LEGAL SERVICES

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May 19, 2015

Ms. Elizabeth Appel  
Office of Regulatory Affairs & Collaborative Action  
Indian Affairs, U.S. Department of the Interior  
1849 “C” Street NW, MS 3642  
Washington, DC 20240

Re: *Notice of Proposed Rulemaking—Regulations for State Courts and Agencies in Indian Child Custody Proceedings—RIN 1076-AF25—Federal Register (March 20, 2015)*

Dear Ms. Appel,

California Indian Legal Services (CILS) is pleased to provide comments on the Notice of Public Rulemaking regarding Regulations for State Courts and Agencies in Indian Child Custody Proceedings. (80 Fed. Reg. 14,880 (Mar. 20, 2015) (to be codified at 25 C.F.R. Part 23)[*hereinafter*, “the Proposed Rule”].)

CILS is a not-for-profit law firm devoted exclusively to the cause of Native American rights. CILS has four offices across the state of California, and has been providing free legal assistance to low-income individuals and low-cost legal services to California Indian tribes for over 45 years. CILS provides representation on Indian law matters, including the Indian Child Welfare Act of 1978 (ICWA). (25 U.S.C. §§ 1901-1963.)

Federal policy and California state law acknowledge that Indian children are a vital resource to Indian tribes. In 1978, Congress passed the ICWA in response to alarmingly large numbers of Indian children being removed from their families and consequently lost to their tribes. Over 35 years later, the ICWA remains one of the most important tools tribes can use to protect Indian families and children. Since the adoption of the ICWA, CILS has been the state leader in ensuring that federal, state, and local officials follow its mandates. CILS conducted the initial hearings on the ICWA in California, wrote the California Judges Benchguide on the ICWA, and played a key role in the passage of Senate Bill 678, which codified the requirements of the ICWA into California’s Codes. Over the past four decades, CILS has represented virtually every California tribe, as well as many non-California tribes, in state ICWA proceedings.

California is home to 110 federally recognized tribes, which constitute over 20 percent of the nation's tribes. As a state, it has the largest Native American population in the country. The majority of the state's current Native American population represents Indian people from out-of-state tribes, so called "urban Indians," who were relocated.

California also adjudicates the largest number of appellate cases involving the ICWA. In the early years of the ICWA, its application in California varied from county to county. Enforcement was inconsistent, and ad hoc, with most cases focusing on "notice" issues. However, in 2006 the state adopted Senate Bill 678, codifying the ICWA into state law, and in certain instances, exceeding federal law. (Senate Bill No. 678 (2005-2006 Reg. Sess.); 2006 Cal. Stats. Ch. 838.) Many of the heightened standards in SB 678 are consistent with the proposed regulations. Since SB 678 took effect in 2007, the number of California appellate cases involving the ICWA has declined, and it is thought that the additional guidance provided by SB 678 is largely responsible. Therefore, it is anticipated that the additional clarity provided by the proposed regulations will continue this trend. Promulgating federal regulations is another positive step in alleviating the disproportionality of Indian children in the dependency system.

CILS strongly supports the promulgation of ICWA regulations as a means to ensure that federal policy is not thwarted. CILS joins the comments of the National Indian Child Welfare Act (NICWA) and the comments of the Association on American Indian Affairs (AIAA).

## **Recommendations**

### **Section 23.2: Definitions.**

#### *Active Efforts*

CILS strongly supports the proposed definition of "active efforts," including the 15 examples. In order to ensure maximum clarity, CILS recommends that the proposed rule include the language from the 2015 BIA Guidelines on the ICWA regarding "active efforts" being separate and distinct from the requirements of the Adoption and Safe Families Act and that ASFA's exceptions to reunification efforts do not apply to ICWA proceedings. In California it is important to delineate that *Active Efforts* to preserve an Indian family, exceed the *Reasonable Efforts* standard applied in non-ICWA cases. It is also important to specify when the *Active Efforts* apply, since some counties defer application of the Act until after the Detention and Jurisdictional hearings, when in reality the Act should apply when removal of a child occurs via Agency action.

#### *Child Custody Proceeding*

The proposed rule defines "child custody proceeding" as "any proceeding that involves (1) Foster care placement, which is *any action* removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home or institution or the home of a

guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, although parental rights have not been terminated; (2) Termination of parental rights, which is any action resulting in the termination of the parent-child relationship; (3) Preadoptive placement, which is the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; (4) Adoptive placement, which is the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.”

Existing California law includes guardianships within the application of the ICWA (California Probate Code §§ 1459-1459.5) because it is an action to remove a child from their parent, and even temporary letters of guardianship preclude a parent from having their child returned on demand. To ensure consistency of application, we recommend including guardianships in the definition of foster care placement, which would clarify that they are considered “child custody proceedings” under ICWA.

Existing California law provides for tribal customary adoption as a permanency option for Indian children. (California Welf. & Inst. Code §§ 366.24, 366.26(c) in lieu of severing or terminating parental rights.) We recommend that the definition of “adoptive placement” be expanded to include tribal customary adoption when conducted as part of a state court proceeding.

### *Domicile*

We recommend that the proposed rule clarify that domicile is not necessarily synonymous with residence for the purposes of ICWA, which is consistent with the holding of the U.S. Supreme Court in *Holyfield*. (*Mississippi Band of Choctaw Indians v. Holyfield* (1989) 490 U.S. 30, 48.)

### *Indian Child*

We recommend clarifying in the regulations that a child does not have to be eligible for membership in the same tribe as the parent.

Also, California law provides an option to extend foster care to the age of 21. Therefore, we also recommend clarifying that so long as the child was under the age of 18 when the child custody proceeding was initiated, and a court retains jurisdiction, that ICWA will apply for the duration of the case.

### *Parent*

In some instances, *Presumed Fathers* have rights superior to *Biological Fathers*. Presumed fathers in California are established under Family Code §§ 7610-7614, but the ICWA’s application is to biological children of a member. (25 USC § 1911(4).) The Act should

apply to *both* biological fathers and presumed fathers. Such a gap in application could not have been intended by Congress.

*Tribal Representative*

We recommend that a definition be included for the term “tribal representative,” and suggest the tribal representative may be designated by the tribe and not required to be an attorney licensed to practice law in the state of proceeding. A tribal representative allows the tribe to have a voice and presence in a case, even where a tribe cannot afford to hire legal counsel. Other lay persons participate in dependency proceedings, such as social workers or Court Appointed Special Advocates (CASA), largely because it enhances the information upon which courts make decisions. Since the ICWA applies, whether or not a tribe intervenes, it is important to remove any restrictions on tribes participating via non-lawyer representatives.

**Section 23.103:** *When does ICWA apply?*

*Subsection (a)* states that “ICWA applies whenever an Indian child is the subject of a State child custody proceeding as defined by the Act. ICWA also applies to proceedings involving status offense or juvenile delinquency proceedings if any part of those proceedings results in the need for placement of the child in a foster care, preadoptive or adoptive placement, or termination of parental rights.”

We recommend clarifying that “placement of a child in a foster care... placement” would include any placement that may use Title IV-E funding, since there are various definitions of foster care in federal statutes.

*Subsection (b)* clarifies that there is no exception to application of ICWA based on the so-called “existing Indian family doctrine.” We support this provision, which is consistent with current California law.

*Subsection (d)* states: “If there is any reason to believe the child is an Indian child, the agency and State court must treat the child as an Indian child, unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.” We support this provision, which is consistent with current California law. (California Rules of Court, rule 5.482(d)(2).)

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**Section 23.106:** *When does the requirement for active efforts begin?*

This section states:

“a) The requirement to engage in ‘active efforts’ begins from the moment the possibility arises that an agency case or investigation may result in the need for the Indian child to be placed outside the custody of either parent or Indian custodian in order to prevent removal. (b) Active efforts to prevent removal of the child must be conducted while investigating whether the child is a member of the tribe, is eligible for membership in the tribe, or whether a biological parent of the child is or is not a member of a tribe.”

We strongly support this section. It is consistent with the statute will provide much need clarity in this area.

**Section 23.107:** *What actions must an agency and state court undertake in order to determine whether a child is an Indian child?*

*Subsection (a)* of this section states “agencies must ask whether there is reason to believe a child that is subject to a child custody proceeding is an Indian child. If there is reason to believe that the child is an Indian child, the agency must obtain verification, in writing, from all tribes in which it is believed that the child is a member or eligible for membership, as to whether the child is an Indian child.”

We recommend that the word “obtain” be replaced with “solicit,” so that it reads, “the agency must solicit verification, and document its due diligence in writing...”

*Subsection (b)(2)* of this section states: “(2) If there is reason to believe the child is an Indian child, the court must confirm that the agency used active efforts to work with all tribes of which the child may be a member to verify whether the child is in fact a member or eligible for membership in any tribe, under paragraph (a) of this section.”

A similar provision exists in the California Rules of Court, which is the subject of a pending California Supreme Court case. (*See In re Abbigail A.* (2014) 226 Cal.App.4th 1450, review granted on September 10, 2015, S220187.) Since “active efforts” is a term of art, we recommend using a term other than “active efforts” in this context. We recommend replacing “active efforts” with “continuing efforts, pro-active efforts,” or “due diligence,” in a manner subject to written verification.

**Section 23.108:** *Who makes the determination as to whether a child is a member of a tribe?*

We strongly support this section.



**Section 23.109:** *What is the procedure for determining an Indian child's tribe when the child is a member or eligible for membership in more than one tribe?*

We strongly support the section with two recommendations.

We recommend that "child custody case" be replaced with "child custody proceeding" in *subsection (d)* of this section, in order to provide consistency.

We also recommend that *subsection (c)* be clarified to require the court (and not the agency) to make the determination of which tribe should be designated as the Indian child's tribe where the child is eligible for membership in more than one.

**Section 23.110:** *When must a State court dismiss an action?*

*Subsection (a).* This section states that "subject to § 23.113 (emergency procedures), the following limitations on a State court's jurisdiction apply: (a) the court must dismiss any child custody proceeding as soon as the court determines that it lacks jurisdiction."

We recommend that this section include provision for emergency cases, consistent with the statute at 25 U.S.C. § 1922. In emergency cases, the state court should make diligent efforts to contact the tribe with jurisdiction and to transfer the case immediately upon the tribe asserting jurisdiction.

**Section 23.111:** *What are the notice requirements for a child custody proceeding involving an Indian child?*

We support the entirety of this section, specifically including the provision of notice in voluntary proceedings and the noticing provisions relating to ICPC.

We recommend that registered mail be replaced with "certified mail, return receipt requested" as is required by the existing BIA regulations at (25 C.F.R. § 23.11(a)) in order to ensure timely delivery.

We also recommend that *subsection (c)(4)(iv)* be modified to remove "where authorized by State law." This modification will make this subsection consistent with the statute at 25 U.S.C. § 1912(b). In addition, the Notice should specify that Indian tribes, or their representatives have a right to *both* discovery and disclosure of every document filed in court proceedings, or relied upon by the Agency, County, or Court in making recommendations, findings or proposed orders. Tribes should be allowed copies of *all* documents, and not be limited to summary filings, incomplete reports, or be required to pay for photocopying of

documents that all other parties receive. The right of a tribe as and intervening party should be specified, and defined, and state that a tribe, once it intervenes has rights identical to, and coextensive with all other parties in the case, and failure to provide documents or notices or other filings to a tribe once it has intervened, is a basis to dismiss a dependency case.

*Subsection (h)* states, “[n]o substantive proceedings, rulings or decisions on the merits related to the involuntary placement of the child or termination of parental rights may occur until the notice and waiting periods in this section have elapsed.”

We initially recommend that subsection (h) be split into two separate subsections with one addressing involuntary placements and one addressing termination of parental rights. We recommend maintaining the existing language of the proposed rule for termination of parental rights. In regards to involuntary placements, we recommend that a provision be included that findings and orders made at initial hearings are not binding, and reserved for parties who did not receive notice under the ICWA, but should have, and that courts make diligent efforts to ensure timely notice.

**Section 23.113:** *What is the process for the emergency removal of an Indian child?*

We support this section. It is critical to ensure that cases involving emergency removal do not languish.

**Section 23.117:** *How is a determination of “good cause” not to transfer made?*

With strong support of this section, we recommend the addition of the “clear and convincing evidence” standard of proof.

**Section 23.118:** *What happens when a petition for transfer is made?*

We recommend that subsection (a) be modified to mirror the statute at 25 U.S.C. § 1911(b), which does not require a Tribal Court to accept jurisdiction before a transfer.

**Section 23.121:** *What are the applicable standards of evidence?*

Subsection (a) and (b) should be modified to mirror the statute where it states “continued custody with the child’s parents or Indian custodian is likely to result in serious *emotional and* physical damage to the child.”

**Section 23.122:** *Who may serve as a qualified expert witness?*

We strongly support the inclusion of the hierarchy provided at subsection (b).

**Section 23.129:** *What placement preferences apply in adoptive placements?*

A subsection should be added here to include the language of 25 U.S.C. § 1915(c) to ensure consistency with the statute.

**Section 23.130:** *What placement preferences apply in foster care or preadoptive placements?*

We support this section.

California statutory law requires the Agency to make active efforts to comply with the applicable placement preference order. (California Welf. & Inst. Code § 361.31(k).) We recommend the inclusion of the active efforts standard in the proposed regulation.

We also recommend adding the language of 25 U.S.C. § 1915(c) here, to ensure consistency with the statute and also to preserve the right of tribes to modify the preference order.

**Section 23.131:** *How is a determination for “good cause” to depart from the placement preferences made?*

We strongly support this section, especially subsections (b) and (c). We recommend adding the language regarding best interest from the parallel section of the BIA Guidelines.

We also recommend adding the language of 25 U.S.C. § 1915(c) here, to ensure consistency with the statute and also to preserve the right of tribes to modify the preference order.

### **Authority to Promulgate Regulations**

It is our position that the Department of the Interior clearly has the authority to promulgate these regulations. The ICWA at 25 U.S.C. § 1952 specifically provides that “[w]ithin one hundred and eighty days after November 8, 1979, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter.” The Department of the Interior did in fact issue regulations with regard to the ICWA in July of 1979. (25 CFR Part 23).

### **Conclusion**

In conclusion, we applaud the work of the DOI in drafting these proposed regulations. While we did not comment on every proposed regulation, we do support all of them. They will provide clarity and consistency of the Act’s application, which is imperative for Indian children,

families and tribes, and in guiding state courts and agencies, will likely continue the trend of reducing the number of appellate cases involving the Act.

Sincerely,  
CALIFORNIA INDIAN LEGAL SERVICES

A handwritten signature in black ink, appearing to read "Delia Parr". The signature is written in a cursive, flowing style.

Delia Parr  
Directing Attorney



WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
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EDMUND G. BROWN JR.  
GOVERNOR

May 19, 2015

Ms. Elizabeth Appel  
Office of Regulatory Affairs and Collaborative Action-Indian Affairs  
U.S. Department of the Interior  
1849 C Street NW., MS 3642  
Washington, DC 20240

Dear Ms. Appel:

**SUBJECT: REGULATIONS FOR STATE COURTS AND AGENCIES IN INDIAN  
CHILD CUSTODY PROCEEDINGS**

The purpose of this letter is to submit comments on the Bureau of Indian Affairs (BIA) proposed Regulations for State Courts and Agencies in Indian Child Custody Proceedings. The California Department of Social Services (CDSS) supports the BIA's efforts to issue uniform minimum standards for the states on the Indian Child Welfare Act (ICWA) and supports the clarity that these regulations will provide.

The CDSS, Children and Family Services Division (CFSD) has the state oversight responsibility for child welfare; and specifically over the development and implementation of policies, guidance, training and technical assistance to counties regarding the ICWA.

California is a state supervised, county administered state. There are 58 counties ranging in size from 2,000 to 10,000,000 residents in a single county. California is also home to 109 of the 566 Federally Recognized tribes in the Nation and has two (2) Title IV-E agreements with tribes in the state. According to the 2010 U.S. Census, California has the largest population of American Indians and Alaskan Natives.

California has taken strong public stances in support of the ICWA in its statutory enactments, regulatory efforts and judicial rules and forms. Most significantly, in 2006 the state enacted Senate Bill (SB) 678 which incorporated, and in some situations enacted stronger protections than, ICWA into its Welfare and Institutions, Family and Probate Codes. The objective of the legislation was uniform application of the ICWA in California.

The legislature declared that California is committed to protecting the essential tribal relations and best interest of an Indian child by, *"promoting practices, in accordance with the ICWA and other applicable laws, designed to prevent the child's involuntary out-of-home placement and, whenever the placement is necessary or ordered, by*

*placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.” (Welfare and Institutions Code (WIC) § 224, Family Code § 175, Probate Code § 1459)*

The California legislature has further declared:

“It is in the interest of an Indian child that the child's membership in the child's Indian tribe and connection to the tribal community be encouraged and protected, regardless of any of the following:

(A) Whether the child is in the physical custody of an Indian parent or Indian custodian at the commencement of a child custody proceeding.

(B) Whether the parental rights of the child's parents have been terminated.

(C) Where the child has resided or been domiciled.” (Id.)

California has supported other efforts that promote compliance with ICWA, including Tribal Customary Adoption, which is meant to retain a child's connections to his or her tribal community (prior, present and future). Allowing for the adoption in consultation with the child's tribe, and without termination of the Indian parent's parental rights. (Assembly Bill 1325; Chapter 287, Statutes of 2009).

The CDSS previously submitted comments on the information collection requirements of the proposed regulations on April 20, 2015, and those comments are incorporated herein by reference. The following are comments as to recommendations for clarification, or concerns regarding the ability to comply with proposed requirements.

### **§ 23.11 Notice**

#### Proposed

*Section 23.11 (d) provides, “Notice to the appropriate BIA Area Director pursuant to paragraph (b) of this section must be sent by registered mail with return receipt requested and must include the information required by § 23.111 of these regulations.”*

#### Comment

The proposed change to § 23.11(d) provides that notice to the BIA Area Director must be by registered mail with return receipt requested but it does not amend § 23.11(a) which provides notice can be by “certified with return receipt requested”. It is not clear

why this change is being proposed. It creates an unnecessary inconsistency. It is noted that under current U.S. postal rates the cost of registered mail with return receipt is \$14.65, whereas the cost of certified mail with a return receipt requested is \$6.00 (<https://www.usps.com/ship/insurance-extra-services.htm>).

Moreover, registered mail is less reliable with respect to the intent of the ICWA to provide timely notification of an Indian child custody proceeding with verification that the notice was received; registered mail requires an individual to pick up the mail from the postal service. However, certified mail is an actual in-person delivery with a sign-off. A decision was made to allow in current § 23.11, certified mail as the required method over registered mail. To require registered mailing will increase costs that will undermine noticing under ICWA rather than to strengthen noticing.

### Recommendation

Original regulations promulgated by the BIA pursuant to its authority at 25 USC § 2 considered the addition of certified mail as an option and adopted the regulation thus ultimately allowing the states the option of using both. The CDSS recommends that wherever formal notice is required, the regulations continue to allow for sending of notice via certified mail return receipt requested. Minimally, there should be internal consistency within the regulations.

### § 23.2 Definitions

#### Child Custody Proceeding

#### Proposed

*(3) Preadoptive placement, which is the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; or...*

#### Comment:

This regulation is consistent with the definition of preadoptive placement in §1903(1) of ICWA. However, we would point out that there are situations in which preadoptive placements can occur without the termination of parental rights, both under tribal law and under state law. The Federal Administration on Children and Families has recognized for purposes of Title IV-E requirements that if a child can be adopted in accordance with state or tribal law without a termination of parental rights or relinquishment, requirements of § 473 (c) (1) of the Social Security Act will be satisfied, so long as the state or tribe has documented the valid reason why the child cannot or should not be returned to the home of his or her parents.

([http://www.acf.hhs.gov/cwpm/programs/cb/laws\\_policies/laws/cwpm/questDetail.jsp?QAid=694](http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/questDetail.jsp?QAid=694))

California has legislatively enacted "tribal customary adoptions" where termination of parental rights is not required, as an option for ICWA covered children that are the subject of state dependency actions. (Assembly Bill 1325; Chapter 287, Statutes of 2009).

Recommendation:

The CDSS recommends the definition be clarified to acknowledge circumstances where a child may be legally placed in a prospective adoptive home without termination of parental rights, by adding the following:

*"This does not preclude preadoptive placements after it has been determined that the child cannot or should not be returned to the home of his or her parents or Indian custodian but where a termination of parental rights is not a prerequisite to the finalization of the adoption under state or tribal law."*

**§ 23.103 (a) and (e) When does ICWA apply?**

Proposed

*"(a) ICWA applies whenever an Indian child is the subject of a State child custody proceeding as defined by the Act. The ICWA also applies to proceedings involving status offenses or juvenile delinquency proceedings if any part of those proceedings results in the need for placement of the child in a foster care, preadoptive or adoptive placement, or termination of parental rights."*

Subsection (e) (2) states ICWA does not apply to "Placements based upon an act by the Indian child which, if committed by an adult, would be deemed a criminal offense; "

Comment

We request clarification as to whether it is the intention of the regulations that regardless of the reasons for the foster care placement, ICWA standards (e.g. inquiry, notice, placement preferences, and active efforts) apply in a juvenile delinquency proceeding where an Indian child is placed into foster care. The ICWA in its definition of a child custody proceeding states that it "shall mean and include - (i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents."



California courts have been divided and the California Supreme Court interpreted the applicability of ICWA in delinquency proceedings as follows:

*“Under our interpretation of the relevant statutes, ICWA compliance is required in these rare section 602 cases that proceed to a termination of parental rights or that result in a foster care placement motivated solely by concerns about parental abuse or neglect. (In Re W.B. 55 Cal.4th p. 59 (2012) “Unless the delinquency court announces otherwise, on the record, it will be presumed that any placement of a section 602 ward outside the home is based, at least in part, on the ward's criminal conduct. With rare exceptions for dual status minors and status offenders, placements in delinquency proceedings are presumptively exempt from ICWA.” (Id p 60)*

### Recommendation

Clarify whether the intention is that ICWA apply in the delinquency setting if there is a foster care placement regardless of the underlying reason. Provide factors to consider for applicability of ICWA in the delinquency context. Consider that an Indian child in delinquency proceedings can be placed into foster care (rather than in a detention setting designed to control the child or protect the public). The foster care placement can involve both considerations related to the underlying criminal conduct and the child welfare needs of the youth and ultimate ability to return to his or her home. Does the BIA agree that delinquency proceedings are presumptively exempt from ICWA?

### § 23.104 How do I contact a tribe under these regulations?

#### Proposed

The proposed regulation subparagraph (1) merely states that the BIA publishes a list of tribes' designated agents for service of the ICWA notices in the Federal Register each year.

#### Comment/Recommendation

We would refer to our previously submitted comments particularly on the recommendation that the BIA amend proposed § 23.104 along with reconciling amendments to § 23.12, to provide the following:

*The BIA publishes an official list of tribes' designated agents for service of the ICWA notice in the Federal Register each year. The BIA makes the most recently published list available, with updates as provided by tribes between official Federal Register publications, through its local areas offices and posted on its webpage. To support ease of reference, the list also provides historical tribal affiliations on the tribes as available to facilitate effective and actual notification of a child's tribe.*

The BIA should not limit itself on the use of technology for the purpose of keeping an ongoing and updated list of agents for service.

**§ 23.107 What actions must an agency and State court undertake in order to determine whether a child is an Indian child?**

Proposed

*Section 23.107 (a) requires “Agencies must ask whether there is reason to believe a child that is subject to a child custody proceeding is an Indian child. If there is reason to believe that the child is an Indian child, the agency must obtain verification, in writing, from all tribes in which it is believed that the child is a member or eligible for membership, as to whether the child is an Indian child.”*

Comment 1

Clarification is needed as to what is intended by the phrase “the agency must obtain verification, in writing, from all tribes in which it is believed a child is a member or eligible for membership, as to whether the child is an Indian child.”

States can only send the notifications to tribes but have no authority to require tribes to respond in writing or otherwise. We agree that notice to tribes should be in writing. We also agree that when a tribe affirms the child is its’ child, that the verification ideally should be in writing, but we would posture that an entry of appearance by a tribe’s representative at a hearing would also constitute verification of the child’s status. In addition, it is not unusual that a tribe will not respond at all to an ICWA notice. As written this regulation would appear to require additional contact with “all” the tribes with which a child may be associated to specifically obtain written verification on the child’s status. As we mention elsewhere in this document, a child can be affiliated with many tribes. (e.g. Apache 7, Chippewa (11)). Clarification is needed on the objective of the regulation.

Recommendation

We are not certain as to the intention of this provision. Assuming there is an interest that a clear minimum requirement for all states is that notice to tribes be in writing, we suggest the following:

*“Agencies must ask whether there is reason to believe a child that is subject to a child custody proceeding, is an Indian child. If there is reason to believe that the child is an Indian child, the agency must send written notification as required in section 23.11 to all tribes in which it is believed that the child is a member or eligible for membership.*

*Where a tribe indicates the child is its child, the agency shall work with the tribe to obtain written verification of the child's status if such has not already been provided."*

### Comment 2

Section 23.107 appears to be attempting to provide guidance to § 1912 (a) of ICWA which states: *"In any involuntary proceeding in a State court, where **the court knows or has reason to know** that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention."*

However, proposed § 23.107 use several phrases that result in unclear guidance:

23.107(a) uses "reason to believe...child is an Indian child"

23.107 (b) uses "reason to believe...have discovered or know of any information that suggests or indicates..."

### Recommendation

Suggest the regulations be reviewed for consistency in language.

### Comment 3

Section 23.107 (b) (2) states, *"If there is reason to believe the child is an Indian child, the court must confirm that the agency used active efforts to work with **all tribes** of which the child may be a member to verify whether the child is in fact a member or eligible for membership in any tribe, under paragraph (a) of this section."*

Active efforts are associated under ICWA with the prevention of the breakup of the Indian family. California has further specified active efforts to comply with the placement preferences. The CDSS agrees that active efforts can commence at the early stages of a case particularly where there is reason to know or it is known that the child is connected with a particular tribe.

However, to require active efforts in the noticing process, "to work with all tribes" with which the child may be associated to verify whether the child is in fact a member or eligible for membership, is difficult to meet. This can be especially true at the stage when initial noticing is being sent to tribes with which the child may be associated and which many times can be numerous. For example, if a child is potentially associated with the Apache, per the BIA list of agents for service of ICWA notices, there are eight different Apache tribes. The Chippewa have eleven. This concern is augmented because in California there are significant numbers in our population that as a result of federal relocation programs of the 1950s and 60s identify as American Indian/Alaska Native tribes outside of California.

Recommendation

We have concern over the ability to comply with this requirement and recommend it be deleted or modified by clarifying what “work with” in the noticing context means.

**§ 23.109 (c) (3) What is the procedure for determining an Indian child’s tribe when the child is a member or eligible for membership in more than one tribe?**

Proposed

*Section 23.109 (c)(3) states, “Once an Indian tribe is designated as the child's Indian tribe, all tribes which received notice of the child custody proceeding must be notified in writing of the determination and a copy of that document must be filed with the court and sent to each party to the proceeding and to each person or governmental agency that received notice of the proceeding.”*

Comment 1

This section does not clarify who makes the determination of which child has been confirmed to a specific tribe when the child may be a member or eligible for membership in more than one tribe. In California the determination is not left to an agency, an attorney or other individual, but rather laws specify that the court conducting the child custody proceeding makes the determination after a noticed evidentiary hearing.

Recommendation

Clarify which entity is responsible. Recommend that the court conducting the child custody proceeding is the one to make the determination.

Comment 2

Section 23.109 (a) begins with the requirement that agencies must “notify all tribes, of which the child may be a member or eligible for membership, that a child is involved in a child custody proceeding. Subsection (c) appears to be addressing only those situations where more than one tribe has been specifically identified where the child is a member or eligible for membership.

The concern with section (c) (3) is that it adds a requirement to notify “all” tribes previously notified, that a determination has been made of the child’s tribe. Hypothetically if a child identified initially as Chippewa (11 tribes), they were all noticed, two (2) Chippewa tribes confirm the child as eligible, a determination is made on which tribe will be the child’s tribe in the proceeding, this regulation would require noticing all 11 tribes of the decision.

As already mentioned, it is not unusual that multiple tribes are identified with which a child may have affiliation resulting in multiple tribes being noticed. Section (c) (3) would require another round of notices even to tribes that have already determined the child is not their child and not actively involved in the proceeding. Furthermore the tribes with an actual interest in the child are presumably already informed of the proceedings. To add another round of notices to “all” seems unnecessary and takes from resources that should be directed to meeting the substantive requirements of ICWA once a child has been confirmed to a specific tribe.

#### Recommendation

We question the necessity of adding an additional round of notices to all tribes previously noticed. If there is an interest in assuring communication of the determination, we recommend that the court handling the child custody proceeding issue its judicial determination with a copy to the specifically identified tribes with which the child is a member or eligible for membership.

#### **§ 23.110 When must a State court dismiss an action?**

##### Proposed

*Section 23.110(a) requires a court to “dismiss the state court proceeding where the tribe exercises exclusive jurisdiction over child custody proceeding.”*

##### Comment

Unless otherwise vested in the state, an Indian tribe has exclusive jurisdiction over child custody proceedings involving an Indian child who resides or is domiciled on the reservation, or who is already a ward of the tribal court, regardless of domicile. California is a PL 280 state, with only one exclusive jurisdiction tribe. However, it issues notices to tribes that are in other states and that may be exclusive jurisdiction tribes. It would be helpful if the BIA maintained a list of exclusive jurisdiction tribes for purposes of child custody proceedings under ICWA. This will allow workers to know when they are working with a tribe that has exclusive jurisdiction.

#### Recommendation

To allow workers to be informed of exclusive jurisdiction tribes, it is recommended the BIA maintain a list of exclusive jurisdiction tribes by state and available on its website.

#### **§ 23.111 What are the notice requirements for a child custody proceeding involving an Indian child?**

Proposed

Section 23.111(a) requires, “*the agency or court must send notice of each such proceeding (including but not limited to a temporary custody proceeding, any removal or foster care placement, any adoptive placement, or any termination of parental or custodial rights)*”

Comment 1

What is meant by “each proceeding”? A Petition removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home is a “child custody proceeding” as defined by ICWA but it will require multiple hearings and conferences.

If the regulation means to require notice of each child custody proceeding and each hearing within the child custody proceeding, the regulations should explicitly state such.

Recommendation

Amend as follows:

“(a) When an agency or court knows or has reason to believe that the subject of a voluntary or involuntary child custody proceeding as defined by ICWA, is an Indian child, the agency or court must send notice of the proceeding (including but not limited to a temporary custody proceeding, any removal or foster care placement, any adoptive placement, or any termination of parental or custodial rights) by....”

Comment 2

Proposed

Section 23.111(b) states notice shall be by “*Registered mail with return receipt requested.*”

Comment/Recommendation

See comment to §23.11

Comment 3

Proposed

*Subsection states “(i) If the child is transferred interstate, regardless of whether the Interstate Compact on the Placement of Children (ICPC) applies, both the originating*

*State court and receiving State court must provide notice to the tribe(s) and seek to verify whether the child is an Indian child.”*

Comment/recommendation

The requirement would require duplicative noticing by two states, both the sending and the receiving thus causing potential confusion. See comments regarding the ICPC in CDSS comments letter dated April 20, 2015.

**§ 23.112 What time limits and extensions apply?**

Proposed

*Section 23.112 states “(a) No proceedings regarding decisions for the foster care or termination of parental rights may begin until the waiting periods to which the parents or Indian custodians and to which the Indian child's tribe are entitled have passed. Additional extensions of time may also be granted beyond the minimum required by ICWA.”*

Comment

This regulation is ambiguous in that it is unclear what is meant by “no proceeding ... may begin...” We are assuming that it is intended to mean “no child custody proceeding as defined by ICWA”. However it is also not clear on how this section reconciles with § 23.111 related to emergency removals. In California the filing of a petition for removal is viewed as the commencement of the child custody proceeding. Under California law, a petition must be filed within 48 hours of the removal of a child if the child is not going to be returned to his or her home. An initial hearing must be held no later than the next judicial day following the filing of the petition at which point the court determines whether the child falls within the coverage of the dependency action under WIC § 300. Thereafter a jurisdiction hearing is held within 21 days at which time the petition is confirmed. At the time of emergency removal, by necessity a child is detained in foster care pending determination of the disposition of the case. To state that no proceeding may “begin”, has the consequence that a petition cannot be filed.

It's difficult to see how this provision reconciles with § 23.113 (a), which states an emergency removal is to be as short as possible and at (a) (2) requires the state to “Promptly hold a hearing to hear evidence and evaluate whether the removal or placement continues to be necessary.” This provision appears to impose limitations on state obligations to expeditiously determine whether a child must be removed from his or her household and either be returned or a petition for removal be filed. Moreover it conflicts with timelines that are also important to the wellbeing of the child.

### Recommendation

Provide clarification on what is meant by “no proceeding may begin” and how this requirement reconciles with § 23.113.

### **§ 23.113 What is the process for the emergency removal of an Indian child?**

CDSS supports efforts to clarify active efforts that are appropriate at the emergency response stage of a child’s case when there is reason to know the child is or may be an Indian child. The CDSS is in fact currently proposing regulations to clarify for social workers, active efforts that must be taken at the emergency response stage of a case, including the duty to inquire on Indian status, and duties associated with active efforts to prevent the breakup of the family, including utilization of culturally appropriate Indian tribe and family resources. However, we would point out some aspects of the proposed BIA regulations that may be difficult to comply with or that appear internally inconsistent as it relates to emergency removals.

### Proposed

Section 23.113 begins with the statement that (a) any emergency removal or emergency placement of any Indian child under State law must be as short as possible. Subsection (b) adds a significant number of additional procedural tasks including an affidavit that accompanies the petition for removal, requiring issuance of notices per § 23.111, and efforts to transfer a child to its tribe.

### Comment 1

At this stage the focus is on safety, protection and whether there is imminent risk of harm to the child. It should be made clear in the regulations that the safety of the child is paramount. The ICWA § 1922 makes clear none of the requirements of ICWA are to be construed in a way that prevents removal in order to prevent imminent physical damage or harm to the child.

Thirty (30) days is a short window to complete the extensive list of tasks specified in this proposed regulation. California would not be able to meet these requirements because our emergency response petition is filed within 48 hours of the removal of the child.

### Recommendation

These requirements should be evaluated to determine what the priorities should be at this stage.



### Comment 2

Section 23.113 states that, “(f) *Temporary emergency custody should not be continued for more than 30 days. Temporary emergency custody may be continued for more than 30 days only if:*

*(1) A hearing, noticed in accordance with these regulations, is held and results in a determination by the court, supported by clear and convincing evidence and the testimony of at least one qualified expert witness, that custody of the child by the parent or Indian custodian is likely to result in imminent physical damage or harm to the child;”*

### Comment

When a child that may be an ICWA covered Indian child is the subject of an emergency removal, it is not usually possible within 30 days of the removal, to have collected enough information to conclude that clear and convincing evidence must be provided and supported by an expert witness, mainly because the noticing process to the tribes has not yet been completed with responses received.

### Recommendation

Reconsider this requirement as it will proved difficult for states to comply with it; especially in light of the requirements in proposed § 23.112.

### **§ 23.115 How are petitions for transfer of proceeding made?**

#### Proposed

Section 23.115 (b) states, “*The right to request a transfer occurs with each proceeding.*”

#### Comment

This section is unclear because “each proceeding” could be interpreted to mean the “child custody proceeding as defined by ICWA” or it could mean each hearing within the child custody proceeding as it proceeds.

#### Recommendation

Suggest the following: “The right to request a transfer can occur at any stage of an Indian child custody proceeding.”

### **§ 23.118 What happens when a petition for a transfer is made?**

Proposed

Section 23.118 states, “*The notice should specify how much time the tribal court has to make its decision; provided that the tribal court must be provided 20 days from the receipt of notice of a transfer petition to decide whether to accept or decline the transfer.*”

Recommendation

Suggest the following change for clarity.

“The notice should specify how much time the tribal court has to make its decision; provided that the tribal court must be provided no less than 20 days from the receipt of notice of a transfer petition to decide whether to accept or to decline the transfer.”

**§ 23.120 What steps must a party take to petition a State court for certain actions involving an Indian child?**

Proposed

*“a) Any party petitioning a State court for foster care placement or termination of parental rights to an Indian child must demonstrate to the court that prior to, and until the commencement of, the proceeding, active efforts have been made to avoid the need to remove the Indian child from his or her parents or Indian custodians and show that those efforts have been unsuccessful.*

*“b) Active efforts must be documented in detail and, to the extent possible, should involve and use the available resources of the extended family, the child's Indian tribe, Indian social service agencies and individual Indian care givers.”*

Comment

CDSS supports the specification that any party petitioning a State court for foster care placement or termination of parental rights to an Indian child must demonstrate to the court that prior to, and until the commencement of the proceeding, active efforts have been made to avoid the need to remove the Indian child and show that those efforts were unsuccessful.

**§ 23.123 What actions must an agency and State court undertake in voluntary proceedings?**

Proposed

*“a) Agencies and State courts must ask whether a child is an Indian child in any voluntary proceeding under § 23.107 of these regulations.*

*(b) Agencies and State courts must provide the Indian tribe with notice of the voluntary child custody proceedings, including applicable pleadings or executed consents, and their right to intervene under § 23.111 of this part.*

#### Comment

In 2006 California in SB 678 codified a duty to inquire on Indian status in voluntary placements as well as a duty to provide notice to tribes about the proceeding. The CDSS supports that inquiry should be conducted in voluntary placement situations as that is the only way to assure that agencies will know they must comply with ICWA related consent requirements. Tribal involvement has promoted the retention of connections between the child and his or her tribe. It has also helped with the placement of children within their communities because the ICWA placement preferences are sought. Finally tribal involvement also promotes compliance with ICWA in those situations when voluntary placements become involuntary if the child welfare agency determines it is contrary to the welfare of the child to return the child to the parent.

The CDSS notes, however, that the regulation as written would require duplication of notification efforts. For voluntary adoption proceedings in California, notice to the tribe must be completed by parties or professionals associated with the case, such as the public adoption agency, private adoption agency, or attorney for the prospective adoptive parents. The court's duty is to ensure that notice as required by both state and federal law has been conducted and to ensure that the case does not proceed prior to proper notice and the opportunity to be heard being provided to the affected tribes. Requiring the court to also provide notice in the voluntary proceeding would duplicate efforts, cause confusion regarding the timing required in the case, and increase the risk of questions regarding the finalization of the adoption.

#### Recommendation

Clarify that the party initiating the proceeding is responsible for the conduct of ICWA noticing, and that the courts are to ensure the noticing has been conducted.

#### **§ 23.125 What information should a consent document contain?**

#### Proposed

*Section 23.125 requires "(a) The consent document must contain the name and birthdate of the Indian child, the name of the Indian child's tribe, identifying tribal enrollment number, if any, or other indication of the child's membership in the tribe, and the name and address of the consenting parent or Indian custodian. If there are any conditions to the consent, the consent document must clearly set out the conditions.*

*(b) A consent to foster care placement should contain, in addition to the information specified in paragraph (a) of this section, the name and address of the person or entity by or through whom the placement was arranged, if any, or the name and address of the prospective foster parents, if known at the time."*

#### Comment

The CDSS agrees that there is a minimal amount of information that should be included in consent; however, we are not certain that the extent of the information proposed is appropriate. It would seem that the child's tribe and other information that can confirm eligibility or membership in a tribe can be very significant to that child especially if as an adult the child is seeking out his or her heritage. However, requesting the address of the consenting parent on the consent form is unnecessary, as this information is usually contained in other portions of the agency and court files. This also could create a conflict with privacy and confidentiality rights of parents in states like California, in which the parent can elect to keep his or her personal information confidential. The CDSS also does not support requiring the identification and address of the foster parents, as that would conflict with confidentiality laws aimed at protecting the safety of foster parents.

#### Recommendation

Remove the requirement to include on the consent the address of either the consenting parent or foster parents.

#### **§ 23.127 How is withdrawal of consent to a voluntary adoption achieved?**

#### Proposed

*Section 23.127 states; "(a) a consent to termination of parental rights or adoption may be withdrawn by the parent at any time prior to entry of a final decree of voluntary termination or adoption, whichever occurs later. To withdraw consent, the parent must file, in the court where the consent is filed, an instrument executed under oath asserting his or her intention to withdraw such consent.*

#### Comment

As drafted, the proposed regulation may create an unnecessary barrier to the revocation of consent and the return of the child, for the parent of an Indian child compared to parents of non-Indian children. State law may permit a parent to revoke the consent without filing an instrument with the court. In some states, including California, a consenting parent has a right to revoke the consent and have the child returned prior to the court's notification of the revocation. This provision may also place an unnecessary burden on the consenting parent by requiring the filing of the withdrawal before return of the child and may delay the return. The regulation should

acknowledge that, if state law provides additional rights to the parent regarding the revocation of the consent, and return of the child, that law shall apply.

#### Recommendation

Add, "This provision shall not be interpreted to prevent the immediate return of the child to the parent where otherwise provided under state law."

#### **§ 23.134 What are the rights of adult adoptees?**

##### Comment

Section 23.134 specifies obligations that states should fulfill when an adult adoptive seeks information about his or her adoption. This regulation appears to duplicate obligations that are already assigned to the BIA. Current regulation § 23.71 requires the BIA to disclose to adult adoptees such information that may be necessary for purpose of tribal enrollment etc. Current § 23.71 also requires states to provide information to the BIA upon finalization of an adoption. This proposed section appears to create duplicative work and appears to shift a BIA responsibility to the states. The CDSS objects to this regulation as duplicative and unnecessary.

#### **§ 23.137 How must the state maintain records?**

##### Proposed

This regulation requires that a state "*must establish a single location where all records of every voluntary or involuntary foster care, pre-adoptive placement and adoptive placement of Indian children by the courts of that state will be available within seven days of a request by an Indian child's tribe or the Secretary.*" Proposed paragraph (b) lists "minimum" documents that include "*the complete record of the placement determination (including, but not limited to the findings in the court records and social worker's statement).*"

##### Comment

It is assumed that this proposed regulation is based on ICWA § 1915(e) which requires states to maintain "*a record of each placement of an Indian child evidencing the efforts to comply with the order of preference specified in the ICWA. The record shall be made available at any time upon request of the Secretary or the child's tribe.*"

California agrees that records involving a child's case should be maintained in a manner that allows for timely compliance with the requirements under § 1915(e). California can also be supportive that clarifications be made as to what minimum records should be maintained under ICWA § 1915(e) and those tribes in particular should have clear and timely access to the records of their children. Please note our prior comments on this

Ms. Elizabeth Appel  
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section in our submission of April 24, 2015. Our concern with this proposed regulation is that implementation as proposed would be a logistical and administrative impossibility, particularly in large states, or in states such as California which is decentralized and operates on a county basis.

#### Recommendation


We would instead propose that if the states are to have available ICWA related case information in a centralized manner, the requirements should allow for the electronic collection, storage and transmission of adequately specified documents. The CDSS recommends that the regulation specify a limited subset of records (e.g. the initial petition, judicial orders, documents provided to the BIA per § 23.136) and require that all other records involving an Indian child's case not be destroyed wherever located. The limited subset of records should prioritize records that pertain to key aspects of the substantive requirements of ICWA such as compliance with noticing, placement preferences and evidentiary requirements. In addition a reasonable timeframe for the electronic collection of the records should be specified (e.g. within 30 days of the filing).

#### Conclusion

We conclude with the affirmation that CDSS supports the BIA's efforts to provide clarification and minimum standards for the states that will promote uniformity in compliance with the federal ICWA.

For further information, you may contact me at (916) 657-2614.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory E. Rose" followed by a flourish and the word "for".

Gregory E. Rose  
Deputy Director  
Children and Family Services Division

Department of the Interior,  
Bureau of Indian Affairs

Comment Form

To: Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action – Indian Affairs,  
U.S. Department of the Interior, 1849 C. Street N.W., MS 3642 Washington, DC 20240

From: Judicial Council of California

Tribal Affiliation: Comment prepared with input from the Tribal Court–State Court Forum, an advisory committee comprised of 30 members, including tribal and state court judges and input from the Family and Juvenile Law Advisory Committee.

Date:

Comment:

The summary of the proposed rule *Regulations for State Courts and Agencies in Indian Child Custody Proceedings* (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) states that the proposed rules will improve ICWA implementation by state courts and child welfare agencies. The Judicial Council of California (JCC) supports these goals and agrees with the need for more specific federal regulations to provide guidance and clarity on issues that have been the subject of conflict and difference in interpretation. The JCC supports full ICWA compliance.

We are writing this comment to describe the impact the proposed regulations and newly issued guidelines would have on California state courts. Our comments are grouped into several areas that reflect the following general concerns: (1) the proposed regulations are at times unclear or confusing; (2) the proposed regulations are in a number of instances inconsistent with the statute (25 U.S.C. §§ 1901 – 1963); (3) the regulations do not resolve inconsistencies between ICWA and other relevant federal statutes, which interfere with ICWA compliance; (4) the regulations transfer current Bureau of Indian Affairs (BIA) responsibility to state courts and agencies which is not most conducive to ICWA implementation; (5) the regulations fail to take advantage of technological advances that could facilitate ICWA implementation and compliance; and (6) the regulations unduly fetter the discretion of state judicial officers.

**1) Certain proposed regulations are unclear and confusing**

**a) Proposed regulation §23.103, When does ICWA apply? (page 14886)**

There is a need to clarify the application of ICWA in delinquency proceedings given that proposed regulations §23.103(a) and §23.103(e)(2) seem to conflict.

ICWA (25 U.S.C. 1903 (1)) excludes “a placement based upon an act which, if committed by an adult, would be deemed a crime.....” This general exclusion is expressed in proposed regulation §23.103(e)(2).

However, proposed regulation §23.103(a) states that ICWA applies to

juvenile delinquency proceedings if any part of those proceedings **results in the need for placement of the child in foster care**, preadoptive or adoptive placement, or termination of parental rights. (Emphasis added.)

Does this mean ICWA applies even when the delinquency proceedings are based on a criminal act? If so, what definition of “foster care” is intended in this regulation?

There are different definitions of foster care in different federal statutes. In addition to the definition in ICWA, 42 U.S.C. § 672(c) defines foster care to include a family home or child care institution accommodating 25 children or less, but explicitly exclude

detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.” (42 U.S.C. § 672 (c))

Is there any relationship between this definition and §23.103(a)?

**b) The investigation requirements at the start of a proceeding**

The scope of required ICWA inquiry has been the subject of a great deal of litigation in California. In proposed regulations §23.103(c) and §23.107(b), it would be helpful to clarify **who** state courts are required to ask whether the child is an Indian child and what exactly must be asked. Is it sufficient to ask the parents and child (if old enough)? What specifically must be asked? It would be helpful to clarify what the “investigation” required under §23.103(c) consists of beyond asking and whether an “investigation” must be conducted if all of the individuals asked about Indian status say that there is no Indian ancestry.

**c) The definition of “Indian child” being used in the regulations.**

The Act (25 U.S.C. § 1903(4)) defines an Indian child as



“any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.”

Various sections of the proposed regulations, however, refer only to the Indian child being “a member or eligible for membership” in a tribe. (See proposed regulation §23.2(1); §23.107(a) and (b)(2); §23.108(a); §23.109 Title, (a), (b) and (c); §23.111(a)(1) and (d)) Is it the intent of the regulations to expand the practical definition of an Indian child?

**d) The notice requirements**

- i) How do the new requirements concerning notice, found in proposed section 23.111, relate to the existing notice requirements in 25 CFR §23.11(a)? This section permits notice to be sent “by certified mail, return receipt requested.” Section 23.111(a) of the proposed regulations states that notice must be sent “by registered mail with return receipt requested.” This appears to create a conflict.

We urge you to continue to allow certified mail to be used for ICWA notice. In 1994, the BIA considered amending the regulations to require registered mail rather than certified mail.<sup>1</sup> This was ultimately rejected because it was determined that it undermined the purpose of ICWA notice:

Comment. One commenter recommended that revised regulations require ICWA notices be sent to tribes via registered mail...

Response. No change is made in the manner in which ICWA notices are served due to considerations given for proof of delivery of said notices in a timely manner. Registered mail is delivered only to the addressee. This means ICWA notices may not be delivered should the addressee not be present at the time of mail delivery. Unclaimed registered mail is held by the mail service for a limited number of days and then returned to the sender. On the other hand, mail delivered via certified mail with return receipt requested may be delivered to the office in the address rather than only to a specific person. **Because the intent of providing ICWA notices is timely tribal notification of child custody proceedings and proof that such notice was given, certified mail with return receipt requested is the preferred method of serving ICWA notices to assure its timely delivery.** (Emphasis added at page 2254)

Registered mail is generally much slower than certified mail. Whereas certified mail within the United States is generally delivered within two to three business days,

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<sup>1</sup> See final rule adopted at 59 FR 2248-01

registered mail generally takes fourteen business days.<sup>2</sup> In addition there is a substantial cost differential between registered and certified mail. Registered mail costs \$11.95 per item. Certified mail costs \$3.30 in addition to the first class mail cost.

**e) The requirements of §23.107(d)**

This section requires the court to keep identifying documents as confidential and under seal when a parent requests anonymity, but says that it does not relieve the court from the obligation of verifying a child's Indian status. Please clarify how a court can simultaneously comply with these seemingly conflicting requirements.

**f) Proposed regulation §23.107: what actions must an agency and state court undertake in order to determine whether a child is an Indian child?**

Our state courts need clarity and specificity as to what will satisfy the investigation requirements of ICWA. Specifically who must the agency ask whether there is reason to believe a child is an Indian child and what specific questions must be asked?

This proposed regulation should also be revised to require only that an agency and state court seek verification in writing rather than obtain verification in writing from all tribes in which a child may be a member. Proposed subsection 23.107 (a) requires that if an agency has "reason to believe" that a child is an Indian child the agency:

must obtain verification, in writing, from all tribes in which it is believed that the child is a member or eligible for membership, as to whether the child is an Indian child.

Agencies and state courts have no authority to require tribes to provide written verification. All agencies and state courts can do is **seek** or request a tribe to provide written verification of a child's status.

**g) The level of information that provides a court with "reason to believe" the child is an Indian child.**

Proposed regulation 23.107(c) is confusing. Specifically subsection 23.107(c)(1)-(5) uses differing and inconsistent language in discussing what gives a court 'reason to believe':

- (1) Any party to the proceeding, Indian tribe, Indian organization or public or private agency informs the agency or court that the child is an Indian child
- (2) Any agency involved in child protection services or family support has discovered information suggesting that the child is an Indian child;
- (3) The child who is the subject of the proceeding gives the agency or court reason to believe he or she is an Indian child;
- (4) The domicile or residence of the child, parents, or the Indian custodian is known by the agency or court to be, or is shown to be, on an Indian reservation

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<sup>2</sup> <http://smallbusiness.chron.com/difference-between-certified-amp-registered-mail-40089.html>

- or in a predominantly Indian community; or
- (5) An employee of the agency or officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

What is the difference between these? Is knowledge that the child may be an Indian child different from information suggesting that the child is an Indian child?

**h) Who designates a child's tribe under §23.109?**

Proposed §23.109 requires an agency to notify all potential tribes when a child is eligible for membership in multiple tribes. If the tribes do not agree on which should be designated as the child's tribe, is it the agency that makes a decision on which tribe should be designated? Currently, in California in the event of a conflict the court would decide which tribe should be designated after a noticed evidentiary hearing at which all parties and tribes would have an opportunity to be heard. Section 23.108 seems to contemplate that the agency would decide rather than the court.

**i) Conflicting provisions on appointment of counsel**

Proposed subsection §23.111(c)(4)(iv) says the court must advise parents or Indian custodians of the right to appointed counsel "where authorized by State law." This is inconsistent with §23.111(f) that says the court must inform of the "right to appointed counsel..." It does not contain the limiting language "where authorized by State law." Further the statute 25 U.S.C. §1912(b) does not limit appointment of counsel to "where authorized by State law."

**j) The waiting periods in §23.111 and §23.112**

How many times can a party ask for an additional 20 days to prepare? Is this something that happens once? With each hearing? With each "proceeding" (see question re "proceeding" below)?

**k) What is meant by "each distinct Indian child custody proceeding" in §23.115?**

This proposed subsection says that the right to request a transfer to tribal court "occurs with each proceeding" and "each distinct Indian child custody proceeding." These terms are unclear. If there is one initiating petition or document and many hearings within that action, when is there a distinct or separate proceeding for the purpose of §23.115?

**l) Clarify proposed regulation §23.110: when must a state court dismiss an action?**

It is not clear how a state court determines whether a tribe exercises exclusive jurisdiction over a particular reservation.

Agencies and courts in California may come into contact with families and children affiliated with tribes throughout the country. State agencies and courts do not have ready access to information about the governmental status of reservation lands and whether any particular tribe has successfully petitioned to resume exclusive jurisdiction. This information is within the knowledge of the tribe and/or the BIA. To facilitate state court

compliance, improve accuracy and efficiency and reduce the burden on state courts, the BIA should compile information on which reservations are subject to the exclusive child welfare jurisdiction of a tribe and make this information readily available to state agencies and courts as part of the assistance to state courts mandated by subpart H of these regulations.

Subsection 23.110(c) requires the state court to contact the tribal court to determine whether the child is a ward of the tribal court. Because there is no comprehensive list of tribal courts operating in the United States and only individual tribes and/or the BIA would have this information, we recommend that the BIA maintain a comprehensive list of tribal courts and tribal court contact information as part of the assistance to state courts mandated by subpart H of these regulations.

**m) Proposed regulation §23.111: what are the notice requirements for child custody proceeding involving an Indian child?**

State courts need clarity on when formal notice by registered/certified mail return receipt requested is required and when some less formal contact with the tribe is acceptable. The relationship between the notice requirements of §23.111 and other contacts with tribes such as the “investigation” and “verification” discussed in proposed regulation §23.107 is not clear.

Proposed regulation 23.107 requires an agency to ask in all proceedings whether there is reason to believe that the child is an Indian child. If there is reason to believe then the agency

must obtain verification, in writing, from all tribes in which it is believed the child is a member or eligible for membership...

Proposed regulation 23.107 does not specify how that verification must be sought, but presumably the notice provisions of 23.111 need not be followed because this request for verification appears to be separate from the notice requirement of 23.111. Subsection 23.107(b)(2) further states that if there is “reason to believe” then

the court must confirm that the agency used active efforts to work with all tribes of which the child may be a member to verify whether the child is in fact a member or eligible for membership in any tribe...

The regulation does not specify what these “active efforts” consist of, but again, presumably they do not require compliance with the notice requirements of 23.111.

The provisions of 23.107 suggest that there is intended to be an investigation stage that is separate and distinct from the requirements of notice under section 23.111. Presumably, notice under section 23.111 is intended to be required in a smaller subset of cases than

the investigation under section 23.107. However, both the investigation mandated by section 23.107 and the notice required by section 23.111 are triggered by a “reason to believe.”

This is confusing particularly in light of the recently released guidelines (F.R. 80 No. 37 10146) in which investigation under guideline B.2 (a) is triggered by a “reason to believe” and notice under guideline B.6 is triggered by “reason to know.”

The trigger for notice set out in proposed section 23.111 is also inconsistent with the statute itself. 25 U.S.C. §1912(a) mandates notice “...where the court knows or has reason to know that an Indian child is involved...”

Proposed regulation 23.109 provides that when a child may be affiliated with more than one tribe:

- (a) Agencies must notify all tribes, of which the child may be a member or eligible for membership, that the child is involved in a child custody proceeding...

Again it is not clear what this notification must look like. Must the notification sent under section 23.109 comply with all of the requirements of section 23.111 and be sent by registered mail return receipt requested?

There are a number of issues if the notification required under section 23.107 and 23.109 must comply with all of the requirements of section 23.111. As a result of the federal relocation programs of the 1950s and 60s, over half of the individuals in California who identify as American Indian/Alaska Native are affiliated with tribes outside of California. Often these individuals believe they have American Indian/Alaska Native ancestry, but do not know the specific tribe they are affiliated with and do not know whether or not they are a member or entitled to membership in a specific tribe. California courts and agencies in Los Angeles and other urban areas report that they may have to be in contact with 30 to 60 tribes in which a child “may be a member or eligible for membership.” Registered mail return receipt requested is slow and expensive. Finally, section 23.111 requires that a copy of the petition or complaint accompany the notice. The petition contains detailed confidential information concerning the parents and children involved. While it is appropriate the child’s tribe has access to this confidential information, it is problematic that this information be sent to multiple tribes most of which the family will have no affiliation with. Tribes have reported that the receipt of numerous notices under the formal ICWA requirements is burdensome for them as well.<sup>3</sup>

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<sup>3</sup> See attached Exhibit A

Please revise 23.111 to clarify how many times notice by registered/certified mail, return receipt requested must be sent to each tribe, or provide a definition of the term “proceeding” as used in this subsection.

Proposed subsection 23.111(a) states that courts and agencies must send notice

of each such proceeding (including but not limited to a temporary custody proceeding, any removal or foster care placement, any adoptive placement, or any termination of parental or custodial rights) by registered mail with return receipt requested....

In California, there is generally one initiating petition and one action for a child welfare matter from initial removal to reunification or other permanent plan such as adoption or tribal customary adoption. California does not have separate “proceedings” or legal actions for temporary custody, removal, foster care placement, adoptive placement and termination of parental rights. All of those are different hearings within the same proceeding. In addition to those hearings, there are also a wide variety of other hearings types that can take place within a child welfare proceeding.

It is not clear whether subsection 23.111(a) requires ICWA notice by registered/certified mail, return receipt requested only one time at the initiation of a proceeding, or whether it is required for each hearing within a proceeding or only for certain kinds of hearings within a proceeding.

**n) Section 23.111(i) – Interstate Placements**

This section states:

If the child is transferred interstate, regardless of whether the Interstate Compact on the Placement of Children (ICPC) applies, both the originating state court and receiving court must provide notice to the tribe(s) and seek to verify whether the child is an Indian child.

In a child welfare case in California, the California court would have no way of implementing this requirement. As the receiving state, there would be no California state court case or file. The court would not be aware of the placement and would have no opportunity to provide notice.

**o) Section 23.132: what is the procedure for petitioning to vacate an adoption?**

It is not clear whether an adoption can be vacated for failure to comply with ICWA. Per subsection (a), a person can petition to vacate an adoption based upon the consent to adoption having been obtained by fraud or duress, or that the proceeding failed to comply with ICWA. However, per subsection (d), the court can only invalidate a proceeding

based on a finding that consent was obtained by fraud or duress. There is no mention of vacating for otherwise failing to comply with ICWA.

## 2) Inconsistency with the ICWA Statute

- a) **§23.111** - the trigger for notice set out in proposed 23.111 is also inconsistent with the statute itself. 25 U.S.C. §1912(a) mandates notice "...where the court knows or has reason to know that an Indian child is involved..."
- b) Several of the proposed regulations require applying the substantive provisions of the ICWA to cases where the case may not involve an "Indian child". ICWA applies only to "Indian children". As discussed above, under ICWA notice is required when there is "reason to know" that the case involves an Indian child, but the substantive provisions only apply to a case involving an "Indian child". The proposed regulations change the level of knowledge from "reason to know" to "reason to believe" and then require application of the substantive provisions of the Act. This expansion may be burdensome for state agencies and courts in California:
  - i) Proposed regulation 23.103(d) states that if there is any reason to believe the child is an Indian child then the agency and state court must treat the child as an Indian child unless and until it is determined that the child is not a member or eligible for membership in an Indian tribe. This will be very burdensome to implement in California. Many individuals in California involved in child custody proceedings falling under ICWA claim some Indian ancestry and full inquiry and tribal notice must be done in all of these cases. However, in only a very small percentage of these cases is the child found to be eligible for tribal membership. ICWA only applies to "Indian children", requiring active efforts and particularly requiring the testimony of a qualified expert witness testimony in all cases where there is some suggestion of Indian ancestry will place a heavy cost burden on state agencies and courts and will unnecessarily delay many cases which do not ultimately fall within ICWA.
  - ii) Similarly proposed subsection 23.106 which would require active efforts to be carried out while investigating whether a child is an Indian child would also be very burdensome and difficult to apply in California. Active efforts require consultation with and participation of a child's tribe. If a family has only vague information concerning Indian ancestry it is not possible to work with tribes or identify culturally appropriate services until a determination has been made whether a child may in fact be affiliated with any tribe.
  - iii) Proposed section 23.113 would apply stringent emergency removal requirements to all cases where there is "reason to believe" that an Indian child may be involved. In particular subsection (f) states that a temporary emergency removal cannot last more than 30 days without a complete ICWA compliant hearing including testimony of a

Qualified Expert Witness. In California it is not unusual for it to take longer than 30 days to determine whether or not a child is eligible for membership in a tribe. Please amend subsection (f) to state that “[t]emporary emergency custody may be continued for more than 30 days *after it is determined that a child is an Indian child* only if:”

§23.121(a) and (b) should be revised to include reference to emotional harm to the child. Currently these subsections say that in order to make a foster care placement or termination of parental rights order, the court must have clear and convincing evidence including the testimony of qualified expert witnesses demonstrate that continued custody “is likely to result in serious physical damage or harm to the child.” This is inconsistent with the statute. 25 U.S.C. § 1912(e) and (f) state that the evidence must demonstrate that continued custody “is likely to result in serious emotional or physical damage to the child.”

### **3) Inconsistency with other federal statutes**

One of the greatest challenges that state courts face is reconciling the provisions of ICWA with other federal statutes governing child welfare matters, particularly title IV-E of the Social Security Act (title IV-E). Under title IV-E, the federal government makes substantial sums available for certain child welfare proceedings, placements and related costs. However, these payments are contingent upon the states complying with various federal standards. Many of these standards are incorporated into California statutory law in compliance with title IV-E. As such, these standards and restrictions are binding upon California courts in child welfare matters. BIA and the Department of Health and Human Services need to work together to ensure that there is no conflict between the requirements of the ICWA and title IV-E. States and state courts cannot be expected to comply with contradictory and conflicting federal requirements on the subject of child welfare matters.

Per §23.131 (c)(4)a

placement may not be considered unavailable if the placement conforms to the prevailing social and cultural standards of the Indian community in which the Indian child’s parent or extended family resides or with which the Indian child’s parent or extended family members maintain social and cultural ties.

It is not clear how this relates to section 471 [42 U.S.C. 671](a)(10) of title IV-E, which requires the state to maintain certain standards for foster care placements including various criminal background standards for licensing of foster care placements. The standards of title IV-E have been incorporated into California law, which prohibits courts from making foster care placements that violate these standards.

### **4) Problematic shift of BIA responsibility to state courts**

Consistent with the role of the BIA as the primary agency through which the federal government discharges its fiduciary obligations to individual Indians and tribes, BIA is charged with a variety of obligations to assist with ICWA implementation and compliance.



The JCC believes that it is vital that BIA fulfill its responsibilities. Unfortunately, BIA is not complying with its obligations under the statute and existing regulations. The proposed regulations impermissibly attempt to shift federal responsibility to the state courts and agencies. This does a disservice to Indian children, Indian parents, tribes, and state courts and agencies as we all strive for full ICWA compliance.

**a) Revise the format of the *Designated Tribal Agents for Service of Notice***

Proposed regulation 23.104 provides that state agencies and courts should rely on the list of ICWA agents for service published by the BIA in the Federal Register in order to provide notice or obtain information or verification from a tribe under the regulations. For the reasons discussed in more detail below, the list of agents for service of ICWA notice published by the BIA in the federal register provides inadequate information to permit agencies and courts to identify and notify tribes.

In California, many individuals of American Indian descent identify their American Indian affiliation in relationship to their historical tribal affiliation such as “Pomo” or “Tlingit.” This is often inconsistent with the way in which tribes are identified on the list of agents for service published in the federal register. The list of agents for service of ICWA notice published in the federal register (found at <http://www.bia.gov/cs/groups/public/documents/text/idc012540.pdf>) contains an alphabetical list of tribes by their federally recognized names by region. It does not link the information in the federal register to the historical tribal affiliation. Thus, a state or county social worker who obtains information that a family identifies as Pomo or Tlingit cannot readily identify which tribes must receive notice or be contacted simply by consulting the list of agents for service. Previously published lists of *Designated Tribal Agents for Service of Notice* contained the historical tribal affiliation information.<sup>4</sup> Without warning or consultation, this information was removed when the BIA published its list on January 17, 2014 and subsequent lists.<sup>5</sup> Understanding tribal affiliations is something that is in the particular purview and expertise of the BIA and failure to provide historical tribal affiliation information shifts what is properly a BIA responsibility to the state courts and agencies and undermines the goal of timely notice to all of a child’s potential tribes.

Another problem with the Federal Register list is that it is often incorrect or out of date. The California Department of Social Services was specifically informed by local BIA staff that the published

lists are current only when published and tribal addresses and phone numbers can and do change without public notice. Therefore please be advised that these lists

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<sup>4</sup> See for instance the lists published August 1, 2012 <http://www.gpo.gov/fdsys/pkg/FR-2012-08-01/pdf/2012-18594.pdf>, May 12, 2011 <http://www.gpo.gov/fdsys/pkg/FR-2011-05-25/pdf/2011-12536.pdf> and May 19, 2010 <http://www.gpo.gov/fdsys/pkg/FR-2010-05-19/pdf/2010-11696.pdf>

<sup>5</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2014-01-17/pdf/2014-00779.pdf>

cannot be relied upon to provide up to date addresses or phone numbers for Federally Recognized Tribes in all instances.

We recommend using an electronic database that can be continuously updated. Most states (including California) have a system for registering and updating information concerning agents for service of corporations doing business within the state. This information is contained in a searchable data base maintained by the state (in California it is maintained by the Secretary of State and can be found at <http://kepler.sos.ca.gov/list.html>), which is continuously updated. Further, the data base could be configured so that, when only limited information on tribal affiliation is available (for instance that a grand-parent had Cherokee heritage,) an agency would be able to find up to date contact information for all of the tribes of a particular group. We suggest that it would greatly improve the efficiency and effectiveness of ICWA noticing if such a database were maintained with respect to agents for service of notice under ICWA. It seems appropriate that BIA be responsible for maintaining such a database.

BIA should redesign the list of agents for service of ICWA notice and provide greater assistance to state courts in determining which tribes need to be provided with ICWA notice.

**b) Provide funding for appointment of counsel as mandated by 25 U.S.C. §1912(b) and 25 CFR §23.13**

ICWA requires that counsel be appointed for an Indian parent or Indian custodian in all cases where the court determines indigency. It further requires that where state law makes no provision for payment of such counsel, the fees and expenses shall be paid out of federal funds.<sup>6</sup> Existing regulations at 25 CFR §23.13 further elaborate on these requirements. However, in California BIA does not pay these appointed counsel fees even when all requirements of the Act and regulations are followed.

**c) Fulfill the recordkeeping and information availability requirements of 25 CFR §23.71**

The proposed regulations improperly attempt to shift federal responsibility to state agencies and courts.<sup>7</sup> Existing regulation 25 CFR Subpart G §23.71, which is not revoked or amended by the proposed regulations, requires the BIA to maintain information on state court proceedings and finalized adoptions, and provide information to adult adoptees upon request under ICWA.

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<sup>6</sup> 25 U.S.C. §1912(b).

<sup>7</sup> See in particular §§23.134 and 23.137

Proposed subsection §23.134 should be removed. It is inconsistent with and duplicative of Subpart G of the existing regulations.

The JCC supports the goal of ensuring that all adult adoptees are reconnected with their tribes. However, the proposed regulation attempts to achieve this goal in an inefficient and ineffective manner. There are more than 560 federally recognized tribes across the country, each with its own enrollment requirements. Suggesting that “agencies should communicate directly with tribe’s enrollment offices” does a disservice to adult Indian adoptees seeking to establish their tribal identities and places an unfair burden on state courts and agencies.

Part G, §23.71 requires that states entering a final decree of adoption for an Indian child provide this information to the Secretary of the Interior and for the Division of Social Services. BIA is required to receive this information and maintain a central file on all state Indian adoptions. Existing §23.71(b) places the responsibility for maintaining this information and disclosing it to adoptees upon request upon the Division of Social Services, BIA. This makes sense and is consistent with the fiduciary responsibility the BIA has to individual Indians and tribes. It is inappropriate and an unfair burden on state courts and agencies for the BIA to shift this obligation to the states. It also does a disservice to Indian individuals and tribes who work closely with the BIA. It makes no sense to suggest that state agencies should work with each tribe across the country to identify a tribal designee to assist with adult adoptees. It would make much more sense and be much more economical and efficient for the BIA to identify and work with representatives of the tribes and actively facilitate enrollment of adult adoptees.

Proposed regulation §23.137 requires that the State establish a single location where all records of every voluntary or involuntary foster care, preadoptive placement and adoptive placement of Indian children by courts of that State be maintained. It also requires that the State furnish these records within seven days of a request by an Indian child’s tribe or the secretary. Maintaining this information and making it available to tribes and individuals should be a BIA responsibility under Subpart G of the regulations. The attempt to shift this responsibility from BIA to the states imposes a burden and unfunded mandate on the states.

**d) Provide technical assistance and resources as mandated by 25 CFR Subpart H.  
§§23.81 – 23.83**

Subpart H. of 25 C.F.R. Part 23 contemplates that the BIA will provide assistance to the state courts in complying with ICWA requirements. Subsection 23.81 requires the BIA to provide assistance in identifying qualified expert witnesses. Subsection 23.82 requires the BIA to provide assistance identifying language interpreters. Subsection 23.83 requires the BIA to provide assistance locating biological parents when an adoption of an Indian child is terminated.

In practice and in fact, BIA provides no such assistance to state courts and agencies in California. Subpart H should be revised to require that BIA provide assistance to state courts in matters arising under the new proposed regulations including: (1) determining whether particular reservation lands are ones over which a tribe exercises exclusive child welfare jurisdiction; (2) determining whether a tribe has a tribal court exercising child welfare jurisdiction; and (3) obtaining contact information for a tribal court. It is impractical and inefficient to expect individual state courts and agencies to obtain this information especially when BIA already has the expertise and existing relationships with tribes and tribal courts.

Section 23.122(a) of the proposed regulations state that “[a] qualified expert witness should have specific knowledge of the Indian tribe’s culture and customs.” The JCC supports the requirement that a qualified expert witness be able to provide the court with meaningful insight into the child rearing practices of the child’s tribe. However, finding such experts can be a challenge in California. Largely as a result of historical federal relocation policies of the 1950s and 1960s, many areas of California such as Los Angeles and the San Francisco Bay areas are home to individuals who trace their ancestry to American Indian tribes from throughout the United States. BIA should maintain a list of available experts from each tribe as part of their assistance to state courts mandated by §23.81.

## **5) Failure to take advantage of technology**

While the proposed regulations acknowledge and encourage the use of electronic notice and technology such as telephone and videoconferencing for remote participation in court proceeding, they do not go far enough. The proposed regulations fail to take advantage of technological advances to improve notice compliance, specifically in terms of the contact information for tribal agents for service and electronic notice to tribes.

### **a) Contact information: agents for service**

Although a list of agents for service is to be published in the Federal Register each year, in practice, as stated above, this information is often incorrect or out of date. See our comments above on the format of the list of agents for service.

### **b) Electronic service**

A related issue is the means of providing notice to tribes. Currently, registered mail with return receipt requested is the only method explicitly authorized by the Act. The JCC is pleased that the proposed regulations mention electronic service. However, the JCC recommends that you consider allowing electronic service in lieu of registered mail when a tribe and a state enter into an agreement to allow such alternative service. Service by registered mail return receipt requested can be as much of a burden on the tribes receiving the notices as it is on the agencies sending the notices. Parties are generally entitled to waive service in a specified manner. However, unless this is specifically

recognized in the federal regulations, agencies will fear being overturned on appeal; and there will be little incentive to invest in methods of electronic service, which could be of benefit to both agencies and tribes. While we understand the importance of ensuring that notice is actually received by the authorized tribal representative, this could be done electronically just as efficiently as by registered mail if the tribes choose to receive notice in this way. At a minimum, tribes and state and local agencies should be entitled to enter into agreements dealing with the method of notice (and other issues) and thereby opt out of the requirement of effecting notice by registered mail. Electronic service, when chosen by the tribe, could offer a number of efficiencies. Tribes and agencies would be able to communicate, in real time, to expedite determinations about tribal membership eligibility and the exchange of information relating to active efforts and placement.

**6) Unduly restricts judicial discretion**

Under federal and state child welfare laws, a judge must make decisions in the best interests of the child. The proposed regulations contradict federal and state laws by unduly restricting a judge in making an individualized, case-by-case determination of what is in the best interests of a child. Some restrictions on judicial discretion may be appropriate to prevent the kinds of abusive practices that ICWA was intended to remedy. Many of these restrictions have already been incorporated into California law. However, judges should not be prevented from considering the best interests of a child on an individualized basis.

**a) Considerations re good cause not to transfer to tribal court**

Proposed subsection 23.117, “How is a determination of “good cause” not to transfer made?” Some of what is contained in proposed regulation 23.117 is already contained in California law. Under Welfare and Institutions Code §305.5(c)(3) a court may not consider socioeconomic conditions and the perceived adequacy of tribal social services or judicial systems in determining whether there is good cause not to transfer to a case to tribal court. However, proposed subsection 23.117(c) and (d) would alter existing law and unduly restrict the discretion of the judge to make an individualized determination of the child’s best interest based upon the following factors:(c) - whether the case is at an advanced stage and transfer would result in a change in the child’s placement and (d) – the existing relationship between the child and the tribe and the child’s prospective placement upon transfer. We would recommend changing this subsection to say except in exceptional circumstances relating to the Indian child’s welfare, the court may not consider these factors. In addition the subsection could require that the exceptional circumstances be stated in writing.

**b) Considerations on placements**

Again, much of proposed regulation 23.131 is consistent with California statutory law. However, proposed subsection 23.131(c)(3), (4) and subsection (d) further restrict judicial discretion in purporting to prevent a court from considering bonding and attachment that might have occurred between a child and a foster family in determining whether or not there is good cause to deviate from the placement preferences in ICWA.

We would recommend that a judge only be precluded from considering bonding and attachment if a placement outside the placement preferences was made in violation of ICWA. We would recommend changing this subsection to say except in exceptional circumstances relating to the Indian child's welfare, the court may not consider these factors. In addition the subsection could require that the exceptional circumstances be stated in writing.



CDSS

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EDMUND G. BROWN JR.  
GOVERNOR

**ICWA & Relative Placement Preference in Foster Care  
Fact Sheet April 2016**

Child welfare agencies face challenges every day and decisions must be made that will impact the child for the rest of his/her life. Parents of a child work hard towards reunification and if those efforts fail, the family could potentially lose their child forever. Foster parents play a critical role and the purpose of a foster family is to love a child as their own, but still be prepared to let that child go.

**Placement:** California and federal laws impact the determination of where the child will be permanently placed. If reunification fails, child welfare agencies must address the multiple interests acknowledged in these laws. Practice and history, now embedded in our national and state laws, have identified that there must be preferences when placing children on a permanent basis. See California Juvenile Laws & Rules – WIC 224 & WIC 361.3

- There is a preference to place children with relatives.
- There is a preference to place children with siblings.
- In the case of an Indian child, the first preference for the adoption of an Indian child is with a member of the child's extended family per the federal Indian Child Welfare Act.

**Laws Surrounding Federal & State ICWA:** In a case of a Native American child there is an extensive body of law developed at the federal and state level which gives additional rights to the child, the child's parent and the child's tribe, in order to retain the child's connection to its tribe and cultural heritage. California has chosen to strongly adhere to the federal ICWA by enacting Senate Bill (SB) 678<sup>1</sup>, in part because of the high number of tribes in California as well as the number of members of tribes from other states living within California.

**California's Policy & Direction – Welfare and Institutions Codes (WIC) summarized:**

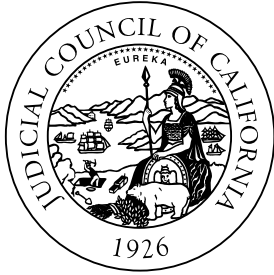
**WIC 224:**(a) (1) ...The state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices, in accordance with the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) ... by placing the child, whenever possible, in a placement that reflects the unique values of the child's tribal culture and is best able to assist the child in establishing, developing, and maintaining a political, cultural, and social relationship with the child's tribe and tribal community.

**WIC 361.3:** Removal of child from custody of parent; preferential consideration of relative's request for placement of child with relative; search for relative and furnishing identifying information.

**Synopsis:** CDSS is committed to continuing to support, follow and enforce state and federal child welfare laws, including those surrounding ICWA, in an effort to promote and protect the best interest of all children. Each case should be looked at with an unprejudiced and lawful perspective to ensure that all aspects of the child's welfare is protected and promoted. While we may sympathize with foster families we cannot support families that take private matters into the public realm and disclose confidential information. When the confidentiality of a child or family is not upheld, the individual(s) is not just harming the foster care system, but the child's family and ultimately the child.

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<sup>1</sup> SB 678 Chapter 838, Statutes of 2006



# JUDICIAL COUNCIL OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS

## ICWA Information Sheet - NOTICE (DEPENDENCY)

### 1. Overview

State and federal law require notice under the *Indian Child Welfare Act* (ICWA) in all dependency proceedings whenever it is known or there is reason to know that an Indian child is involved (WIC 224.2 (b)). Lack of, or errors in ICWA notice is a very common reason for cases to be over turned on appeal. Although there are published cases in which appellate courts have held that notice was not required on the facts of a specific case, by far the majority of reported cases find that the juvenile court needs only a suggestion of Indian ancestry to trigger the notice requirement of the ICWA in a child dependency proceeding (see eg. *In re Christian P.*, (2012) WL 2990034). The ultimate determination of whether or not a particular child is a member of a tribe or eligible for membership is for the tribe(s) entitled to notice. (WIC 224.3 (e)(1); *Guidelines for State Courts and Agencies in Indian Child Custody Proceedings*, 80 F.R. 10146 (Feb. 25, 2015) at B.3 pg. 10153) Complete, timely and accurate notice is essential in order for tribes to exercise their authority to make this determination, as well as exercise all of the other rights given to the tribe under ICWA. Therefore we strongly recommend that the court err on the side of ensuring that ICWA notices are sent in all cases in which there is substantive information suggesting possible tribal membership or eligibility. Although there is no bright line and ICWA notice cases are very fact specific, a good rule of thumb is that if a particular ancestor (no matter how far back) or ancestors is identified as the source of tribal affiliation and a particular tribe or tribes are identified, ICWA notice is required.

The court must exercise supervision over the ICWA noticing process to ensure that the legal requirements are met and to minimize the possibility of appeal. In California, ICWA notice must be sent on Judicial Council form ICWA-030 *Notice of Child Custody Proceeding for an Indian Child* and must comply with the requirements of WIC 224.2 and CRC 5.481 (b). The things that the court must look at to ensure compliance with the notice provisions include:

- Content – is the notice as complete and accurate as it can reasonably be given the available information?
- Distribution – did the notice go to all of the individuals, tribes and governmental entities who are required to receive the notice?



- Method – did the notice go by certified mail, return receipt requested and is the necessary documentary proof in the court file? and
- Timing – was the notice timely **received** and is there proof of this in the court file?

## 2. How to review a notice and assess whether it is adequate

### a) Content

The required content of the ICWA notice is set out in federal regulations<sup>1</sup> and state law<sup>2</sup>. Those requirements are reflected in mandatory Judicial Council form ICWA-030 *Notice of Child Custody Proceeding for an Indian Child*. The required content includes:

All names known of the Indian child’s biological parents, grandparents, and great-grandparents, or Indian custodians, including maiden, married and former names or aliases, as well as their current and former addresses, birthdates, places of birth and death, tribal enrollment numbers, and any other identifying information, if known.<sup>3</sup>

The court and the child welfare department have an affirmative and continuing duty to seek to obtain this information throughout the life of a case where they know or have reason to know that the child is or may be an Indian child.<sup>4</sup> This includes an obligation to interview the child’s parents, extended family, relatives and other available individuals who may have the information necessary to complete the ICWA-030. Although the statute only requires that the court and agency affirmatively seek out ancestry information as far back as great-grandparents, these are **minimum federal standards** and case law holds that where relevant information is available or provided about ancestors further back than great-grandparents, that information must be included in the ICWA notice.<sup>5</sup> This information can be included in item 7 d. at page 7 of the ICWA-030 *Notice of Child Custody Proceeding for an Indian Child*.

The court must be diligent in ensuring that all available information is obtained and included in the ICWA-030 and that it is as complete and accurate as possible because this information is essential to a tribe’s determination of whether the child is or may be a member or eligible for membership in the tribe. Cases have been overturned on appeal for missing middle names, misspellings, wrong birthdays and for failure to include information which could have (reasonably) been obtained from available individuals. (see ICWA-030 review checklist for review steps and suggestions).

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<sup>1</sup> 25 CFR 23.11

<sup>2</sup> WIC 224.2

<sup>3</sup> WIC 224.2 (a)(5)(C).

<sup>4</sup> See WIC 224.3 and ICWA Inquiry factsheet for more information on nature and scope of duty of inquiry.

<sup>5</sup> *In re S.E.* (2013) 217 Cal. App. 4th 610.

The court should discourage the practice of leaving fields blank and instead ask the agency to indicate (where appropriate) that the information was not known by any of the available sources. Beware of notices where the parents or other available relatives birth dates and place of birth are left blank despite the parents or relatives participation in the proceedings.

Because an individual may have been enrolled with a tribe at any time during their life, be careful to ensure that birth names, maiden names, and all other former names are included as well as an individual's current name.

## ***b) Distribution***

The ICWA notice must be sent to:

- The child's parents or legal guardian;
- The child's Indian custodian (if there is one); and
- All tribes of which the child may be a member or eligible for membership, until the court makes a determination as to which tribe is the child's tribe after which notice need only be sent to that tribe.<sup>6</sup>

Many ICWA notice appeals arise from a failure to provide notice to all the tribes that should be noticed, or to provide notice to the correct address for service for one or more tribes.

### **(a) How do you know which tribe's must be given notice?**

The tribe or tribes that must be noticed depends upon the information obtained during inquiry and further inquiry and recorded on the ICWA-030. Review the information on the ICWA-030 and in particular the information in 5 (a) through (f), pages 2 through 6. For each individual look at the information in the box "Tribe or band, and location:"

The information contained here is generally of three kinds: (1) name of a specific tribe which may be federally recognized or may be an unrecognized tribe; (2) name of a larger historical tribal nation which may contain a number of different tribes or bands which may be federally recognized or unrecognized<sup>7</sup>; or (3) location (ie. a state).

If the information contains the name of a specific tribe the court should ensure that the agency has:

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<sup>6</sup> See WIC 224.2 (a).

<sup>7</sup> For a discussion of some of the issues around tribal identification refer to *Understanding ICWA Noticing Issues in California* <http://www.courts.ca.gov/documents/ICWANoticingIssues.pdf>

- Consulted the list of *Indian Entities Recognized and Eligible to Receive Services from the United State Bureau of Indian Affairs* published by the Department of the Interior: <http://www.bia.gov/cs/groups/xraca/documents/text/idc1-033010.pdf> Bureau of Indian Affairs and located on the BIA website at to determine if the tribe is listed there; and
- Contacted the appropriate Bureau of Indian Affairs office to determine whether there are federally recognized tribes associated with that name or a similar name.

TIP - Beware of variations of spelling or incorrect spelling that the parents or other individuals involved in the case may have provided. Cases have been overturned on appeal where the information provided during inquiry misspelled the tribal name and the agency neglected to send notice to tribe with very similar phonetic name. WIC 224.3(c) specifically requires the agency to contact "...the Bureau of Indian Affairs and State Department of Social Services for assistance in identifying the names and contact information of the tribes in which the child may be a member or eligible for membership." The Bureau of Indian Affairs in Sacramento has a regional social worker who can be reached by telephone at (916) 978-6000 and by fax at (916) 978-6099. The California Department of Social Services has an ICWA specialty unit. Contact information for that unit is available at <http://www.childsworld.ca.gov/PG1322.htm>.

- If the information provided contains the name of a larger historical tribal entity (in California such as Pomo or Cahuilla outside of California such as Cherokee) which a number of tribes or bands may identify with, ensure that in addition to consulting the list of Indian Entities referenced above, the agency has consulted and cross-referenced the tribal government list maintained by the California Department of Social Services at <http://www.childsworld.ca.gov/res/pdf/CDSSTribes.pdf> and by the federal government at *Indian Child Welfare Act; Designated Tribal Agents for Service of Notice - Listing of Tribes by Historical Affiliation*, [here](#). These lists include the historical tribal information and lists the federally recognized tribes associated with those historical tribal nations.
- If the information provided contains only location (ie. ancestor born on a reservation in Oklahoma or member of a tribe in Arizona), ensure that the agency has consulted both the Bureau of Indian Affairs regional office responsible for that state, and the index of tribal entities by state found in the tribal leader's directory published by the Bureau of Indian Affairs and available at: <http://www.bia.gov/cs/groups/xois/documents/document/idc1-028053.pdf>

Once all steps have been taken to identify the tribes which must be noticed, ensure that notices are sent to all tribes at the address for service listed on the *Indian Child Welfare Act; Designated Tribal Agents for Service of Notice* published by the Bureau of Indian Affairs and available

at: <https://www.gpo.gov/fdsys/pkg/FR-2016-03-02/pdf/2016-04619.pdf>. Ensure that for each tribe the notice is addressed to the correct individual and the exact address as shown on this list.

TIP – At some time preferably prior to disposition the Court should ask all parties for their position on whether or not the content of the notice is complete and accurate and whether or not it has been sent to all of the correct tribes that are entitled to notice. Be sure that parents’ counsel have reviewed the content of the notice with their clients and that their clients have no corrections and no further information which should be contained in the notices.

### ***c) Method***

Federal and state law require that ICWA notice be provided by certified or registered mail, return receipt requested.<sup>8</sup> California law specifically requires that “proof of the notice, including copies of notices sent and all return receipts and responses received, shall be filed with the court in advance of the hearing...”<sup>9</sup> The agency may have less formal communications with a tribe or tribal representative in relation to a case. Such communications are encouraged in order to ensure that ICWA issues may be promptly and appropriately addressed. However, such informal communications do not take the place of the formal notice required by law.

TIP – While informal contacts between the agency and identified tribes is encouraged in order to provide information and assist with tribal engagement, these information contacts do not take the place of formal notice required under state and federal law. Beware of accepting representations from the agency as to what a tribal representative said about eligibility or membership. You must ensure that adequate and complete notice was provided as required by the law.

### ***d) Timing***

Generally, federal and state law require that ICWA notice **BE RECEIVED** at least 10 days before a hearing can take place.<sup>10</sup> California law makes an exception for the detention hearing, but requires that notice of the hearing be given as soon as possible after the filing of the petition initiating the proceeding and also requires that proof of the notice be filed with the court within 10 days after the filing of the petition.<sup>11</sup> Note that federal law governing the timing of notice does not make such a distinction between hearing types, although 25 U.S.C. § 1922 does say that

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<sup>8</sup> The federal statute (25 U.S.C. § 1912 (a)) states that notice must be sent “...by registered mail with return receipt requested...”. Implementing federal regulations (25 CFR § 23.11) state that notice must be sent “...by certified mail with return receipt requested...” California law (WIC § 224.2(a)(1)) states “notice shall be sent by registered or certified mail with return receipt requested. Additional notice by first-class mail is recommended, but not required.”

<sup>9</sup> WIC 224.2(c).

<sup>10</sup> 25 U.S.C. §1912 (a); WIC § 224.2 (d).

<sup>11</sup> WIC § 224.2 (d).

the provisions of the subchapter do not “...prevent the emergency removal of an Indian child...” to prevent imminent physical damage or harm to the child.



# JUDICIAL COUNCIL OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION

CENTER FOR FAMILIES, CHILDREN & THE COURTS

## **Judicial ICWA (Indian Child Welfare Act) Checklist - Evaluating sufficiency of ICWA Notice**

1. Has a copy of the ICWA notice been filed with the court?  yes  no
2. Was ICWA notice provided using mandatory Judicial Council form ICWA-030 *Notice of Child Custody Proceeding for an Indian Child*?  yes  no
3. Does the ICWA notice contain all of the information obtained during “initial inquiry” and “further inquiry” (see requirements in Inquiry Checklists)?  
 yes  no
4. For any fields left blank, does the record support a finding that the Agency took all reasonable steps to obtain the information?  yes  no
5. For any fields left blank, have you asked the parent(s) whether they are able to provide the information or whether there are other available individuals who can provide the information?  yes  no
6. Does the service list starting at page 10 of the form, and continuing onto ICWA-030(A) if necessary, include all of the tribes which were identified during Inquiry and Further Inquiry as entitled to notice?  yes  no
7. Has proof of mailing by certified or registered mail return receipt requested to all of the parties (including all tribes) entitled to notice been filed with the court?  yes  no

8. Has proof that the notices were received by all of the parties (including all tribes) entitled to notice at least 10 days prior to the hearing been filed with the court?  yes  no
  
9. If the agency says that it has received response(s) from tribe(s), have copies of the response(s) been filed with the court?  yes  no
  
10. Has any tribe requested further information?  yes  no
  
11. If yes, is there evidence to support a finding that the agency made all reasonable efforts to provide this information?  yes  no



# JUDICIAL COUNCIL OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
CENTER FOR FAMILIES, CHILDREN & THE COURTS

## **ICWA Information Sheet: Tribal participation in State court proceedings governed by ICWA.**

Under ICWA and corresponding state law, an Indian child's tribe must receive notice of any state court proceedings governed by ICWA involving an Indian child. These proceedings include dependency proceedings, some delinquency proceedings, some family code proceedings and probate guardianship proceedings concerning an Indian child. (see 25 USC § 1903; Fam. Code §§ 170, 177, 3041, Prob. Code § 1459.5, WIC §§ 224, 224.1 CRC 5.480 & 7.1015) Federal and state law mandate and acknowledge a number of substantive and procedural rights of an Indian child's tribe in such state court proceedings, including a right to participate in various ways and an absolute right to intervene in such proceedings "at any point".

### **Rights if a tribe chooses not to intervene:**

An Indian child's tribe is not required to formally intervene in proceedings. If the tribe acknowledges the child, all of ICWA's substantive requirements apply even if the tribe does not intervene. A non-intervening tribe must continue to receive notice of all court hearings involving the child. The tribe must be consulted with respect to the placement of the child. (CRC 5.482(g)) The tribe must be consulted with respect to case planning for both the Indian parents and the Indian child and those case plans must use the available resources of the tribe, extended family members, other Indian service agencies and individual Indian caregivers. (CRC 5.484 (c); CRC 5.690 (c); WIC § 361.7)

Whether or not the tribe intervenes, a representative of the Indian child's tribe is entitled to be present at all court proceedings involving the Indian child (CRC 5.530 (B) (7)) and may address the court, receive notice of hearings, examine all court documents relating to the dependency case, submit written reports and recommendations to the court, and perform other duties and responsibilities as requested or approved by the court. (CRC 5.534 (i))

### **Right of Intervention:**

An Indian child's tribe may intervene, orally or in writing, at any point in the proceedings and may, but is not required to, file with the court the *Notice of Designation of Tribal Representative and Notice of Intervention in a Court Proceeding Involving an Indian Child* (form ICWA-040) to give notice of their intent to intervene. (CRC rule 5.482 (e); WIC § 224.4; 25 USC § 1911 (c))



The juvenile court has no discretion to deny a tribe's request to intervene. (*In re Desiree F.* (2000) 99 Cal.Rptr.2d 688, 83 Cal.App.4th 460)

### **Rights of the Intervening Tribe:**

A tribe, as an intervening party, is entitled to all rights afforded to any party in a proceeding, including the right to sit at counsel table, the right to examine witnesses, and the right to be given copies of documents. See CCP §387; see also CRC 5.482(e) and Judicial Council form ICWA-040.

### **Who May Appear on Behalf of the Tribe:**

The tribe may choose to be represented by an attorney at the tribe's expense, but the tribe may also designate any person to represent them in court, and this representative must be given the same rights and courtesies as the attorneys involved. (CJER ICWA Bench Handbook, 2013 at page 32).

The court may not limit the tribe's ability to participate effectively in the case if the tribe chooses to be represented by a non-attorney.<sup>1</sup> States' laws regulating attorneys and the practice of law cannot interfere with or burden the federally protected right of the tribe to participate in the proceedings.<sup>2</sup>

California Rule of Court, rule 5.534 specifically addresses this issue:

#### **(i) Tribal representatives (25 U.S.C. §§ 1911, 1931-1934)**

The tribe of an Indian child is entitled to intervene as a party at any stage of a dependency proceeding concerning the Indian child.

(1) The tribe may appear by counsel or by a representative of the tribe designated by the tribe to intervene on its behalf.

The California Rules of the Court, Rule 5.534(i)(1) permits intervention by an attorney or by a representative and makes no distinction between the rights granted to each respectively.

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<sup>1</sup> *State v. Jennifer M.*, 277 Neb. 1023, 1024 (2009)

<sup>2</sup> *State ex rel Juvenile Department of Lane County v. Shuey*, 119 Ore.App. 185 (1993); *In the Interest of N.N.E.*, 752 N.W.2d 1 (2008)

## Can the TCA be undone?

A TCA is as final and permanent as other adoptions. The superior court reviews the TCA order issued by the tribal court to ensure it meets the statutory requirements and then affords it full faith and credit. Once the tribal TCA order is granted full faith and credit by the State Superior Court, the terms are incorporated into the state order of adoption and all parties are bound by the terms.

## Where can I find more resources related to Tribal Customary Adoption?

The option of TCA must be considered and discussed with the child's tribe in each case where the child is in foster care, as soon as the child's tribe has been identified.

## When to consider TCA?

The Judicial Council Center for Families, Children & the Courts has TCA information and resources at <http://www.courts.ca.gov/12569.htm>.

The California Department of Social Services (CDSS) has issued several All County Letters about TCA, which are available at <http://www.childsworld.ca.gov/PG2074.htm>.

The Soboba Band of Luiseno Indians, sponsor of the TCA legislation in California has resources related to TCA at <http://www.caltca.org/>.

The National Indian Child Welfare Association (NICWA) has information on TCA at <http://www.nicwa.org/adoption/>.

## FOR MORE INFORMATION

The Tribal/State Programs Unit of the Judicial Council's Center for Families, Children & the Courts, assists the state judicial branch with the development of policies, positions, and programs to promote the highest quality of justice and service for California's Native American communities in all case types. The unit also implements tribal-state programs that improve the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. To learn more about the Tribal/State Programs Unit or for assistance, call Jennifer Walter at 415-865-7687 or visit [www.courts.ca.gov/programs-tribal.htm](http://www.courts.ca.gov/programs-tribal.htm).

This unit is supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor's Office of Emergency Services (Cal OES), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

<http://www.courts.ca.gov/3067.htm>

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# S.T.E.P.S. TO JUSTICE— TRIBAL CUSTOMARY ADOPTION IN CALIFORNIA

State/Tribal Education,  
Partnerships, and  
Services—Information for  
Service Providers Serving  
American Indian/Alaskan  
Native Children & Families

February 2016



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JUDICIAL COUNCIL  
OF CALIFORNIA  
OPERATIONS AND PROGRAMS DIVISION

## What is Tribal Customary Adoption?

Tribal customary adoption (TCA) is an alternative permanent plan option for children in the California dependency system who are “Indian Children” under the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1902). With the consent and participation of the Indian child’s tribe, TCA allows an Indian child who is a dependent of the California courts to be adopted without first requiring the termination of the parental rights of the child’s biological parents. The TCA process is governed by California statutes that were sponsored and drafted by California Indian Tribes.

## Why TCA?

TCA may be a good permanency choice where the child’s parent(s) fail to reunify and the child’s tribe prefers TCA to other permanency options. In these circumstances, TCA may provide advantages such as:

- ◆ Does not disrupt and may provide a means of strengthening an Indian child’s connection with his or her tribe;
- ◆ Ensures child maintains eligibility for federal and tribal benefits associated with tribal affiliation;
- ◆ Helps maintain connections to extended family and community; and
- ◆ Biological parents not burdened with a termination of their parental rights.

## Which Cases?

Currently TCA is only available in dependency cases. It is not available in juvenile delinquency cases, family law cases, or probate cases.

TCA is an available permanency option when:

- ◆ The child is an ICWA eligible Indian child from a federally recognized tribe;
- ◆ The child’s tribe agrees that TCA should be the child’s permanent plan;

TCA is an option for both California tribes and out-of-state tribes. If you are dealing with an out-of-state tribe, the tribe may not be familiar with the TCA process in California and may require education.

TCA is available even when the child may have already been in an alternative permanent plan such as guardianship. So long as parental rights have not been terminated, the option of TCA should be discussed with the child’s tribe whenever the child’s permanent plan is revisited.

TCA is available for a nonminor dependent when ICWA applied to that nonminor dependent’s dependency case prior to the nonminor dependent’s 18th birthday. What if I do not see the type of local educational or technical assistance my court needs?

## When to consider TCA?

The option of TCA must be considered and discussed with the child’s tribe in each case where the child is in foster care, as soon as the child’s tribe has been identified.

## Who must raise TCA as an option?

It is the responsibility of the child welfare agency worker to discuss the option of TCA with the Indian child’s tribe as part of concurrent planning in an ICWA case. Welfare & Institutions Code section 358.1 requires the social worker to consult with the child’s tribe and include in his or her reports a discussion of whether TCA is an appropriate permanent plan if reunification is unsuccessful.

## Do the child or the child’s parents need to consent to the TCA?

No. Like any other permanent plan, the parties can contest the plan and make their arguments for a different permanent plan. However, neither the parents nor the child need to consent to TCA. Once it is determined that reunification is no longer an option, and the child’s tribe indicates a preference for TCA, TCA is the child’s presumptive permanent plan and any party challenging TCA as the permanent plan has the burden of establishing that TCA would be detrimental to the child. (*In re H.R.*, (2012) 208 Cal.App.4th 751.) Ultimately, it is the judge who decides the child’s permanent plan.

## Who gets to decide the terms of the TCA order?

Once TCA is chosen as the child’s permanent plan, the terms of the TCA order are determined by the child’s tribe. The child, birth parents, Indian custodian, and prospective tribal customary adoptive parents and their counsel must have the opportunity to present evidence to the tribe regarding the child’s best interest. The TCA order must, at a minimum, address the legal relationship of the birth parents and the child, including whether or not there will be continuing contact, the responsibilities of the birth parents if any, and the relationship with the tribe and the rights of inheritance of the child.

## What are the standards for approval of a TCA home?

The standards for approval of the home are the prevailing social and cultural standards of the child’s tribe. (Welf. & Inst. Code, § 366.24(c)(1)(B).) A home study must be completed which includes an evaluation of all the same factors that must be included in other adoptive home studies. All criminal background checks of state and federal level criminal offender records and Child Abuse Central Index checks on persons in the home over 18 years of age must be completed before a tribal customary adoption placement can be made.







services, partly due to the size of the tribes and the lack of adequate funding to the tribes for these services. For those tribes that do take jurisdiction, most often the initial contact regarding a family is made to the local child welfare agency who then contacts the tribe to allow them to take jurisdiction.

Many tribes and county child welfare agencies have developed protocols whereby they work together to provide child welfare services. A number of counties and tribes have convened ICWA roundtables/working groups, which meet on a regular basis to discuss issues relative to the provision of child welfare services and how to better protect children. Some counties contact the tribal social services worker when an emergency response call is received allowing for both parties to respond to the family. Some tribes have services that can be provided early in the case to allow for the children and families to remain together. Counties are responsible for applying Section 422 protections including the care and supervision of tribal children that remain under the state/county's jurisdiction. For tribes that enter into a Title IV-E agreement with the state, and assume responsibility for the care and supervision of tribal children, the tribe is responsible for applying Section 422(b)(8) protections for those children, including six month periodic review, 12-month permanency hearings, reunification services, services to achieve other permanency goals, pre-placement preventative services, etc. The CDSS continues to collaborate with tribes and the state Attorney General's Department of Justice (DOJ) in conducting training sessions regarding the application of PL 280 in California on an as needed basis.

### **California's Outcomes and Accountability System**

CDSS, in collaboration with tribal representatives has incorporated new outcomes data regarding ICWA compliance. Specific ICWA indicators have been incorporated into the SB 636 Outcomes and Accountability System. While the specific ICWA efforts documentation is still difficult to cull from CWS/CMS, CDSS is continuing to explore ways of improving such reporting.

### **ICWA Contact Information:**

*For technical assistance or ICWA program policy-related questions:*

Mary Enriquez, ICWA Specialist  
California Department of Social Services  
Office of Child Abuse Prevention  
744 P Street, MS 8-11-82  
Sacramento, CA 95814  
Tel: (916) 651-6031  
Fax: (916) 651-6328  
Email: [mary.enriquez@dss.ca.gov](mailto:mary.enriquez@dss.ca.gov)

*For questions regarding the distribution of communications, ICWA meeting notices, contracts, CWS/CMS tribe listing or CDSS ICWA website:*

Diana Orcino, ICWA Assistant/Analyst  
Tel: (916) 657-1730  
Email: [diana.orcino@dss.ca.gov](mailto:diana.orcino@dss.ca.gov)

*If additional assistance is needed:*

Lee Ann Kelly, Acting OCAP Chief  
Tel: (916) 651-6578  
Email: [leeann.kelly@dss.ca.gov](mailto:leeann.kelly@dss.ca.gov)









# Session 3: Funding



JUDICIAL COUNCIL  
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TRIBAL COURT-STATE COURT FORUM



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

MAR 15 2016

Dear Tribal Leader:

Tribes in mandatory P.L. 280 states have shown interest in increasing support and capacity for tribal courts. Congress recognized the needs of tribal judicial systems in mandatory P.L. 280 states and allocated \$10 million to the Bureau of Indian Affairs Office of Justice Services' Tribal Justice Support Directorate. The allocation funding is for assessing needs; considering options; and design, development, and piloting tribal court systems for tribal communities, including those subject to P.L. 280. *See Consolidated Appropriations Act, 2016, Public Law 114-113, H.R. 2029, December 18, 2015.*

We recognize the sovereign nature and unique culture of each tribal government presents a set of individual court needs. In order to assess needs of tribal courts in mandatory P.L. 280 states, we are asking for your input in designing a funding plan for one-time appropriation of \$10 million.

We will host the following sessions to gather input on a "\$10 million P.L. 280 Funding Plan":

### Consultation Sessions via Telephone

Date	Time	Call-in Number	Participant Passcode
April 19, 2016 Tuesday	3:30-5:30 p.m. EDT	800-857-9775	6832088
April 26, 2016 Tuesday	3:30-5:30 p.m. EDT	800-593-8961	1305482

If you prefer to comment in writing, please submit your written comments by midnight on April 29, 2016, by email to [bia\\_tribal\\_courts@bia.gov](mailto:bia_tribal_courts@bia.gov), or by mail to Ms. Tricia Tingle, Associate Director, Tribal Justice Support Directorate, Office of Justice Services, Bureau of Indian Affairs, 1849 C Street, NW, Mail Stop 2603, Washington, DC 20240.

We look forward to your input. If you have any questions in the meantime, please contact Ms. Tingle at 202-208-2675.

Sincerely,

Lawrence Roberts  
Acting Assistant Secretary – Indian Affairs



## **BUREAU OF INDIAN AFFAIRS OFFICE OF JUSTICE SERVICES**

### **Division of Tribal Justice Support Tribal Court Assessments**

*To further the development, operation, and enhancement of tribal justice systems*

In an effort to ensure that justice in tribal forums is administered fairly and with the utmost integrity, the Division of Tribal Justice Support (TJS) is statutorily mandated to perform tribal court assessments (25 U.S.C. 3612). The tribal court assessment is intended to assist in defining specific technical assistance and training needs of tribal courts.

Thus, the statutory directive and purpose of TJS is to further the development, operation, and enhancement of tribal judicial systems and Court of Indian Offenses through a strategic action plan developed under the Tribal Court assessment process.

TJS serves as a catalyst to promote cooperation and ensure application of high legal standards among tribal justice systems.

TJS provides hands-on training and technical assistance in many legal areas including criminal prosecution, foster care, the Indian Child Welfare Act, and juvenile justice.

### **Tribal Court Assessment**

The tribal court assessment is intended to evaluate tribal needs and provide tribes with recommendations for improving their operational activities, if needed. The tribal court assessment process follows the Tribal Court Performance Standards (TCPS), which have been modified to meet the specific needs of tribal courts. The TCPS incorporates a new philosophy and framework for defining and understanding the effectiveness of tribal courts by focusing attention on performance, self-assessment, and self-improvement.

The tribal court assessment highlights the specific needs of each tribal court. The Division of Tribal Justice Support (TJS) can then provide specific training and technical assistance based on the needs articulated within the tribal court assessment.

### **Why an Assessment?**

The assessment is a guided tribal court self-assessment focused on key court functions.

It is:

- collaborative,
- driven by the tribe's stated needs, and
- an overview of the whole court.

The assessment allows TJS to offer a tribal court training and technical assistance. TJS further provides tribes with a final report that identifies a Strategic Action Plan with specific steps and recommendations on ways to strengthen the tribe's judicial system. In the end, the assessment will be a tool that enables the tribe to address the needs of the tribal court as a whole.

In addition, TJS may provide one-time funding to help resolve the needs of the tribal court.

The benefits of a tribal court self-assessment include possible one-time funding for the services listed below:

- Court management system
- Alcohol monitoring systems
- Mental health assessments
- Court equipment (e.g., date stamps, computers, printers, cameras, court recording systems)
- Training for tribal court staff
- Consultant services to work with the tribe and court on specific projects (e.g., code development, court clerk manual, bench book, rules of procedures, training initiatives)

### **The Five-Step Tribal Court Assessment Process**

#### **Step 1: Documentation Gathering**

- Prior to the initial visit, TJS will request documents such as the tribal constitution, tribal codes, and tribal court procedures.

#### **Step 2: Initial Visit**

- TJS will conduct an initial visit to meet tribal officials, review the process, and begin collecting information.

#### **Step 3: 3-Day Onsite Assessment**

- During this 3-day visit, the TJS assessment team observes court proceedings, reviews case files, and schedules time with key stakeholders in the tribal court system. The assessment team will provide preliminary findings on the main themes that emerged during the assessment.

#### **Step 4: Present Findings and Recommendations**

- TJS will then present the report with findings and recommendations to the tribal chairman, tribal council, or individuals the tribal chairman designates.

#### **Step 5: Follow-up and Next Steps**

- Thereafter, the tribe and TJS will work together based on the priorities of the tribe.

### **Contact Us**

**Bureau of Indian Affairs • Office of Justice Services  
Division of Tribal Justice Support  
National Tribal Court Review Coordinator**

**Mailstop: MIB 2603 • Washington, DC 20240  
Phone: (202) 208-5493**



**HHS-2016-ACF-ACYF-CT-1123**  
**State and Tribal Indian Child Welfare Act (ICWA) Implementation**  
**Partnership Grants**  
 Department of Health and Human Services  
 Administration for Children and Families

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**GENERAL INFORMATION**


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<b>Document Type:</b>	Grants Notice
<b>Funding Opportunity Number:</b>	HHS-2016-ACF-ACYF-CT-1123
<b>Funding Opportunity Title:</b>	State and Tribal Indian Child Welfare Act (ICWA) Implementation Partnership Grants
<b>Opportunity Category:</b>	Discretionary
<b>Opportunity Category Explanation:</b>	
<b>Funding Instrument Type:</b>	Grant
<b>Category of Funding Activity:</b>	Income Security and Social Services
<b>Category Explanation:</b>	
<b>Expected Number of Awards:</b>	4
<b>CFDA Number(s):</b>	93.648 -- Child Welfare Research Training or Demonstration
<b>Cost Sharing or Matching Requirement:</b>	No
<b>Posted Date:</b>	Apr 06, 2016
<b>Last Updated Date:</b>	Apr 06, 2016
<b>Original Closing Date for Applications:</b>	Jun 22, 2016 Electronically submitted applications must be submitted no later than 11:59 p.m., ET, on the listed application due date.
<b>Current Closing Date for Applications:</b>	Jun 22, 2016 Electronically submitted applications must be submitted no later than 11:59 p.m., ET, on the listed application due date.
<b>Archive Date:</b>	Jul 22, 2016
<b>Estimated Total Program Funding:</b>	\$1,400,000
<b>Award Ceiling:</b>	\$500,000
<b>Award Floor:</b>	\$250,000

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**ELIGIBILITY**


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**Eligible Applicants:**

State governments  
Public and State controlled institutions of higher education  
Native American tribal organizations (other than Federally recognized tribal governments)  
Nonprofits that do not have a 501(c)(3) status with the IRS, other than institutions of higher education  
Independent school districts  
Special district governments  
Others (see text field entitled "Additional Information on Eligibility" for clarification)  
City or township governments  
County governments  
Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education  
Private institutions of higher education  
Public housing authorities/Indian housing authorities  
Native American tribal governments (Federally recognized)

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**Additional Information on Eligibility:** Public or other nonprofit institutions of higher learning, as well as public or other nonprofit agencies and organizations engaged in research or child-welfare activities, are eligible to receive awards. Institutions of higher education may receive awards provided they are not for-profit entities. Collaborative and interdisciplinary efforts are acceptable, but applications should identify a primary applicant responsible for administering the grant. Faith-based and community organizations that meet the eligibility requirements are eligible to receive awards under this funding opportunity announcement. Faith-based organizations are encouraged to review the ACF Policy on Grants to Faith-Based Organizations at: <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations>. Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement.

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**ADDITIONAL INFORMATION**

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**Agency Name:**

Administration for Children and Families

**Description:**

The purpose of this funding opportunity announcement is to support the creation of effective practice model partnerships between state courts and/or Court Improvement Program, state public child welfare agency and a tribe, group of tribes, or tribal consortia, including both the tribal child welfare agency and tribal court for effective implementation of the Indian Child Welfare Act (ICWA) of 1978 (Pub.L. 95-608). Demonstration sites will be required to jointly develop protocols and practices to promote effective and timely: - Identification of Indian children; - Notice to tribes;- Tribal participation as parties in hearings involving Indian children;- Tribal intervention in dependency cases;- Transfer of ICWA cases to tribal courts; and- Placement of Indian children according to tribal preferences. Partnership models must be co-created by states and tribes, jointly implemented, and designed to generate and capture clear, measurable outcomes such as: - Compliance with identification methods;- The number of Indian children identified;- Length of time from removal or petition filed until identification is made;- Number of notices sent;- Length of time from identification until notice sent (state measure)- Number of notices received (tribal measure)- Length of time for tribal intervention or participation; (tribal measure)- Number of cases in which a tribe intervenes; (joint measure)- Number of transfers; (joint measure); and- Number of Indian children placed according to tribal placement preferences (joint measure). This is a 60-month project with five 12-month budget periods.

**Link to Additional Information:** <http://www.acf.hhs.gov/grants/open/foa/view/HHS-2016-ACF-ACYF-CT-1123>**Contact Information:**

If you have difficulty accessing the full announcement electronically, please contact:

ACF Applications Help Desk [app\\_support@acf.hhs.gov](mailto:app_support@acf.hhs.gov)  
ACF Applications Help Desk







# TRIBAL LAW AND POLICY INSTITUTE

*20 Years of Serving American Indian/Alaska Native Communities*

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Administration for Children, Youth and Families

Children's Bureau

U.S. Department of Health and Human Services

Sent via Email

Re: Administration for Children, Youth and Families' State and Tribal Indian Child Welfare Act (ICWA) Implementation Partnership Grants

**HHS-2016-ACF-ACYF-CT-1123**

To Whom It May Concern:

The Tribal Law and Policy Institute is pleased to write this letter of support for the Judicial Council of California (JCC) application, in partnership with the California Tribal Court Judges Association, the California Department of Social Services and the Tolowa Nation Court Improvement Project, for the Administration for Children, State and Tribal Indian Child Welfare Act (ICWA) Implementation Partnership Grants HHS-2016-ACF-ACYF-CT-1123 to create and implement intergovernmental partnership models to improve implementation of the Indian Child Welfare Act in California.

The Tribal Law and Policy Institute (TLPI) is a Native operated non-profit organized to design and deliver education, research, training and technical assistance programs and publications which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples. TLPI has worked in the area of tribal-state collaboration for many years, providing resources to the field and working closely with tribal-state court collaborations nationwide. See [www.WalkingOnCommonGround.org](http://www.WalkingOnCommonGround.org).

The JCC administers the existing California Court Improvement Program (CIP), and in this capacity works closely with the California Department of Social Services (CDSS) and other tribal and non-tribal agencies involved in child welfare. For many years, the JCC has worked collaboratively with state and tribal partners to improve compliance with the Indian Child Welfare Act (ICWA). Since 2005, the JCC has staff dedicated to working towards full ICWA compliance and provides education statewide to judges, attorneys, and others on ICWA. In 2010, the JCC created the Tribal Court-State Court Forum (forum), which brings together equal numbers of tribal court judges and state court judges in California to work on issues of mutual concern to tribal and state justice systems. The tribal court judges are appointed by their tribal leaders, and currently their courts serve nearly thirty tribes in California. The forum has made ICWA a top priority and advanced several policy and educational reforms. The JCC has established the Tribal/State Programs Unit whose

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staff support the work of the forum and the JCC in ICWA and tribally related work. JCC staff of this unit participate in a number of collaborative efforts throughout the state including the Statewide ICWA Working Group (a diverse group of tribal advocates, county social workers, and attorneys convened by CDSS), two urban Indian collaborations- the Bay Area Collaborative of American Indian Resources (participation from throughout the San Francisco Bay Area) and the Los Angeles Roundtable as well as cross court cultural exchanges and other local collaborative efforts throughout the state.

The JCC is well-positioned to bring together the various state and tribal groups which will be necessary to create the intergovernmental partnerships envisioned by this grant. As the provider of much of the education to state judicial officers and attorneys practicing in the child welfare system, and the body that develops and implements policy for the state judicial branch in the form of legislation, rules of court and education materials, the JCC is also well-positioned to implement practice models which come out of the projects designed and tested under the grant.

In my capacity as director of the Tribal Law and Policy Institute, I am writing to express the strong support for the JCC's grant application. I have personally worked closely and for many years with JCC staff, and know that is the appropriate agency in California to lead this partnership.

Thank you for considering the application of the JCC, in partnership with the California Tribal Court Judges Association, CDSS and the Tolowa Nation Court Improvement Project, for the Administration for Children, State and Tribal Indian Child Welfare Act (ICWA) Implementation Partnership Grants and this letter of support.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Gardner", with a small flourish at the end.

Jerry Gardner  
Tribal Law and Policy Institute



Court Improvement Programs (CIP)  
State and Tribal Indian Child Welfare Act (ICWA) Implementation  
Partnership Grants HHS-2016-ACF-ACYF-CT-1123  
Application Due Date: 06/22/2016

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**Project Scope**

ICWA compliance continues to be an issue in California with ICWA appeals constituting a disproportionate amount of juvenile appeals throughout the state. New federal regulations governing ICWA requires adjustment to current practices and a recently released California ICWA Taskforce report highlights problems of ICWA compliance and makes recommendations for improvements.

This project will build on existing tribal/state/county relationships to form a ICWA Implementation Partnership that will design, implement and test ICWA practice models relating to (1) curriculum and training for judges; (2) technological advances in e-noticing, data collection, interoperability, and flagging ICWA requirements; and (3) local tribal/state initiatives to improve compliance with ICWA, such as appointing attorneys for tribes, replicating the joint jurisdictional court, and strengthening relationships through the development of protocols. Other promising practice models will be generated by the ICWA Implementation Partnership and local tribal/state partnership courts. All models will be evaluated with ICWA compliance and other child welfare measures.

**Jointly Signed Letter or MOU**

- California Department of Social Services
- Judicial Council of California (JCC)
- Tolowa Dee-Ni' Nation's CIP Program

**Letters of Support from Partners**

- Bay Area Collaboration for American Indian Resources (yes)
- Bureau of Indian Affairs, Pacific Regional Office (pending)
- California Child Welfare Directors Association\* (yes)
- California Department of Justice (pending)
- California ICWA Taskforce (pending)
- California Social Worker Education Center (CalSWEC) (yes)
- California Statewide ICWA Working Group\* (pending)
- California Tribal Court Judges Association\* (pending)
- Los Angeles Roundtable (pending)
- National American Indian Judges Court Association (pending)
- Riverside Tribal Alliance (pending)
- Tolowa Tribal Court (pending)
- Tribal Court-State Court Forum\* (forum) (yes)
- Tribal Law and Policy Institute (yes)

**Proposed Project Goals**

- (1) Relationship building such that tribal voices are consistently and meaningfully included in all partnerships engaged in ICWA system change at the statewide and local levels;
- (2) Policy changes are identified, coordinated, and implemented;

- (3) Education on ICWA is delivered in a coordinated way to judges, attorneys, and social workers consistent with federal and state mandates; and
- (4) Technology is being used to flag ICWA requirements, collect tribe-specific ICWA data, and achieve interoperability among tribal/state/court databases.

### **Steps to Achieving Goals**

#### *Relationship-Building: Tribal Voices Will be Heard at All Levels of System Change*

1. A statewide Tribal/State/County ICWA Implementation Partnership (ICWA Implementation Partnership) will be established to steer the project and, through robust dialogue and engagement, will work to achieve these four objectives:
2. An inventory of all statewide, regional and local partnerships, systems meetings, and other bodies that focus on child welfare cases will be taken.
3. Surveys will be administered to determine if and how tribal voices are included in existing partnerships and whether tribal representatives feel their voices are heard. These will be administered regularly to assess the level of tribal engagement and participation.
4. Using the strength of the existing relationships and partnerships, the ICWA Implementation Partnership will identify best practices for relationship-building, areas where tribal voices need to be included or their role expanded and inclusion of tribal voices at leadership and policy-making positions, and how to sustain those relationships.
5. A toolkit on best practices for building and sustain relationships, ensuring tribal voices are invited and heard as part of all system partnerships in child welfare.

#### *Policy Changes*

1. The ICWA Implementation Partnership will identify policy changes in terms of legislation, rules, forms, policy announcements, and local protocols that will be needed to comply with the new Bureau of Indian Affairs (BIA) ICWA Guidelines, published in February of 2016, and the proposed BIA ICWA regulations, published in March of 2016. Both the JCC and the CDSS submitted detailed, substantive comments on the proposed BIA ICWA regulations. Both the forum and the Statewide ICWA Working Group have already undertaken some discussion and consideration of the implications of the new guidelines and proposed regulations for California ICWA practice. Full implementation in California will require amendments to existing California legislation, regulations, rules of court and child welfare and court practice. Additionally, local tribal/county protocols may need to be developed.
2. A policy roadmap will be developed that describes which entity and named individuals will take the lead in drafting, reviewing, and advancing the policy change. This roadmap will provide information on how the different groups work in terms of their purview, making their process for obtaining input transparent, and specific timelines for making policy changes and developing protocols.
3. The policy roadmap will be implemented by the ICWA Implementation Partnership. The partners will work together to adopt mutually acceptable uniform definitions and standards for ICWA compliance in California and advance policy recommendations for implementing the new federal ICWA guidelines and proposed regulations in California.

### *Education*

1. The JCC, with input and guidance from the ICWA Implementation Partnership, will adapt the national Model ICWA Judicial Curriculum<sup>1</sup> for California. The ICWA Implementation Partnership will provide input to ensure that the new curriculum contains mutually acceptable uniform definitions and standards for ICWA compliance, is consistent with the new federal guidelines and proposed regulations, and is aligned with curriculum for attorneys and social workers.
2. The JCC will pilot the curriculum and revise the curriculum with input from partnership courts.
3. The JCC will conduct four regional trainings for judicial officers and attorneys using the final curriculum.

### *Technology*

1. The JCC, with input and guidance from the ICWA Implementation Partnership, will develop case management system elements and functionality to capture ICWA data and guide courts in ICWA compliance requirements for each hearing type in a juvenile dependency proceeding.
2. The ICWA Implementation Partnership will conduct a survey to identify existing data systems throughout the state (including California's new system and any tribal case management systems handling child welfare cases) which currently capture ICWA related data.
3. The ICWA Implementation Partnership will provide input into statewide standards to ensure interoperability among state courts, among tribal courts, between state courts and tribal courts, between state courts and the new statewide child welfare case management system, and between tribal social services and the new statewide child welfare case management system.
4. The ICWA Implementation Partnership will review court forms and identify methods for transmission of court documents as data files and will collaborate with tribes and CDSS to identify modifications that facilitate the availability of the information contained in court documents for data extraction by courts, tribes and the child welfare case management system.

### *Partnership Courts*

1. The ICWA Implementation Partnership will develop a fair process for identifying partnership courts (where there is a tribal court in the county, the state court will partner with the tribal court; where there is no tribal court, the state court will demonstrate how they will partner with tribal communities).
2. Partnership courts will receive funds and/or technical assistance, as appropriate, to pilot projects that relate to the four objectives under the grant.
3. Each partnership court selected will conduct an ICWA self-assessment. The ICWA Implementation Partnership will develop the tool drawing from assessment compliance toolkits that have been developed at the national level.<sup>2</sup>

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<sup>1</sup> This curriculum was started by the former National Child Welfare Resource Center on Legal and Judicial Issues and the National Resource Center for Tribes. The effort was continued and completed under the Child Welfare Capacity Building Center for Courts (CBCC) and the Capacity Building Center for Tribes (CBCT).

<sup>2</sup> For example, <http://www.ncjfcj.org/resource-library/publications/measuring-compliance-indian-child-welfare-act-assessment-toolkit>;

4. Each partnership court selected will conduct a second assessment to evaluate whether the intervention adopted by the partnership court improved compliance and benefited Indian children and families.
5. While the ICWA Implementation Partnership will generate pilot projects for partnership courts during the first planning year related to the four goals, we already know some of these from the existing collaborations, statewide task force report, and local successes that have been implemented. Some examples are listed below:
  - Relationship-building
    - Establish or strengthen their local tribal/county/court collaborations
    - Establishing a joint jurisdictional approach to ICWA cases whereby a tribal court judge and state court judge hear the case together
  - Education
    - Implement the new curriculum described above
    - Appointment of attorneys to represent tribes in ICWA cases who have specialized education and training on ICWA and juvenile law consistent with what the judges and other attorneys receive in California
  - Policy
    - Develop local protocols and system improvements such as protocols and agreements concerning transfers to tribal court, exercise of joint jurisdiction of ICWA cases, procedures to facilitate telephonic or other remote forms of appearance for tribes, calendaring of ICWA cases to facilitate tribal participation or other identified areas of system change.

# Session 4: State of Tribal Courts



JUDICIAL COUNCIL  
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TRIBAL COURT-STATE COURT FORUM

## Dollar Gen. Corp. v. Miss. and of Choctaw Indians

U.S. Supreme Court to consider the question: whether Indian tribal courts have jurisdiction to adjudicate civil tort claims against nonmembers, including as a means of regulating the conduct of nonmembers who enter into consensual relationship with a tribe or its members?

### **News Articles**

- [Native Americans' sovereignty is at risk, and the high court must help save it by Stephen Pevar, The Guardian \(12/07/15\)](#)
- [Justices Weigh Power of Indian Tribal Courts in Civil Suits by Adam Liptak, New York Times \(12/07/15\)](#)
- [First Impressions: Dollar General and Indian Country by Suzette Brewer, Indian Country Today \(12/9/15\)](#)
- [Fletcher Commentary on Dollar General in the Yale Law Journal Forum by Matthew L.M. Fletcher \(4/12/16\)](#)
- [Dollar General defends plan to open in majority Native community \(3/08/16\)](#)





**Tribal Courts  
and Tribal/State Relations --  
*After Dollar General***

Carole Goldberg

Jonathan D. Varat Distinguished Professor  
of Law, UCLA

Tribal Court-State Court Forum

June 9, 2016

As of May 26, 2016

# No *Dollar General* yet!!

*Dollar General Corp. v. Mississippi Band of  
Choctaw Indians*

USSC Oral Argument: December 7, 2015



# Decision Below

- *DolgenCorp., Inc. v. Mississippi Band of Choctaw Indians* (5<sup>th</sup> Cir. 2014)
- Suit to enjoin tribal court action by tribal youth (unpaid job trainee), alleging sexual assault by Dollar General employee at store on tribal land
- Assumed application of USSC’s *Montana* test
- Applied “consensual relations” exception broadly
- Rejected challenge based on punitive damages



# The Historical Arc of Tribal-State Court Relations in CA

- 1953-1990s: Public Law 280 empowers state courts, weakens tribal court development
- 1980-2010: Tribes (especially non-280) assert greater jurisdiction
  - USSC largely resists re: non-Indians
    - Criminal/civil distinction begins to blur
    - Implications for exhaustion, enforcement
  - Congress rarely intervenes
    - *Duro-fix*
    - Environmental legislation

# The Historical Arc of Tribal-State Court Relations in CA

- 1990s-present: Growth of tribal courts and tribal-state cooperation in CA
  - Favorable court decisions on concurrent jurisdiction
  - Tribal gaming revenues bring funds and cooperative relations
  - DOJ grant support for tribal court development

# Are We at a Turning Point? Criminal Jurisdiction

- TLOA (2010)
  - Emphasis on empowering, supporting tribes
  - Expanded sentencing + individual rights protections
  - Provides for federal criminal jurisdiction in Public Law 280 states
- VAWA (2013)
  - Tribal DV jurisdiction over non-Indians who offend against Indians
  - Individual rights/procedural protections
  - Pilot program provides data to support need

# Are We at a Turning Point? Criminal Jurisdiction

- ILOC Report (2014)
  - Bipartisan, unanimous
  - Recommends tribally-initiated retrocession of PL 280
  - Recommends tribal jurisdiction over non-Indians, with limited federal constitutional review
  - Recommends applying ICWA to state court delinquency cases (different for on- and off-reservation offenses)
- Tribal Youth & Community Protection Act (April, 2016)
  - Tribal jurisdiction over drug crimes, DV against children, crimes against tribal law enforcement officers
  - Also “related” crimes

# Are We at a Turning Point?

## Public Law 280

- Washington state legislation (2012)
  - Establishes process for civil or criminal jurisdiction retrocession at tribe's request
  - Governor must negotiate with tribe and give reasons if retrocession is denied
- BIA Report on Cost of Tribal Courts in Public Law 280 states - \$16.9 million (Sept. 2015)
  - Commissioned by Congress
  - First step toward base-funding support



# Are We at a Turning Point? Civil Jurisdiction

- Apply *Oliphant* to civil jurisdiction?
- What is relevance of land status?
- How broadly to apply *Montana* exceptions?
- *Water Wheel Camp Recreational Area, Inc. v. LaRance*, 642 F.3d 802 (9<sup>th</sup> Cir. 2011)
  - Suit over failure to quit tribal property after lease expired
  - Rejects *Montana* test for disputes arising on tribal land
  - Even if *Montana* were applicable, both exceptions satisfied
  - Seventh Circuit has disagreed re: both: *Stifel, Nicholas & Co. v. Godfrey & Kahn* (7<sup>th</sup> Cir. 2015)

# Other Remaining Questions

- Constitutionalality of tribal jurisdiction
  - Absence of federal review, bill of rights protections
    - Less troubling in civil cases, where enforcement triggers due process analysis
    - Pending federal bill incorporates “whatever is necessary”
  - Federal delegation v. acknowledgment of inherent authority
  - Use of uncounseled tribal misdemeanor convictions in federal prosecutions – *U.S. v. Bryant*
- Future of retrocession in CA
- Funding for Public Law 280 tribes

# Other Remaining Questions

And if *Dollar General* HAS been decided....



# Session 5: Continuum of Care Reform



JUDICIAL COUNCIL  
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TRIBAL COURT-STATE COURT FORUM



## CONTINUUM OF CARE REFORM

### CCR builds on California's current reform efforts

#### Approved Relative Caregivers Program (ARC)

Currently 45 participating Counties support relative caregivers with a payment equal to the basic foster care rate.

#### Resource Family Approval (RFA) Program

In 2017, a five-county pilot that provides upfront training and assessment of families seeking to parent children in foster care will expand statewide.

#### Quality Parenting Initiative

Creating new strategies and practices in the child welfare system for the recruitment and retention of quality caregivers and to support biological parents and reunification efforts.

#### Child and Family Teaming

The newly developed child welfare "Core Practice Model" recognizes that a team approach to case planning and care delivery is critical to effectively care for all children and youth in foster care.

#### Pathways to Mental Health

Originating from the Katie A. lawsuit settlement, Pathway's aims for children in foster care to receive medically necessary mental health services they are entitled to under Medi-Cal and that those services are available in a family setting.

#### Other Topics:

- [What is the Continuum of Care Reform?](#)
- [Accreditation](#)
- [Resource Family Approval](#)

## WHAT IS THE CONTINUUM OF CARE REFORM?

The Continuum of Care Reform (CCR) draws together a series of existing and new reforms to our child welfare services program designed out of an understanding that children who must live apart from their biological parents do best when they are cared for in committed nurturing family homes. AB 403 provides the statutory and policy framework to ensure services and supports provided to the child or youth and his or her family are tailored toward the ultimate goal of maintaining a stable permanent family. Reliance on congregate care should be limited to short-term, therapeutic interventions that are just one part of a continuum of care available for children, youth and young adults.

### THE FUNDAMENTAL PRINCIPLES OF CCR ARE:

- All children deserve to live with a committed, nurturing; and permanent family that prepares youth for a successful transition into adulthood.
- The child, youth and family's experience and voice is important in assessment, placement and service planning. A process known as a "child and family team," which includes the child, youth and family, and their formal and informal support network will be the foundation for ensuring these perspectives are incorporated throughout the duration of the case.
- Children should not have to change placements to get the services and supports they need. Research shows that being placed in foster care is a traumatic experience and in order for home-based placements to be successful, services including behavioral and mental health should be available in a home setting.
- Agencies serving children and youth including child welfare, probation, mental health, education, and other community service providers need to collaborate effectively to surround the child and family with needed services, resources and supports rather than requiring a child, youth and caregivers to navigate multiple service providers.
- The goal for all children in foster care is normalcy in development while establishing permanent life-long family relationships. Therefore, children should not remain in a group living environment for long periods of time.



## Statutory Timelines

The current licensure and rate structures for group homes and Foster Family Agencies (FFAs) will sunset January 1, 2017.

The CDSS will establish new licensure and rate systems for STRTCs and FFAs beginning January 1, 2017.

For the next two years, group homes at a county placing agency request can receive an extension to operate for an additional two years. This provides for further annual extensions at the request of county probation agencies.

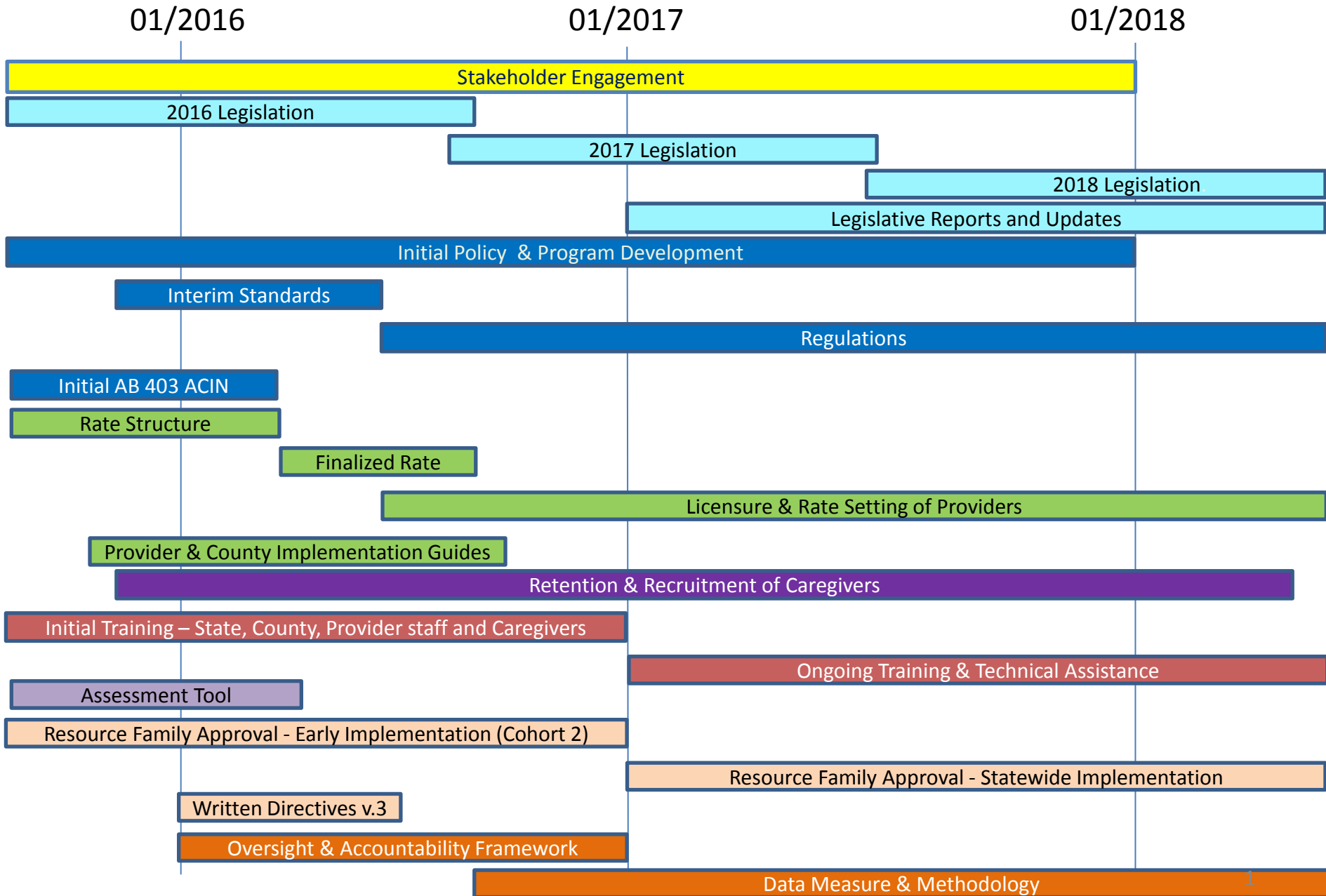
The accreditation of STRTCs and FFAs will start in 2016 and is expected to take 2-3 years.

Children are expected to start stepping down from group homes 1-2 years into family-based care.

## IMPLEMENTATION EFFORTS FOR CCR WILL OCCUR IN STAGES BETWEEN NOW AND 2021 IN CHILD WELFARE SERVICES, AND IN SUCCEEDING YEARS IN PROBATION FOSTER CARE.

- Group care will be primarily utilized only for Short-term Residential Therapeutic Centers (STRTCs) that provide intensive treatment interventions. When needed, the STRTC placement option will be available to children and youth requiring highly intensive 24-hour supervision and treatment and will be designed to quickly transition children back to their own or another permanent family.
- Facilities seeking licensure as a STRTC will need to meet higher standards of care, be accredited, and be able to deliver or arrange for a set of core services including the mental health services that children need. A new rate structure is being developed for these programs.
- Foster family agencies (FFA) are re-envisioned to provide various levels of care to meet a broader range of individual child needs. Like STRTCs, FFAs will make available a core set of services that are trauma-informed and culturally relevant, including specialty mental health services. The FFAs, at the request of a county, may provide supports and services to county-approved families, including relatives. A new rate structure is being developed to support this change.
- Statewide implementation of the Resource Family Approval (RFA) process will improve selection, training and support of families under a streamlined, family friendly process for approving families (including relatives) seeking to care for a child in foster care, whether on an emergency, temporary or permanent basis. All families will receive training.
- Resources are being provided to counties to support the development and implementation of creative strategies for supporting, retaining and recruiting quality relative and non-relative resource families.
- Services and supports will be tailored to the strengths and needs of a child and delivered to the child/youth in a family-based environment. These services and supports will be informed by an assessment and developed through a child and family team process.
- Increases accountability and transparency of FFAs and STRTCs. This approach includes:
  - Accreditation by a national accrediting body
  - Publicly available provider performance measures
  - Consumer satisfaction surveys
  - Interdepartmental oversight framework

# CCR Implementation Timeline





## CONTINUUM OF CARE REFORM

### CCR builds on California's current reform efforts

#### Approved Relative Caregivers Program (ARC)

Participating counties support relative caregivers with a payment equal to the basic foster care rate.

#### Child and Family Teaming

An effective approach to coordinated care and case planning for all children and youth in the child welfare system.

#### Pathways to Mental Health

Originating from the Katie A. lawsuit settlement, Pathways is intended to improve the coordination between child welfare and mental health systems so that children in foster care receive timely, and effective individualized mental health services.

#### Quality Parenting Initiative

Will create new strategies and practices within child welfare for the recruitment and retention of quality caregivers, and support biological parents with reunification efforts.

#### Residentially-Based Services Reform (RBS)

A demonstration project begun in 2008 that tested a short-term residential program model with ongoing community-based services and support, and which serves as the foundation for STRTC.

## RESOURCE FAMILY APPROVAL

The Resource Family Approval (RFA) program was developed to help meet California's goal of ensuring that all children live in committed, nurturing, and permanent families. Specifically, RFA establishes a new family-friendly and child-centered approval process for all related and non-related families seeking to care for children and youth in foster care. Because this new process consolidates and replaces existing requirements (foster parent licensing and certification, relative approval, adoption, and guardianship approvals) no additional home approvals are necessary should a family wish to pursue adoption or guardianship of a child in foster care (updates to the approval will occur at least annually and may be necessary if there are changes in the household or personal life events). Under the program, which will be statewide beginning January 2017, all caregivers of children and youth in foster care are approved to be "resource families." Once approved, a Resource Family is able to be an emergency, temporary, and/or permanent family for a child.

### WHAT WILL CHANGE?

RFA requires enhanced assessments of caregiver and training for all resource families, including those related to the child. This training is to better prepare families to care for children who have experienced the kinds of trauma that leads to children entering foster care.

The enhanced assessment determines the caregiver's ability to meet developmental, safety, permanence, and well-being needs of children, the capacity to act as a prudent parent in providing normal childhood experiences, the ability to cooperate with agency and service providers, the ability to provide and maintain financial stability, the ability to maintain the least restrictive and most family-like environment, and an assessment of the caregivers support system.

The goal is that better prepared families will lead to fewer placement changes for children enabling children to have stable, nurturing relationships with caregivers and to focus on school and other childhood activities.

### BENEFITS

- RFA is a streamlined process that includes one application, one background check and a combined home environment, and psychosocial assessment. This will eliminate redundant paperwork for families and maximize the efficient use of staff and system resources.
- The improved approval standards will be consistent regardless of a child's case plan. This allows for a seamless transition to permanency through adoption or guardianship when a child is unable to return to his or her parents.
- Increased stability in foster care will assist you with developing supportive lifelong relationships and improved outcomes for children, youth and young adults.

### MORE INFORMATION AND QUESTIONS

- Please contact: [CCR@dss.ca.gov](mailto:CCR@dss.ca.gov).







CDSS

WILL LIGHTBOURNE  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



EDMUND G. BROWN JR.  
GOVERNOR

**REASON FOR THIS TRANSMITTAL**

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

February 17, 2016

ALL COUNTY LETTER NO. 16-10

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL CHIEF PROBATION OFFICERS  
 COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA  
 ALL FOSTER FAMILY AGENCY DIRECTORS  
 ALL CDSS ADOPTION DISTRICT OFFICES  
 ALL CDSS COMMUNITY CARE LICENSING LIAISONS  
 ALL CDSS COMMUNITY CARE LICENSING PROGRAM MANAGERS

SUBJECT: RESOURCE FAMILY APPROVAL PROGRAM

REFERENCE: [WELFARE AND INSTITUTIONS CODE \(W&IC\) SECTION 16519.5;](#)  
[HEALTH AND SAFETY CODE \(H&S\) SECTION 1517;](#)  
[ASSEMBLY BILL \(AB\) 403 \(CHAPTER 773, STATUTES OF 2015\);](#)  
[AB 340 \(CHAPTER 464, STATUTES OF 2007\);](#) [SENATE](#)  
[BILL \(SB\) 1460 \(CHAPTER 772, STATUTES OF 2014\);](#)  
[SB 1013 \(CHAPTER 35, STATUTES OF 2012\)](#)

The purpose of this All County Letter (ACL) is to provide counties, licensed foster care providers and other interested stakeholders with information on the Resource Family Approval (RFA) Program in preparation for the mandated statewide implementation on January 1, 2017. This Program will directly impact county welfare and probation departments and licensed foster care providers by creating a new foster caregiver approval process that replaces multiple existing processes of licensing or certifying foster homes, approving relatives, nonrelative extended family members (NREFMs), prospective adoptive parents, and legal guardians.

**Background/Overview**

The RFA Program was enacted by legislation sponsored by the County Welfare Directors Association (CWDA) in 2007 and expanded through [SB 1013 \(Chapter 35, Statutes of 2012\)](#). The statute requires the California Department of Social Services (CDSS), in consultation with county child welfare agencies, including juvenile probation, foster parent associations, and other interested community parties to

implement a unified, family-friendly and child-centered RFA process. Per statute, the new process was required to be tested in up to five early implementing counties prior to statewide implementation.

Five volunteer counties from varying geographic locations were selected by CDSS to be early implementers: Kings, San Francisco, San Luis Obispo, Santa Barbara and Santa Clara. The five counties began early implementation between November 1, 2013 and August 1, 2014. Since their implementation, the five counties, CDSS, and other stakeholders have collaborated on creating policies and procedures, developing implementation guidelines, assessing challenges and barriers, and establishing processes for data collection and review.

A second cohort of nine early implementing counties is scheduled to implement their RFA Program between January and July of 2016. These counties include: Butte, Madera, Monterey, Orange, San Joaquin, Siskiyou, Stanislaus, Ventura, and Yolo.

### **Continuum of Care Reform (CCR) and the RFA Program**

Implementation of the RFA Program is a key component to the success of the CCR effort. This new process for approving resource families seeks to improve the experience children, youth, and nonminor dependents (NMD's) have in foster care by increasing the caregiver's ability to effectively meet the diverse needs of those in their care.

The RFA process, in combination with the [Quality Parenting Initiative \(QPI\)](#) that seeks to improve the partnership between foster parents and placing agencies, is intended to work together to build the capacity (both numerically and qualitatively) of the continuum of foster care placements. Although participation in the QPI is not a requirement of RFA, the increased collaboration, support and engagement of foster parents is essential to moving children out of congregate care successfully.

Funding was included in the 2015-16 enacted budget for the implementation of CCR and additional funding is being proposed in the 2016-17 Governor's Budget. Information on the proposed CCR funding can be found in the CCR premise description located in the Estimate Methodologies section of the Governor's 2016-17 Budget and can be accessed on the CDSS website at <http://www.cdss.ca.gov/cdssweb/default.htm> under the Highlights section. If the Budget Act of 2016 is signed by the Governor, CDSS, in collaboration with CWDA, will determine the appropriate methodology to distribute the funds to county welfare departments.

### **What is RFA?**

RFA is a new foster caregiver approval process that improves the way caregivers (related and non-related) are approved by preparing families to better meet the needs of

vulnerable children, youth and NMDs in the county child welfare and/or probation systems. The RFA Program replaces the existing processes for licensing foster family homes, certifying homes of licensed foster family agencies, approving relatives and NREFMs as caregivers, and approving legal guardians and adoptive families by combining the best elements of all the processes into a single approval standard. The process is streamlined and unifies approval standards for all caregivers regardless of the child's case plan, thereby eliminating the duplication of existing processes such as background checks.

RFA creates a framework for all families, including relative and NREFM caregivers, to receive the same information, training and opportunities for support. A resource family completes one approval process, and once approved, may choose to provide care on a short- or long-term basis. Once a resource family is approved, they will not have to undergo any additional approval or licensure if they choose to adopt or be appointed a guardian for a child in foster care. Approval of a family, however, does not guarantee placement of the child with that family. The child's worker will continue to make placement decisions based on what is in the best interest of the child. Through the RFA process, approved resource families are better equipped to support and prepare a child for permanency.

### **Resource Family Comprehensive Assessment and Approval Process**

The RFA process involves completion of a comprehensive assessment that includes assessing the applicant's ability to honor a child's or NMD's natural connections; parent a child/NMD in a family setting; provide a safe, nurturing and stable home; and provide permanence or prepare a child/NMD for permanence. The primary components of the comprehensive assessment include:

#### Home Environment:

This component requires an applicant to meet standards that include, but are not limited to, building and grounds, storage requirements, capacity determination, and background checks.

#### Background Checks:

Comprehensive criminal records check combines components from the current separate approval processes. Resource family applicants will complete one background check, and once assessed and cleared, will not have to repeat the process if the family chooses to adopt.

#### Psychosocial Assessment:

The psychosocial assessment creates a comprehensive picture of the family by exploring the applicant's family dynamics and characteristics, including mental, physical, and emotional health. This assessment helps to identify the family's strengths, as well

as the supports or additional training that may be needed for the family to best meet the needs of children, youth, and NMDs in out-of-home care.

### Training

This component of the comprehensive assessment includes the family's completion of pre-approval training. The Written Directives (described on page five of this document) provide guidelines and requirements on training topics that must be provided to all prospective resource families and completed prior to the approval of the resource family. Pursuant to [Welfare and Institutions Code section 16519.5\(g\)\(13\)](#), a resource family applicant shall complete a minimum of 12 hours of pre-approval training. Once approved, post-approval training consists of a minimum of eight hours annually. The Written Directives are currently under revision; therefore, Version three of the Written Directives will reflect current statute regarding resource family training.

Once a comprehensive assessment is completed, in order to approve the family, a written assessment of the resource family must be completed, which includes a determination that the family possesses the following characteristics:

- An understanding of the safety, permanency, and well-being needs of children and NMDs who have been victims of child abuse and neglect, a capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, have a support structure in place, or both.
- An understanding of children's and NMD's needs and development, effective parenting skills or knowledge about parenting, and a capacity to act as a reasonable and prudent parent in day-to-day decision making.
- An understanding of his or her role as a resource family and the capacity to work cooperatively with the County or approving agency and other service providers in implementing a child's or NMD's case plan.
- The financial ability within the household to ensure the stability and financial security of the family.
- The ability and willingness to maintain the least restrictive and most family-like environment that serves the needs of a child or NMD.

### **Placement Prior to Approval**

The RFA process provides for placement of a child or NMD with a family prior to their approval as a resource family based on two situations:

- 1) In an emergency situation, a child or NMD may be placed with a relative or NREFM prior to approval if the following requirements are met:

- An inspection of the home and grounds that indicates it is free of conditions that pose undue risk to the health and safety of the child.
  - A criminal records check (pursuant to [W&IC section 16504.5](#) and Child Abuse Central Index).
  - Initiation of the RFA process within five business days if continued placement is desired including completion of:
    - Live scan background check within ten days of placement.
    - All remaining components of the RFA process within 90 days of placement.
- 2) If a compelling reason exists based on the best interest and needs of the child, and the family has already successfully completed the home environment assessment, a child or NMD may be placed in a home prior to approval. The requirements to be met post placement include:
- Completion of a psychosocial assessment within 90 calendar days of placement in the home.
  - Completion of all required pre-approval training within 90 days of placement in the home.

When a placement is made prior to approval for an emergency or compelling reason, the applicant is not eligible to receive Aid to Families with Dependent Children Foster Care benefit payments (including federal financial participation) until the applicant receives approval as a resource family by completing all components of the approval process, including pre-approval training, and meets any other Title IV-E criteria.

### **Written Directives**

[Section 16519.5 of the W&IC](#) gives CDSS the authority to temporarily administer the RFA Program through “Written Directives.” The CDSS has issued Written Directives and forms for implementing the RFA Program to ensure consistent standards among all counties and approving agencies. The Written Directives contain the processes, standards, and requirements of the RFA Program and have the same force and effect as regulations.

Version two of the Written Directives is currently in effect for all early implementation counties. With ongoing collaboration among early implementing counties and other stakeholders, revisions will continue to be made as RFA moves towards statewide implementation. The Written Directives can be found on the CDSS website at <http://www.childsworld.ca.gov/PG3416.htm>.

### Key Information

- By January 1, 2017, all counties and licensed foster care providers statewide must implement the RFA process for all new applicants.
  - All early implementation counties were required to enter into a Memorandum of Understanding (MOU) with CDSS. For all counties beginning implementation on January 1, 2017, this will not be required.
- Once implemented, counties shall ensure all new related and non-related applicants participate exclusively in the RFA Program, including families being considered for probation placements.
- Prior to January 1, 2017, counties will need to prepare a comprehensive Implementation Plan for submission to CDSS per [W&IC section 16519.5\(g\)\(1\)](#).
  - The purpose of the plan is to provide guidance to counties by preparing for implementation of the RFA Program in their county through thoughtful planning and collaboration with key partners both internally and externally. It will also allow CDSS to provide feedback, guidance, and technical assistance to the county to aid in a smooth transition to the RFA Program.
  - A template providing details on what is required in the Plan and examples of early implementing county plans can be found on the CDSS website at <http://www.childsworld.ca.gov/PG3416.htm>.
  - Counties will need to review [W&IC section 16519](#) et seq. and the Written Directives in their entirety to prepare their proposed RFA Program implementation plan.
- By December 31, 2019, all existing licensed foster family homes, all certified family homes, and all approved relatives and NREFMs who wish to continue to care for a foster child must be an approved resource family.
  - Licensed foster family homes, certified family homes and approved relatives and NREFM's with an approved adoption home study completed prior to January 1, 2018, shall be deemed to be a resource family.
  - A licensed foster family home, a certified family home, and an approved relative and NREFM who had a child in placement at any time between January 1, 2017 and December 31, 2017, may be approved as a resource family on the date of successful completion of a psychosocial assessment.
  - A license, certificate of approval, and relative and NREFM approval will need to be surrendered at the time of approval as a resource family so the family is not required to comply with different laws.
  - All foster family licenses, certificates of approval for certified family homes, and approvals of relatives and NREFMs shall be forfeited by operation of law on December 31, 2019.

- More information regarding the conversion procedures for all existing families will be forthcoming in a future ACIN.

### **Preparing for Implementation – Resources and Recommendations**

- County welfare departments should engage and consult with county probation partners and other affected parties early on to collaborate on implementation of the RFA Program.
- Although tribes are not required to implement the RFA process for tribally approved homes, it is important to include them as valuable stakeholders in the RFA Program.
- As training is a critical piece of RFA implementation, it is recommended that counties begin assessing their training capacity, curricula, and space needs to include all families in the process.
- A Readiness Assessment tool has been created as a resource for counties to begin preparing for implementation of RFA. The readiness tool can be found on the CDSS website at <http://www.childsworld.ca.gov/PG3416.htm>.
- Counties are encouraged to visit the California Social Work Education Center (CalSWEC) <http://calswec.berkeley.edu/toolkits/resource-family-approval-rfa> to access an RFA Toolkit with information and tools for counties to use as they prepare to implement RFA. Templates and tools continue to be developed to assist counties with implementing RFA and to provide guidance on the assessment processes. These resources will also be included on the CalSWEC and the CDSS RFA websites as they become available.
- Training modules are currently in development by CDSS and CalSWEC for statewide use by county RFA staff. The training will be piloted with early implementing counties and statewide roll out is projected for late 2016. The trainings will be provided by the Regional Training Academies in collaboration with CDSS.
- The CDSS will be providing on-going technical assistance and training to counties to assist in preparation for full implementation through means such as All County Information Notices (ACINS), county visits, and regional convenings.
- The first five early implementing counties have a wealth of knowledge and experience that can be a valuable resource for other counties as they begin preparing for implementation. Counties are encouraged to connect with early implementing counties for guidance and support.
- The CDSS will also be developing plans to provide technical assistance to licensed foster care providers and will continue to provide information through ACLs, ACINs, and Information Releases.



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It is anticipated that the RFA Program will result in better outcomes for children and families by simultaneously addressing the safety of children in foster care and the length of time it takes for them to achieve permanency when they cannot return to their parents. The goal is to improve caregiver standards and better prepare families to meet the needs of children in the foster care system by providing increased support and training. Families who are better prepared and supported will mean that children in their care will experience less placement changes and exit foster care in less time than under the current processes.

If you have any questions regarding this ACL, please email the RFA Program Unit at [RFA@dss.ca.gov](mailto:RFA@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division



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## FREQUENTLY ASKED QUESTIONS (FAQ) FOR AGENCY STAFF

### GENERAL

#### *What is Resource Family Approval?*

Resource Family Approval – also known as RFA – is a method of approving caregivers to foster, adopt, or provide legal guardianship for the care and supervision of children, youth, and young adults in the child welfare and probation systems. Mandated by California state statute, RFA creates a platform for all Resource Families to receive the same information, training, and opportunity for support.

#### *What is a Resource Family?*

A Resource Family has undergone a streamlined approval process that combines elements of prior approval or licensing processes that were once separated out, including foster care licensing, relative approval, and adoption approval requirements. A Resource Family, whether they are related to a child, youth, or young adult in foster care or not, is considered to be approved to provide care for a court dependent or ward for a short term basis (foster care) or permanent basis (adoption or legal guardianship), depending on the Resource Family's interest and the child's case plan. There is no longer a need to undergo any additional approval processes. Approval of a Resource Family does not guarantee placement of a child. Placement decisions are still based on a child's best interests.

### TRAINING

#### *Is there specialized training?*

Yes. Pre-approval training is provided, and all Resource Family applicants are required to attend. CPR and First Aid are also required. In addition to pre-approval training, post-approval training is also required of all Resource Families. Training is required to maintain current knowledge and encourage growth as a caregiver. Topics and hours required are determined by the county, though RFA Written Directives do mandate some topics to be addressed in the pre-approval training.

### BENEFITS

#### *What do Resource Families receive with RFA?*

In addition to the benefits of providing a loving home and committed relationship to a child, youth, or young adult, Resource Families receive:

- Monthly financial assistance
- Agency sponsored resources

- Monthly home visits from the child’s, youth’s, or young adult’s social worker
- Ongoing trainings and classes

## **APPLICANT REQUIREMENTS**

### ***What documents are required for proof of identity?***

Please be advised that “proof of identity” is not defined in the Written Directives (Section 05-03). Accordingly, counties have the discretion to determine what acceptable proof of identity is. Best practice has suggested that acceptable proof of identity may include, but is not limited to:

- Valid U.S. photo driver license or photo ID card
- Original or Certified Birth Certificate
- Foreign birth certificates, not issued in English, must be translated and accompanied by a Certificate of Accurate Translation.
- Valid Military Identification
- Valid, Unexpired United States Passport
- Valid, Unexpired Foreign Passport
- United States Citizenship and Immigration Service Documentation

**Please note:** All RFA applicants and adults living in the home are subject to a background checks assessment pursuant to Section 06-02 in the Written Directives. Accordingly, they will need to provide acceptable proof of identity to the Live Scan operator to complete the criminal records check.

## **APPROVAL PROCESS**

### ***Do existing caregivers need to be approved as a Resource Family?***

No, at this time, if a caregiver is currently licensed for foster care or approved for relative care, he/she will not be required to be assessed as a Resource Family. After statewide implementation has occurred, policies regarding the long term plan for existing licensed foster families and approved relatives will be enacted.

### ***Will Resource Families need to go through multiple approval processes?***

No. Once RFA is completed, Resource Families will not need to undergo any additional approval process if they want to move to legal guardianship or adoption, or to care for another child, youth, or young adult (related or unrelated) in the home.

Resource Families are required to have an annual update to their existing approval.

### ***Does RFA affect Probation youth in Placement?***

Yes, any new family wishing to provide care to a child or youth through foster care or probation shall go through the RFA process.

### ***Does RFA impact Tribally Approved Homes?***

No, RFA does not impact Tribally Approved Homes.

### ***Does RFA impact Foster Family Agencies (FFA) homes?***

No, not at this time, however in 2017, all FFAs must implement RFA into their standards of practice. Some FFAs may choose to be an Early Implementer of RFA in 2016.

## **REQUIREMENTS**

### ***Can child welfare and probation agencies continue to use their current process or must they comply with RFA?***

For staff or families working within a RFA county, RFA is not optional. On January 1, 2017 all counties are mandated to implement RFA.

### ***What is required of a Resource Family?***

Resource Families are required to maintain standards, attend post-approval training, and participate in an annual update, which includes a home visit as described in the RFA Written Directives.

## **PLACEMENTS PRIOR TO APPROVAL**

### ***Can a child, youth or young adult be placed with a caregiver prior to their approval as a Resource Family?***

Yes, a county may place a child with a caregiver prior to approval in two circumstances:

- Emergency placement with relatives and non-relative extended family members (NREFM)
- Placement of a child based on a compelling reason

Please be advised AFDC-FC funding for an eligible child cannot be authorized until approval as a Resource Family has occurred. Please review Section 7 of the Written Directives for more information as the requirements for an emergency placement and a compelling reason placement are different.

### ***After an emergency placement has occurred, what must the caregiver agree to do to complete Resource Family Approval?***

If the caregiver wishes to continue with placement of the child beyond the emergency basis, then he/she must, within five business days of placement, submit a RFA application and supporting documentation, participate in face-to-face interviews conducted by the county, and permit the county to perform a home environment assessment. Within ten business days of placement, the applicant and all adults residing in the home must comply with the background checks assessment requirements. The applicant and all persons residing in the home must also participate in the permanency assessment, so the county can complete the assessment within 90 days of placement.

## **SOCIAL WORKER (SW) AND PROBATION OFFICER (PO) ROLES & RESPONSIBILITIES**

### ***What is the SW and PO role/responsibility during an emergency placement?***

Before leaving a child, youth, or young adult in a home as an emergency placement pending RFA completion, the SW/PO must complete criminal records checks on all adults in the home via California Law Enforcement Telecommunications System and Child Abuse Child Index, and inspect the homes and grounds to determine whether they are free of conditions that may pose an undue risk to the health and safety of a child, youth or young adult.

After a child, youth, or young adult has been placed; the designated agency representative will support the family through completion of RFA.

## **ADOPTION**

### ***After a RFA has been granted and a family completes an adoption, will the adult family members have to live scan again for a subsequent adoption?***

Adult family members would not have to live scan again unless the family had not maintained their approval as a Resource Family.

However, for as long as a Resource Family maintains approval, any new adult family members living in the home would need to be live scanned, including the family's own children living in the home who have reached majority age.

## **WRITTEN DIRECTIVES**

### ***At what point are the Written Directives given to the family?***

There is no specific requirement that the families need to be given the Written Directives. It is, however, encouraged that families become familiar with the Written Directives so they can maintain continual compliance.

***If a RFA application is denied, does the applicant receive a copy of the written assessment?*** Yes, the family should always be provided a copy of the written assessment regardless of approval or denial.

### ***If a RFA application is denied, what procedures should the county follow?***

If an application is denied, the county shall follow procedures as set forth in ACLs 12-71 and 13-27.

### ***What are the timeline/timeframe/deadlines for the Health Screening?***

A health screening completed by a licensed health professional must not be older than 180 days from the date of the RFA application and a test for tuberculosis must not be more than one year old.

# Session 6: Local ICWA Roundtables





NATIONAL COUNCIL OF  
JUVENILE AND FAMILY COURT JUDGES

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# DISPROPORTIONALITY RATES for Children of Color in Foster Care

**(Fiscal Year 2013)**



Technical Assistance Bulletin

June 2015

**Brief Authored by:**

Alicia Summers, PhD

Program Director, Research & Evaluation

The National Council of Juvenile and Family Court Judges® (NCJFCJ) headquartered on the University of Nevada campus in Reno since 1969, provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the NCJFCJ has pursued a mission to improve courts and systems practice and raise awareness of the core issues that touch the lives of many of our nation's children and families.

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## Disproportionality Rates for Children of Color in Foster Care

Children of color are disproportionately<sup>1</sup> represented in the United States foster care system. In most states, there are higher proportions of African American/Black and American Indian children in foster care than in the general child population. In some states, Hispanic/Latino children are disproportionately represented. Data also vary at the county level, with some counties experiencing more disproportionality than is evident statewide. This Technical Assistance Bulletin presents disproportionality rates for all 50 states.

Starting in 1997, the Adoption and Safe Families Act (P.L. 105-89) required child welfare agencies to submit data regarding children in foster care to the Adoption and Foster Care Analysis and Reporting System (AFCARS). Released annually, the AFCARS data include the number of children who have entered foster care, the number who have exited foster care, and the number who are still in foster care at the end of the year. The dataset also contains the race of each child.

In 2000, African American/Black children represented 38% of the foster care population while they comprised only 16% of the general child population, indicating a disproportionality index of 2.5 (i.e., African American children were disproportionately represented in foster care at a rate 2.5 times their rates in the general population). American Indian children represented 1.9% of the foster care population, yet only encompassed 1.3% of the general child population. Hispanic/Latino children, although not overrepresented nationally, were disproportionately represented in 7 states. In 2012, 12 years later, these numbers have changed. While disproportionality rates increased between 2000 and 2004, African American/Black disproportionality has now decreased to 2.0 from 2.5 nationally. American Indian disproportionality has increased over the last twelve years from 1.5 to 2.4. Hispanic/Latino children are now overrepresented in only five states. Table 1 (page 3) illustrates the 2000 and 2012 disproportionality rates for children in foster care for each state and nationally.

The 2007 Government Accountability Office report identified every state's disproportionality index using 2004 population estimates from the U.S. Census and 2004 AFCARS data. We have duplicated these calculations using the same sources for 2000 and have included 2012 data for comparison. Some states have substantially reduced their disproportionality. Other states show slight increases or decreases, or have remained consistent in the twelve-year time span. In particular, Indiana's African American disproportionality rate has decreased 44% in the last decade, dropping from 4.1 to 2.3. In contrast, some states have shown increases in their American Indian disproportionality; Minnesota, for example, rose 72% since 2000, increasing from 8.1 to 13.9.

**Note: This Technical Assistance Bulletin represents FY2013 Adoption and Foster Care Analysis and Reporting System (AFCARS) and 2013 U.S. Census Bureau population estimates data.**

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<sup>1</sup> Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

## Using This Report

In May 2011, the National Council of Juvenile and Family Court Judges (NCJFCJ) published its first *Disproportionality Rates for Children of Color in Foster Care*. Since that time, the report has gained national attention. The information provided by the report has been used in a number of ways and by a broad spectrum of stakeholders and interested parties. Delineated below are some of the ways that this information may be helpful to states, courts, policy makers, professional stakeholders, and academics who are interested in racial disproportionality and child welfare. These examples provide a few illustrations of the many ways that this report can be used in informing ongoing discussion and research of this important issue.

**Evidence or Reference.** In October of 2011, National Public Radio (NPR) used the report for its series on *Native Foster Care: Lost Children, Shattered Families*, citing the report as evidence supporting their position and drawing national attention to the issue, and pointing out behavior in one state in particular. NPR used data from the report to create an interactive map on its website that focused specifically on disproportionality rates of Native youth.<sup>2</sup>

**Foundation for Further Research.** The report has also been used in scholarly research. The journal *Race and Social Problems* published a paper on "Race and Child Welfare Policy: State-Level Variations in Disproportionality."<sup>3</sup> The paper used data from the report to explore how state African American populations relate to disproportionality rates. The paper finds that states with larger African American populations have dramatically lower levels of racial disproportionality among their children in foster care.

**Means of Extending Dialogue.** Individual states have also used the report to explore their own disproportionality score trends. Oregon, for example, noted that their internal state data appeared to be different from the data used for the report. Through a series of dialogues, differences were identified in how mixed-race children are counted and categorized in AFCARS data, in U.S. Census data, and in Oregon state data. These differences in how racial groups are defined, counted, and assigned to data categories can have significant effects on a state's disproportionality profile and may explain discrepancies between data. Results of this discussion and analysis were presented in a NCJFCJ Research Memo available on the NCJFCJ website.<sup>4</sup>

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<sup>2</sup> Sullivan, L., & Walters, A. (October 25, 2011). *Native Foster Care: Lost Children, Shattered Families*. National Public Radio. Available online at <http://www.npr.org/2011/10/25/141672992/native-foster-care-lost-children-shattered-families>. Interactive map for American Indian disproportionality available online at <http://www.npr.org/2011/10/25/141475618/disproportionality-rates-of-native-american-children-in-foster-care>.

<sup>3</sup> Foster, C.H. 2012. Race and child welfare policy: State-level variations in disproportionality. *Race and Social Problems*, <http://www.springerlink.com/content/q102663736113101/>.

<sup>4</sup> National Council of Juvenile and Family Court Judges. (April, 2012). Oregon State Disproportionality Profiles. *PPCD Research Memo*. Available online at <http://ncjfcj.org/sites/default/files/Disproportionality%20in%20Oregon%20Research%20Memo.pdf>

**Table 1:  
Disproportionality Index of Children in Foster Care by Race and State for 2000 and 2013<sup>5</sup>**

STATE	African American/ Black <sup>i</sup>		Caucasian/White <sup>ii</sup>		Hispanic/Latino <sup>iii</sup>		Asian/Pacific Islander <sup>iv</sup>		American Indian/ Alaska Native <sup>v</sup>	
	2000	2013	2000	2013	2000	2013	2000	2013	2000	2013
Alabama	1.7	1.2	0.7	0.8	0.4	0.8	0.1	0.0	0.3	0.2
Alaska	<b>2.7</b>	.7	0.5	0.5	0.3	0.4	0.2	0.2	<b>3</b>	<b>2.6</b>
Arizona	<b>3.6</b>	<b>2.2</b>	0.9	0.9	0.8	0.9	0	0.1	0.4	0.8
Arkansas	<b>2</b>	1.1	0.8	1.0	0.3	0.5	0.3	0.0	0.1	0.1
California	<b>4.8</b>	<b>3.6</b>	0.8	0.8	0.8	1.0	0.2	0.2	<b>2.3</b>	<b>2.1</b>
Colorado	<b>3.7</b>	<b>3.0</b>	0.7	0.8	1.1	1.2	0.3	0.4	<b>2.9</b>	1.0
Connecticut	<b>3.4</b>	<b>2.4</b>	0.5	0.6	1.7	1.5	0.1	0.1	0.4	0.3
Delaware	<b>2.7</b>	<b>2.0</b>	0.5	0.7	1	0.7	0	0.1	0.3	0
Florida	<b>2.2</b>	1.6	0.7	1.1	0.4	0.5	0.1	0.1	0.5	1
Georgia	1.7	1.3	0.6	1.0	0.4	0.5	0.1	0.0	0.2	0.3
Hawaii	1.3	.7	0.7	0.8	0.1	0.2	1.6	1.6	<b>6.3</b>	1.8
Idaho	<b>6.4</b>	<b>2.9</b>	0.9	1.0	0.8	0.9	0.2	0.0	<b>6.6</b>	<b>5.1</b>
Illinois	<b>4</b>	<b>3.3</b>	0.3	0.8	0.3	0.3	0	0.1	0.8	0.7
Indiana	<b>4.1</b>	<b>2.1</b>	0.6	0.8	0.6	0.7	0.1	0.1	1.4	0.3
Iowa	<b>3.8</b>	<b>2.9</b>	0.8	0.8	0.9	1.1	0.6	0.5	<b>5.7</b>	<b>5.2</b>
Kansas	<b>3.2</b>	<b>2.1</b>	0.9	1	0.5	0.7	0.2	0.2	1	1.1
Kentucky	<b>2.3</b>	1.3	0.8	0.9	0.4	1.0	0.1	0.1	0.4	0.1
Louisiana	1.6	1.2	0.6	1.0	0.3	0.3	0.2	0.1	0.4	0.5
Maine	<b>2</b>	0.8	0.8	0.7	1.7	<b>7.1</b>	0.6	0.2	1.6	1.3
Maryland	<b>2.4</b>	<b>1.8</b>	0.3	0.6	0.2	0.4	0.1	0.1	0.4	0.3
Massachusetts	1.1	1.7	0.3	0.7	1.8	1.6	0.4	0.2	0.9	1.0
Michigan	0	<b>2.2</b>	0	0.7	0	0.8	0	0.1	0	1.5
Minnesota	<b>4.4</b>	<b>2.1</b>	0.6	0.6	0.8	1.1	0.3	0.3	<b>8.1</b>	<b>14.8</b>
Mississippi	1.3	1.1	0.8	0.9	0.2	0.9	0.3	0.3	0.1	0.4
Missouri	<b>2.9</b>	1.6	0.7	1.0	0.3	0.6	0.2	0.1	0.5	0.5
Montana	<b>3.7</b>	1.9	0.7	0.6	0.9	1.4	0.3	0.2	<b>3.6</b>	<b>3.7</b>

<sup>5</sup> States with disproportionality indexes of 2.0 or higher are indicated in **bold**.

STATE	African American/ Black		Caucasian/White		Hispanic/Latino		Asian/Pacific Islander		American Indian/ Alaska Native	
	2000	2013	2000	2013	2000	2013	2000	2013	2000	2013
Nebraska	3.2	3.0	0.8	0.7	0.9	0.8	0.3	0.3	6.6	8.8
Nevada	2.8	2.7	1	1.1	0.3	0.6	0.5	0.3	0.7	1.1
New Hampshire	3	2.6	0.9	0.9	1.8	1.7	0.2	0.1	1	3.1
New Jersey	4	3.0	0.4	0.6	0.5	0.7	0	0	2.9	0.3
New Mexico	3.8	2.2	0.9	1	1	1.0	0.4	0.1	0.5	0.8
New York	2.5	2.0	0.3	0.4	0.8	0.6	0.1	0.0	0.6	0.8
North Carolina	1.9	1.5	0.7	0.9	0.8	0.6	0.2	0.1	1.5	2.0
North Dakota	2.5	1.2	0.7	0.7	1.3	1.2	1.6	.3	4	3.3
Ohio	3.3	2.1	0.6	0.8	0.6	0.8	0.1	0.0	0.6	0.4
Oklahoma	2.1	1.3	0.8	0.7	0.4	1.0	0.4	0.1	1.5	0.7
Oregon	5	2.4	0.8	0.9	0.6	0.7	0.3	0.2	3.2	3.5
Pennsylvania	4.1	3.2	0.5	0.6	1.6	1.2	0.2	0.1	1.1	1.2
Rhode Island	3.8	2.2	0.8	0.8	0.9	1.1	0.6	0.2	2.3	1.4
South Carolina	1.7	1.2	0.6	0.9	0.3	0.6	0.3	0.2	0.4	0.4
South Dakota	2.2	1.8	0.4	0.4	0.9	1.2	0.3	0.5	4.7	3.6
Tennessee	1.8	1.2	0.8	1.0	0.6	0.7	0.4	0.1	0.8	0.9
Texas	2.3	1.8	0.8	0.9	0.8	0.9	0.1	0.1	1.3	0.3
Utah	4.6	3.9	0.7	0.9	1.3	1.3	0.5	0.4	4.2	3.1
Vermont	2.6	1.4	1	1	0.4	0.4	0.1	0.7	0.9	0
Virginia	2.2	1.5	0.7	0.9	0.5	0.8	0.1	0.1	0.3	0.1
Washington	3.4	2.0	0.8	0.9	0.7	0.8	0.2	0.2	4.9	4.5
West Virginia	2.2	1.1	0.9	1.0	1	0.6	0.2	0.1	0.3	0.2
Wisconsin	8.3	3.8	0.3	0.6	0.8	1.0	0.2	0.3	1.4	4.8
Wyoming	6.2	2.7	1	1.0	0.8	1.1	0.8	0.3	1.1	0.5
<b>United States</b>	<b>2.5</b>	<b>1.8</b>	<b>0.6</b>	<b>0.8</b>	<b>0.8</b>	<b>0.9</b>	<b>0.3</b>	<b>0.1</b>	<b>1.5</b>	<b>2.5</b>

<sup>i</sup> Children identified by the child welfare system as African American, non-Hispanic, and with only one race category.

<sup>ii</sup> Children identified by the child welfare system as White, non-Hispanic, and with only one race category.

<sup>iii</sup> Children identified by the child welfare system as having Hispanic origins; not a racial category.

<sup>iv</sup> Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one racial category.

<sup>v</sup> Children identified by the child welfare system as American Indian or Alaska Native, non-Hispanic, and with only one racial category.

## CALCULATING DISPROPORTIONALITY

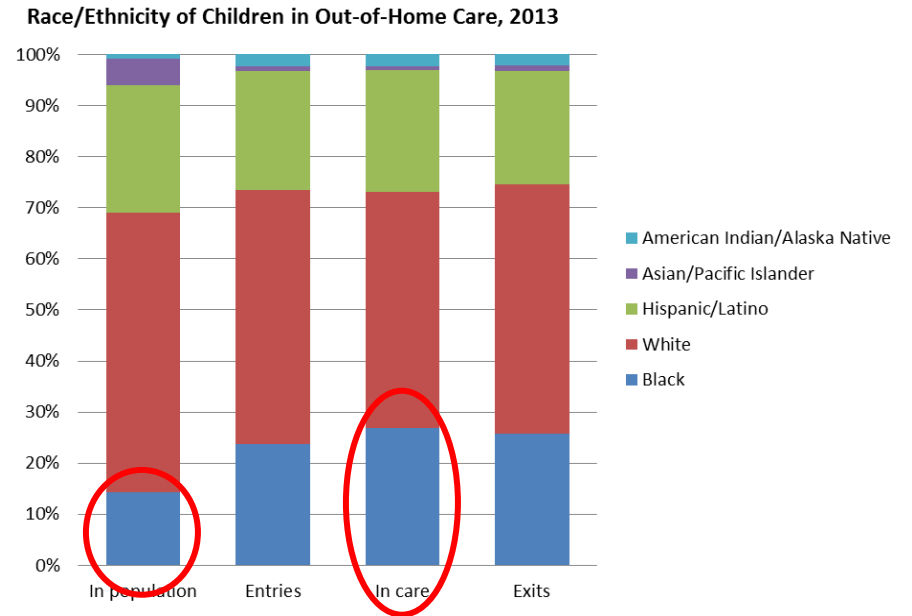
Disproportionality is defined as the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. Hill<sup>7</sup> developed the “disproportionality index” as an indicator of the degree a given jurisdiction is disproportionate. The disproportionality index is calculated by taking the proportion of children in foster care for a given race and dividing it by the proportion of the same racial group in the child population. This creates a ratio where scores ranging from 0.00 to 0.99 are indicative of underrepresentation, scores of 1.0 indicate no disproportionality, and scores of 1.1 and greater indicate overrepresentation. For example, in a community where 40% of the children entering foster care are African American, and only 20% of the child population is African American, the disproportionality index would be 2.0, indicating African Americans are twice as represented in foster care as they are in the general population. Disproportionality scores are calculated for the number of children “entering” care, “exiting” care, and “remaining” in care at the end of the year. These calculations require (1) the *child population (by race)* for any given state or jurisdiction, available from census data; and (2) the *number of children in the child welfare system (by race)*, available from the Adoption and Foster Care Analysis and Reporting System (AFCARS).

<b>DATA SOURCES</b>		
<b>Data Element</b>	<b>Available From</b>	<b>Most Recent Date</b>
<i>Child Population (by Race)</i>	The U.S. Census Bureau (2013 Census Total Population Estimates – 2013 Census Adult Population Estimates) <a href="http://www.census.gov">www.census.gov</a>	2013
<i>Number of Children In Care Entering Care Exiting Care (by Race)</i>	National Data Archive on Child Abuse and Neglect's Adoption and Foster Care Analysis and Reporting System (AFCARS) <a href="http://www.ndacan.cornell.edu">www.ndacan.cornell.edu</a>	2013

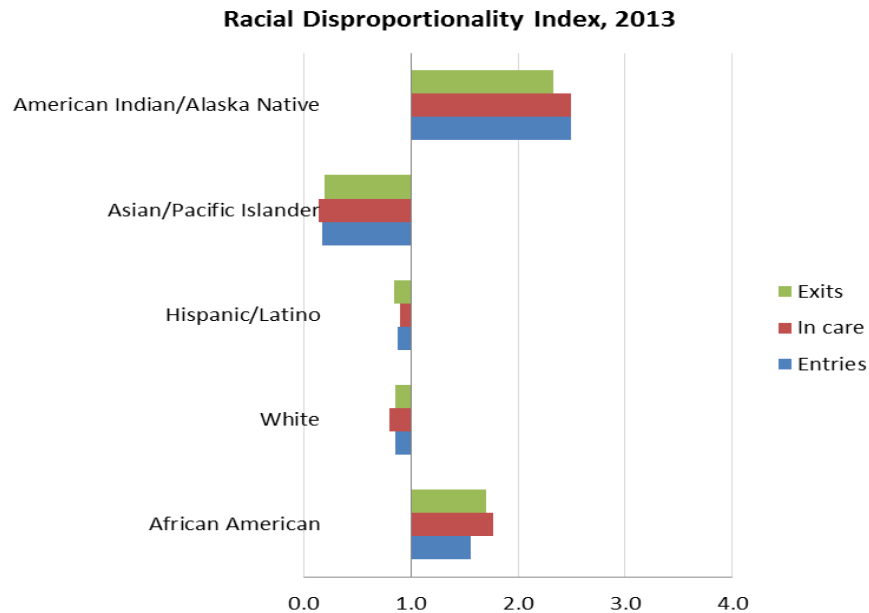
<sup>7</sup> Hill, R. B. (2006). Synthesis of research on disproportionality in child welfare: An update. *Casey-CSSP Alliance for Racial Equity in the Child Welfare System*. Available online from [http://www.racemattersconsortium.org/docs/BobHillPaper\\_FINAL.pdf](http://www.racemattersconsortium.org/docs/BobHillPaper_FINAL.pdf)

The results of these disproportionality calculations are presented numerically and graphically. The graph on the left compares the racial breakdown of the population to the percentage of each racial group entering, in, and exiting foster care in 2013. In this chart, the race of African American/Black children in the population is approximately 14 % (first oval). Compare that to the rate of African American/Black children in foster care—more than 24% (larger oval). These differences are also reported in a corresponding table (see below).

Race/ethnicity breakdowns				
	Population	Entries	In care	Exits
African American/Black (a)	13.8%	21.5%	24.4%	23.5%
Caucasian/White (b)	52.4%	45.0%	41.8%	44.7%
Hispanic/Latino (c)	24.1%	21.1%	21.6%	20.4%
Asian/Pacific Islander (d)	4.8%	0.8%	0.7%	1.0%
American Indian/Alaska Native (e)	0.9%	2.2%	2.2%	2.0%
More than one race	4.0%	6.0%	6.2%	5.8%
Missing	0.0%	3.4%	3.1%	2.6%
Total	100%	100%	100%	100%



The graph (left) and table (below) portray the disproportionality index. The *Racial Disproportionality Index* graph depicts the disproportionality scores for each race in terms of entries, exits, and in care rates. Bars moving to the right of 1.0 indicate overrepresentation; bars moving to the left of 1.0 demonstrate underrepresentation. The highlighted text in the *Racial Disproportionality Index* table below identifies disproportionality indexes in which the racial group is overrepresented.



Racial Disproportionality Index			
	Entries	In care	Exits
African American/Black (a)	1.6	1.8	1.7
Caucasian/White (b)	0.9	0.8	0.9
Hispanic/Latino (c)	0.9	0.9	0.8
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	2.5	2.5	2.3

## Thinking Critically about Disproportionality Rates

The disproportionality data reported in the *Technical Assistance Bulletin* have a variety of uses, but it is also important to consider the limitations of the numbers and think about not only what they may mean for your jurisdiction, but what they do not mean.

- **Rates are only as good as the data reported.** The disproportionality rates are only as good as the data reported to Census and AFCARS. As such, if states are inconsistent in how they capture and report race, this may lead to inconsistencies in the data.
- **Not Disparity.** Disproportionality and disparity are not the same thing. Disparity compares outcomes between two groups, whereas disproportionality compares only to a set reference category (e.g., population). These numbers will not tell you if children of color have worse outcomes than Caucasian children, they can only provide a starting point for examining the numbers. *Disproportionality (as we have defined it) makes no comparisons between races.*
- **Multiple Calculation Methods.** Both disproportionality and disparity can be calculated in multiple ways. It is important to consider where this information comes from. This is a comparison of rates in care to rates in the general population. Other calculations may use different numerators or denominators, creating a variable that explains something different than what we are discussing herein.
- **Missing Data.** Missing data may skew results, inflating or deflating disproportionality rates, making the rates an inaccurate portrayal of the current foster care population. Missing data rates are reported in the *Race/Ethnicity Breakdowns Table*. Consider New York, for example. The table (below) illustrates a high percentage of missing data. If these data were available, disproportionality rates could be drastically different.

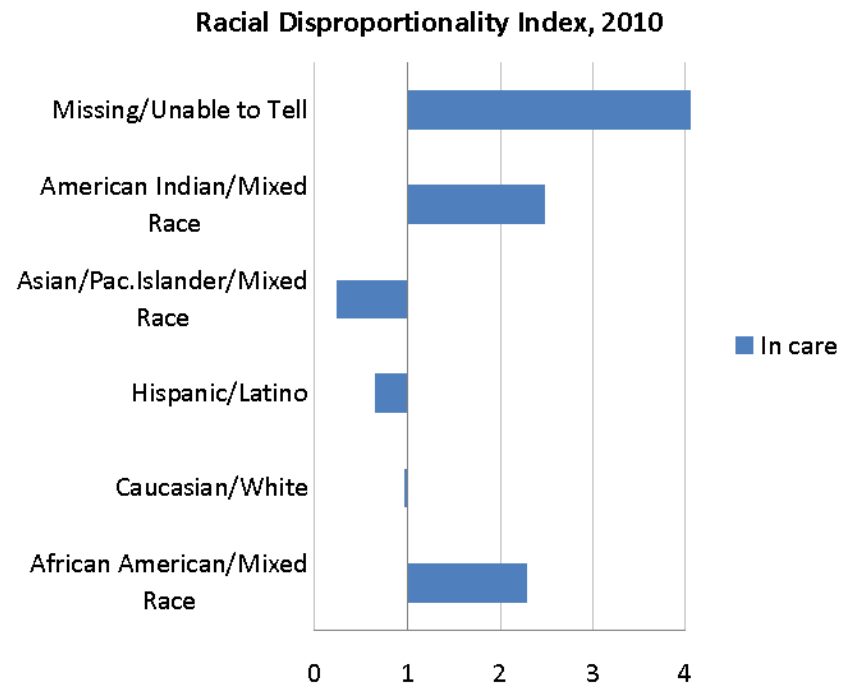
Race/ethnicity breakdowns				
	Population	Entries	In care	Exits
African American/Black (	15.8%	21.7%	32.3%	34.3%
Caucasian/White	49.6%	25.6%	19.3%	22.8%
Hispanic/Latino	23.6%	8.8%	14.1%	14.6%
Asian/Pacific Islander	7.4%	0.3%	0.4%	0.5%
American Indian/Alaska Native	0.3%	0.2%	0.3%	0.3%
More than one race	3.2%	4.6%	3.6%	4.0%
Missing	0.0%	38.9%	30.1%	23.4%
Total	100%	100%	100%	100%

### Things to think about

- *What limitations does data in your state have?*
- *How is race or ethnicity captured in your jurisdiction? Who is asked?*
- *Who enters race data into the case management system?*
- *Is there a system in place for checks and balances?*
- *Is there missing data? Why?*
- *What is the sample size for the children who are disproportionately represented?*
- *Is there disproportionality in children of color who report as more than one race? If so, how might you discover what your numbers really are?*

## Thinking Critically About the Disproportionality Rates

- **Small sample size.** It is also important to pay attention to sample size. In some jurisdictions the number of children of a particular race may be really small, but compared to their population, this number may be inflated. For example, in Hawaii, there were 4 American Indian/Alaska Native youth who entered foster care in 2013. This represents .4% of the foster care population (of 1085 kids). However, because the population is .2% American Indian, they have a disproportionality rate of 1.8. If sample sizes are small, even a small change could inflate the numbers. For cases like this, it is important to examine trends over time.
- **More than one race.** A final consideration is the more than one race variable. This is a major limitation of the current methodology. At present, disproportionality is calculated only using children identified as one race. If they identify more than one race, they are classified as more than one race. The more than one race category is often disproportionate, but not really reported in the graphs. While it is beyond the scope of these efforts to disaggregate all more than one race children, it is important to consider how this could affect your data. Take Oregon, for example. In 2011, when the first disproportionality Technical Assistance Bulletin was published, Oregon showed no American Indian disproportionality, which was contrary to their high rate reported in the 2007 GAO report. When more than one race was disaggregated to include American Indian and another race or African American and another race, clear patterns of disproportionality emerged. As you can tell from the graph (right) there was still a disproportionate number of children of color in care. If more than one race numbers are disproportionate, it is important to think about how to disaggregate to better learn what these numbers actually mean.

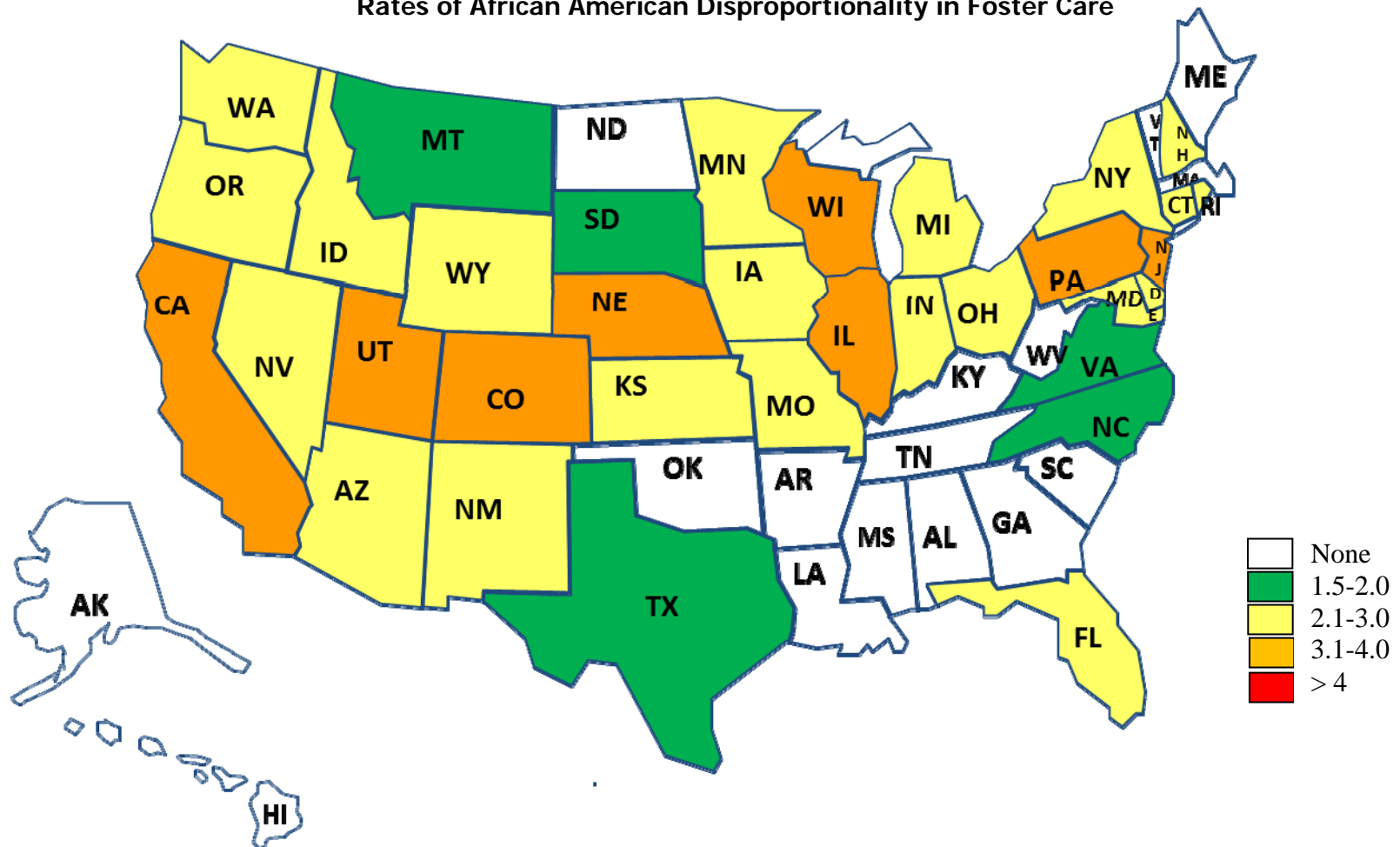




## Comparisons of Disproportionality by State African American/Black

African American/Black children are the most overrepresented racial group in the United States. Nearly every state has a disproportionate number of African American children in foster care. The map below illustrates the varying degrees of disproportionality of African American children in foster care throughout the United States. Colors on the map range from white (no disproportionality) to red (a score greater than 4.0 or 4 times the rate in the general population).

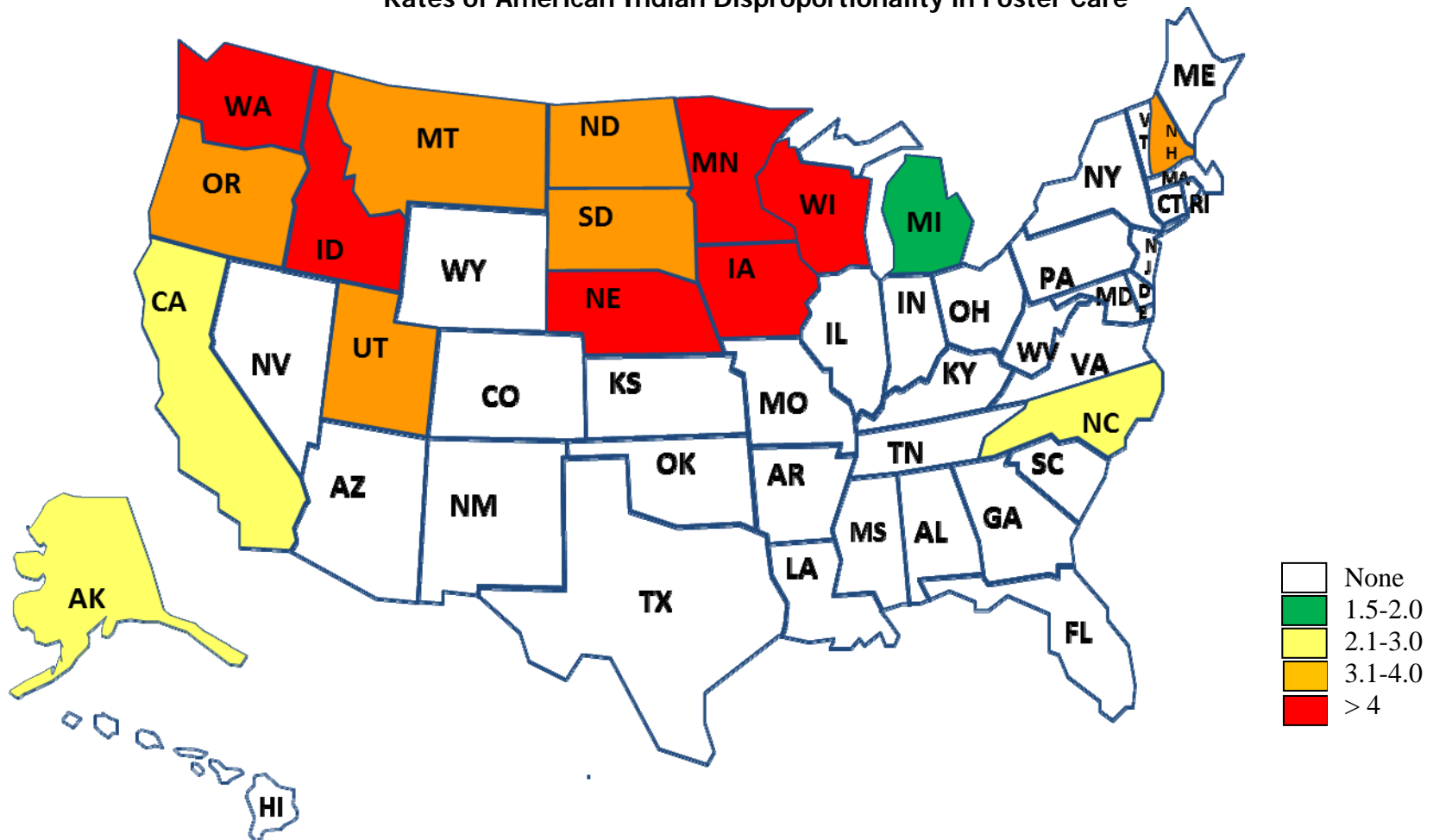
### Rates of African American Disproportionality in Foster Care



### Comparisons of Disproportionality by State American Indian/Alaska Native

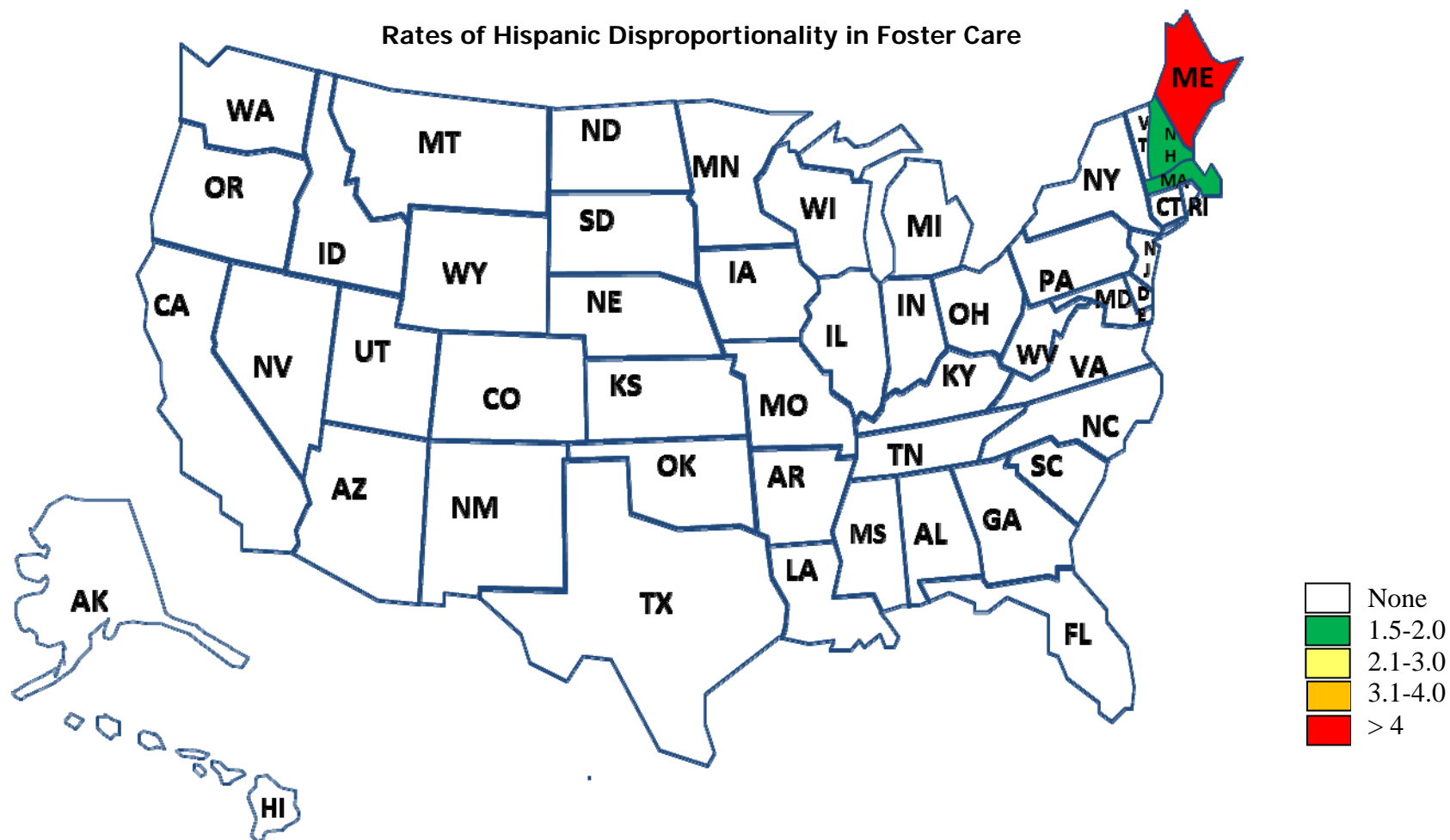
Across the United States, American Indian/Alaska Native children are overrepresented in foster care at a rate of 2.4 times their rate in the general population. While not all states show disproportionality, 21 states do have some overrepresentation. Twenty-four percent of the states that have overrepresentation have a disproportionality index of greater than 4.1. In Minnesota, the disproportionality is index 13.9, in Washington State it is 4.3.

Rates of American Indian Disproportionality in Foster Care



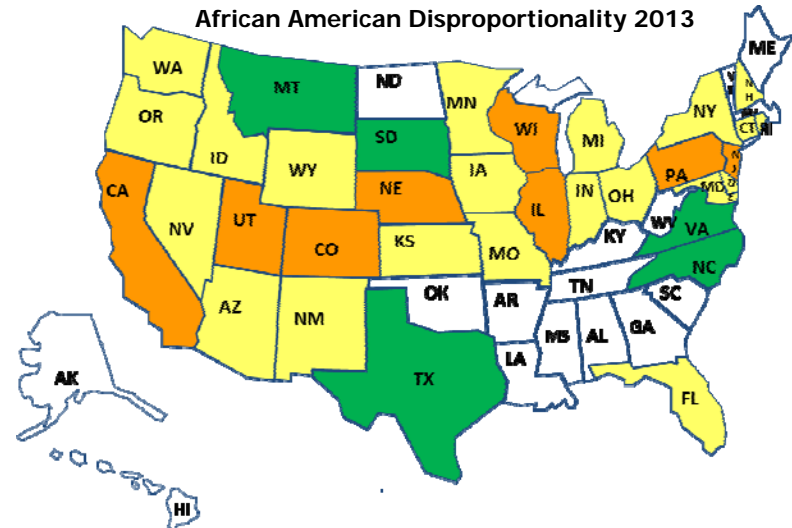
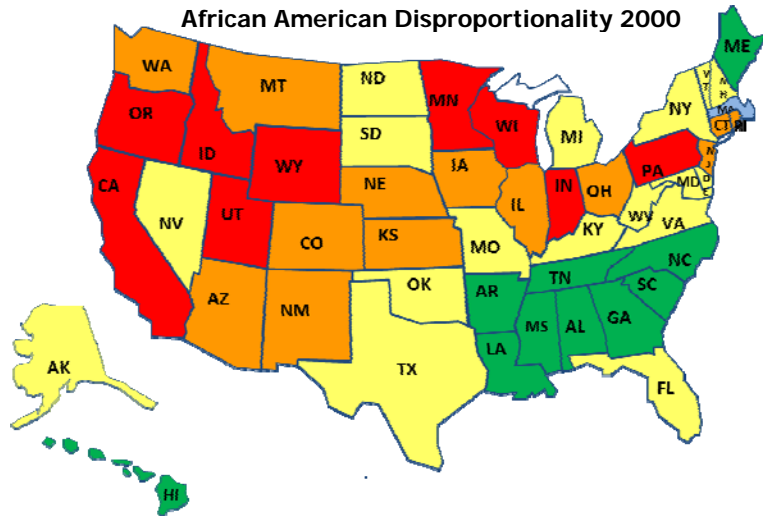
### Comparisons of Disproportionality by State Hispanic/Latino

The rates of Hispanic/Latino overrepresentation across the country are less pronounced. Only a handful of states demonstrate an overrepresentation of Hispanic/Latino children. Overrepresentation rates vary from 1.1 to 7.1. Maine is the only state that has a disproportionality index score of greater than two (7.1). There may be, however, more overrepresentation at the county or court jurisdiction level. It is important to examine state and jurisdiction disproportionality indexes to gain a more in-depth understanding of how disproportionality rates vary by location.

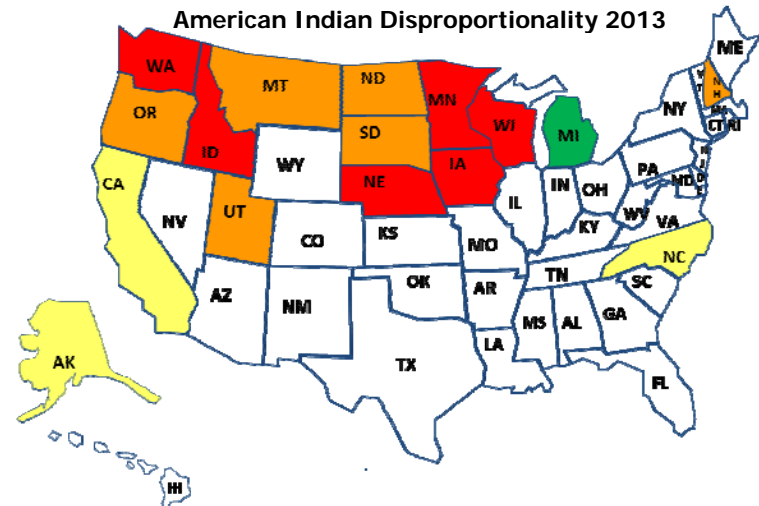
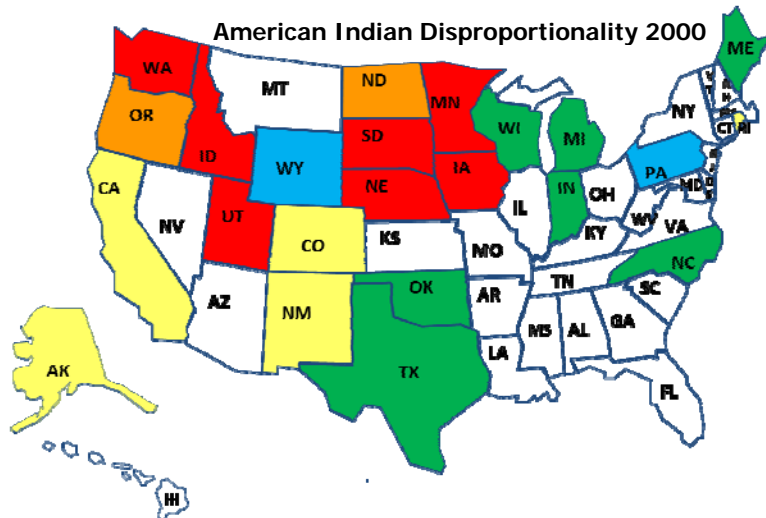


## Changes in Disproportionality

As illustrated in Table 1, disproportionality indexes have changed since 2000. The first set of maps portrays the African American disproportionality in the United States in 2000 (left) and 2013 (right). The reduction in disproportionality is illustrated by fewer orange and red states (highest disproportionality) and increases in the yellow states, which represent disproportionality at rates of 3.0 or lower.

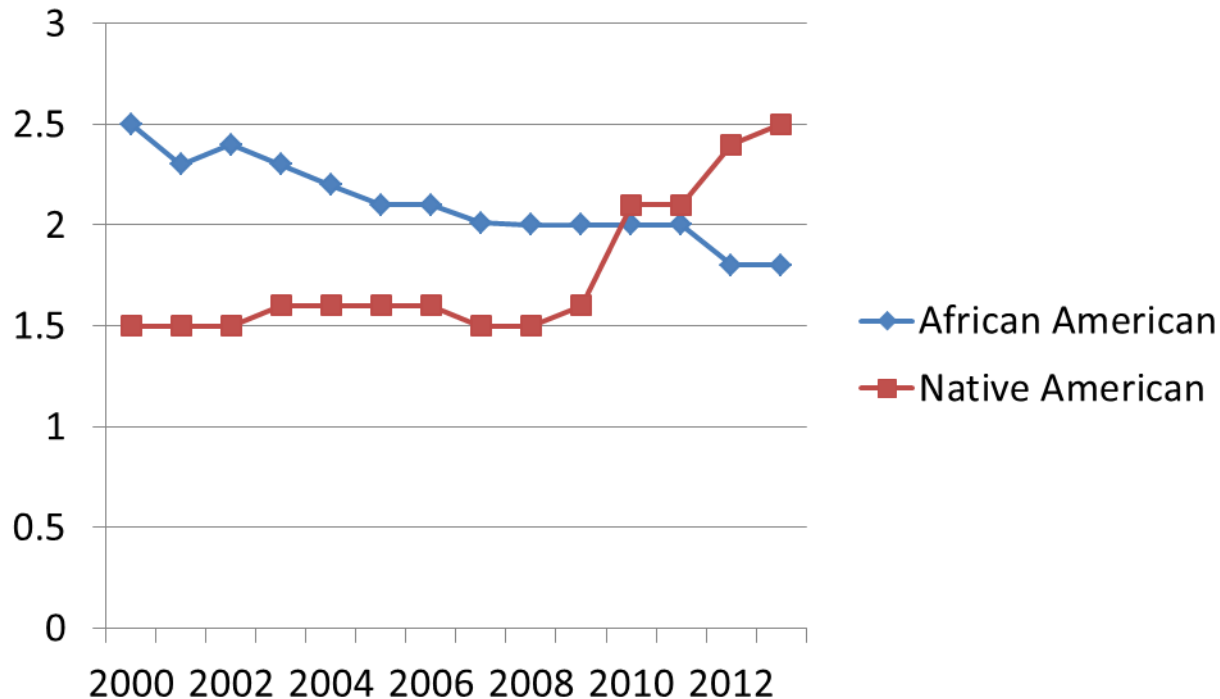


The second set of maps illustrates the disproportionality of American Indian children in foster care for the year 2000 (left) and the year 2013 (right). The number of states that show disproportionality has decreased from 23 to 16 and some states have shown a decrease in their disproportionality rates. However, many of the “red” states remain high, particularly states like Minnesota, whose disproportionality rates have risen dramatically in the last decade.



### National Changes in Disproportionality over Time

The maps on the previous pages illustrate changes in disproportionality over time. It is clear that some states have reduced disproportionality over time, while others have not. What the maps do not show is the trends in disproportionality over time. As illustrated in the graph below, there has been a trend toward decreased African American disproportionality over time. For American Indian/Native American children, disproportionality has increased in the last few years. Looking at data over time often portrays a different picture than a point in time estimate (such as this Bulletin). Comparing numbers over time allows for a better understanding of trends and also can demonstrate any anomalies in data. From the data we have to date, there does appear to be a trend for reduction for some children and increases for others. Understanding why this is occurring will be an important next step in the process.

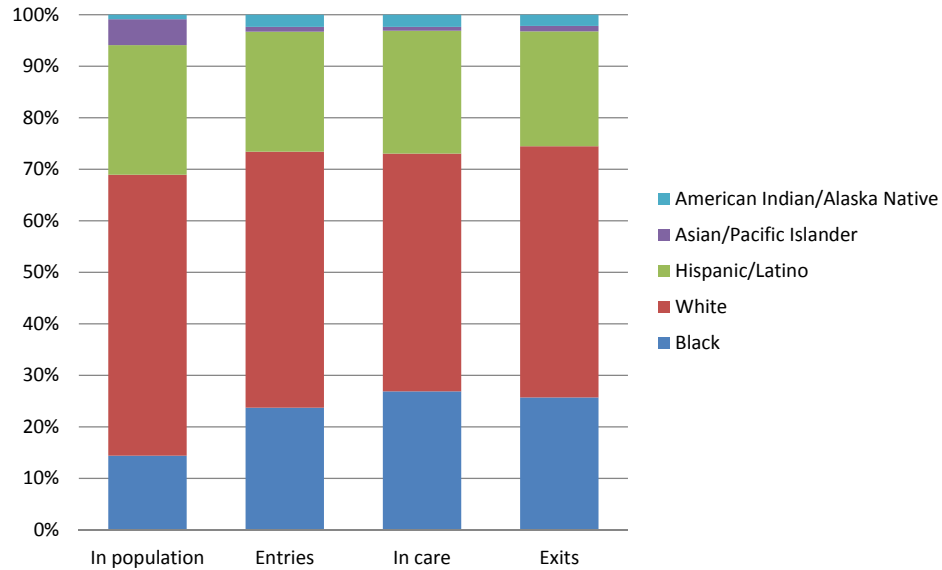


NATIONAL DISPROPORTIONALITY INDEX  
(FISCAL YEAR 2013)

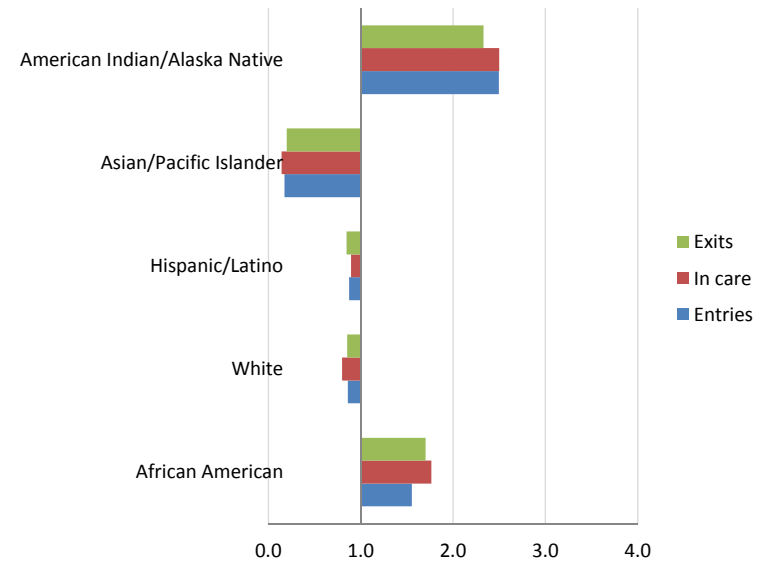
## Race/Ethnicity Profile

United States

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	13.8%	21.5%	24.4%	23.5%
Caucasian/White (b)	52.4%	45.0%	41.8%	44.7%
Hispanic/Latino (c)	24.1%	21.1%	21.6%	20.4%
Asian/Pacific Islander (d)	4.8%	0.8%	0.7%	1.0%
American Indian/Alaska Native (e)	0.9%	2.2%	2.2%	2.0%
More than one race	4.0%	6.0%	6.2%	5.8%
Missing	0.0%	3.4%	3.1%	2.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.6	1.8	1.7
Caucasian/White (b)	0.9	0.8	0.9
Hispanic/Latino (c)	0.9	0.9	0.8
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	2.5	2.5	2.3

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

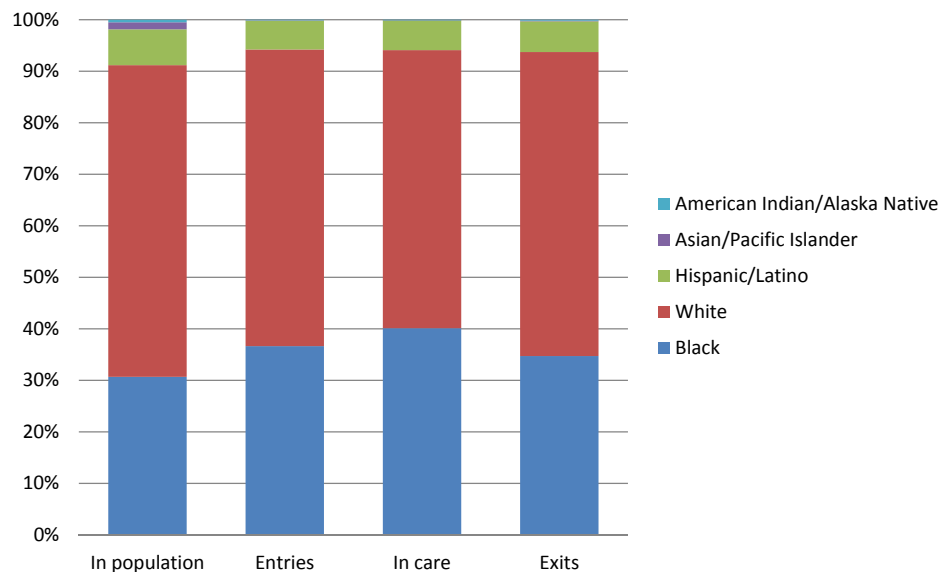
STATE LEVEL DISPROPORTIONALITY INDEXES  
(FISCAL YEAR 2013)



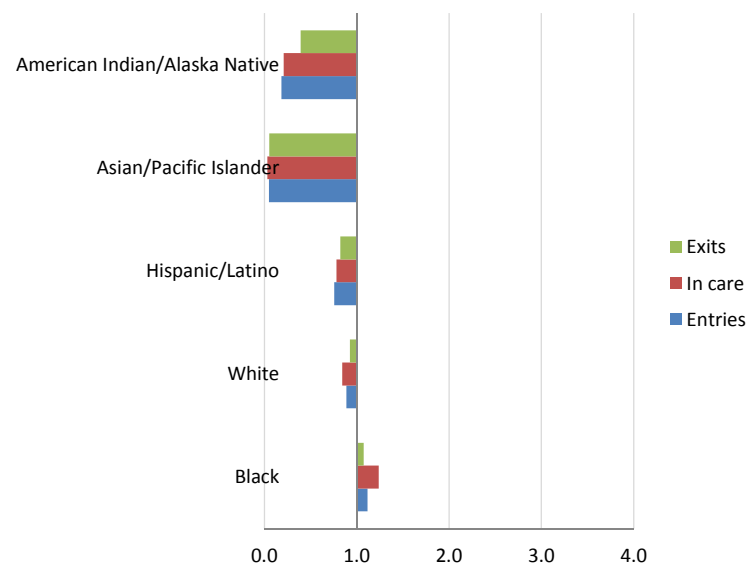
## Race/Ethnicity Profile

Alabama

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	29.8%	33.2%	36.9%	32.1%
Caucasian/White (b)	58.8%	52.3%	49.7%	54.6%
Hispanic/Latino (c)	6.8%	5.1%	5.3%	5.6%
Asian/Pacific Islander (d)	1.3%	0.1%	0.0%	0.1%
American Indian/Alaska Native (e)	0.5%	0.1%	0.1%	0.2%
More than one race	2.8%	6.3%	6.5%	5.8%
Missing	0.0%	2.9%	1.5%	1.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.1	1.2	1.1
Caucasian/White (b)	0.9	0.8	0.9
Hispanic/Latino (c)	0.8	0.8	0.8
Asian/Pacific Islander (d)	0.0	0.0	0.1
American Indian/Alaska Native (e)	0.2	0.2	0.4

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

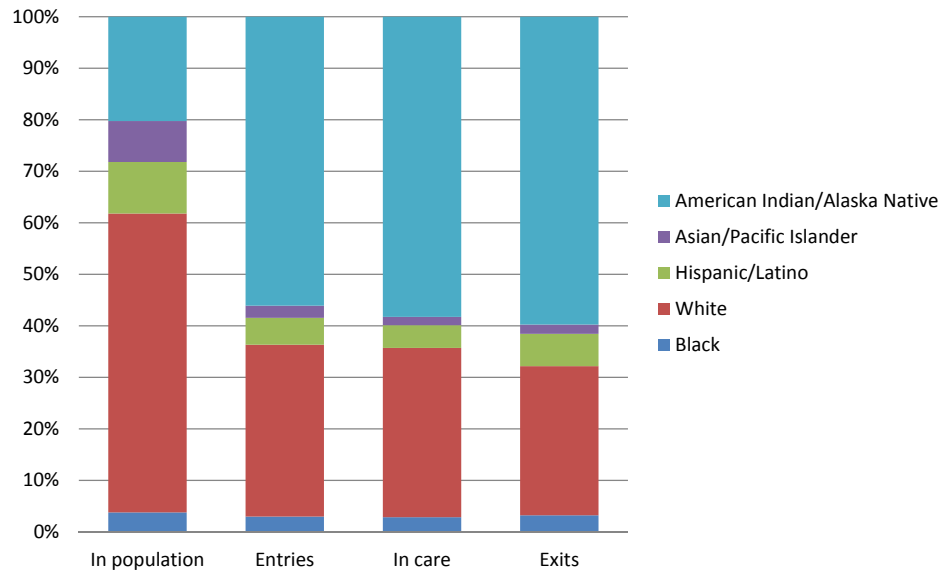
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

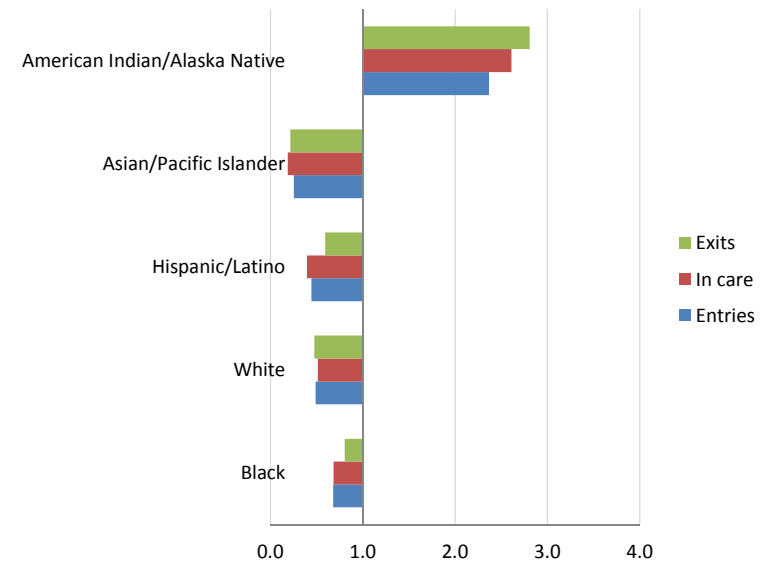
## Race/Ethnicity Profile

Alaska

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	3.3%	2.3%	2.3%	2.7%
Caucasian/White (b)	50.9%	25.0%	26.2%	24.2%
Hispanic/Latino (c)	8.8%	3.9%	3.5%	5.2%
Asian/Pacific Islander (d)	7.0%	1.8%	1.3%	1.5%
American Indian/Alaska Native (e)	17.8%	42.0%	46.4%	49.9%
More than one race	12.3%	19.7%	17.1%	12.8%
Missing	0.0%	5.3%	3.3%	3.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	0.7	0.7	0.8
Caucasian/White (b)	0.5	0.5	0.5
Hispanic/Latino (c)	0.4	0.4	0.6
Asian/Pacific Islander (d)	0.3	0.2	0.2
American Indian/Alaska Native (e)	2.4	2.6	2.8

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

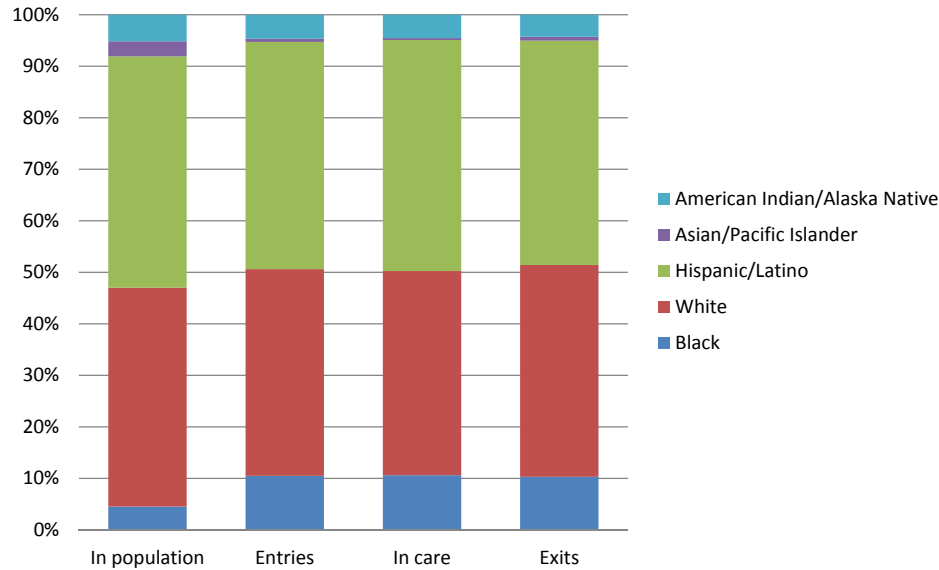
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

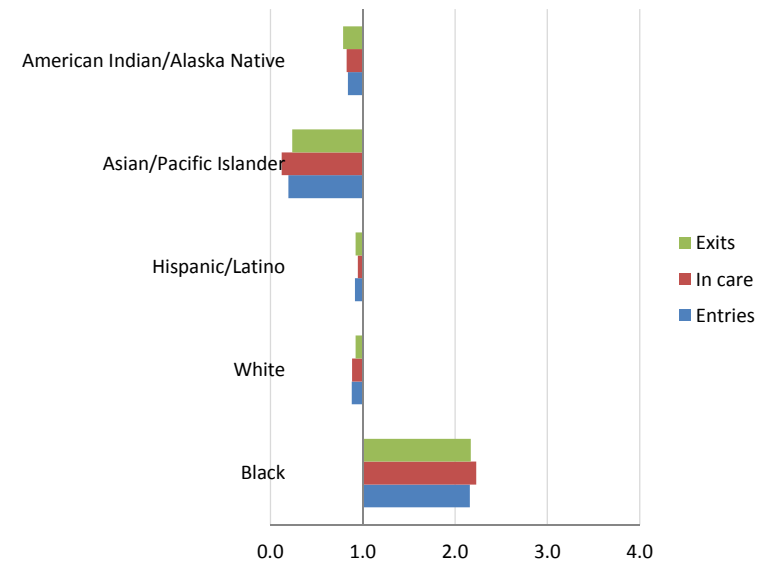
## Race/Ethnicity Profile

Arizona

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	4.4%	9.4%	9.7%	9.5%
Caucasian/White (b)	41.0%	36.0%	36.2%	37.8%
Hispanic/Latino (c)	43.3%	39.6%	41.0%	40.0%
Asian/Pacific Islander (d)	2.8%	0.5%	0.3%	0.7%
American Indian/Alaska Native (e)	5.0%	4.2%	4.1%	4.0%
More than one race	3.6%	3.7%	3.7%	4.1%
Missing	0.0%	6.5%	4.8%	4.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.2	2.2	2.2
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	0.9	0.9	0.9
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	0.8	0.8	0.8

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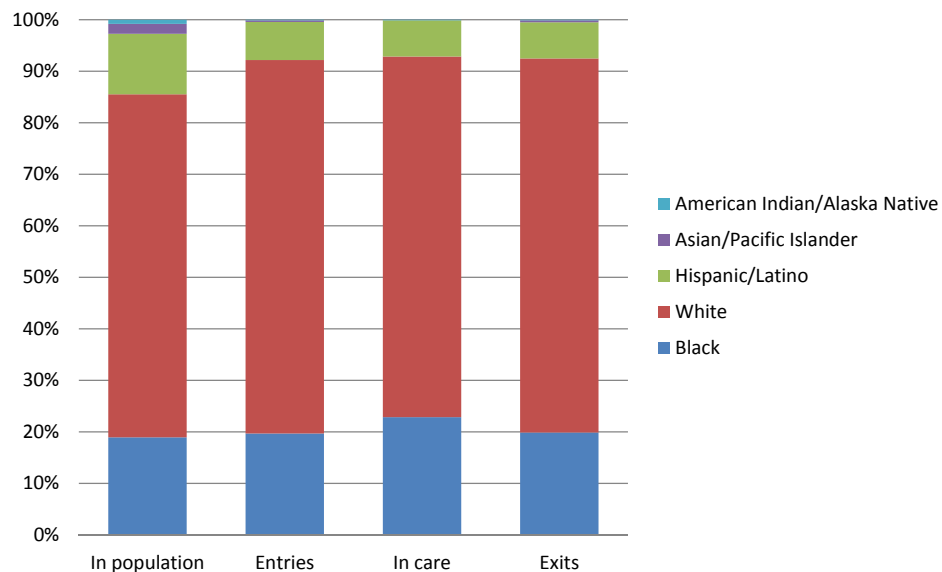
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

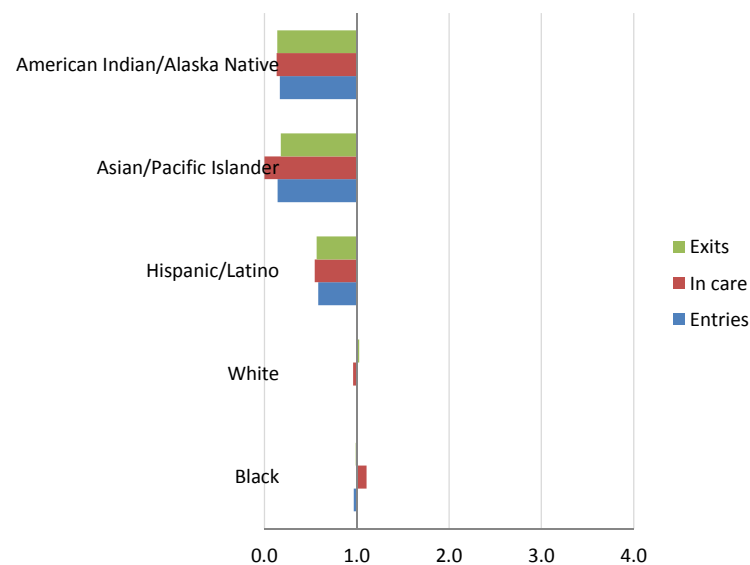
## Race/Ethnicity Profile

Arkansas

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	18.3%	17.7%	20.2%	18.1%
Caucasian/White (b)	64.3%	65.2%	61.9%	66.0%
Hispanic/Latino (c)	11.4%	6.6%	6.2%	6.4%
Asian/Pacific Islander (d)	1.9%	0.3%	0.0%	0.3%
American Indian/Alaska Native (e)	0.8%	0.1%	0.1%	0.1%
More than one race	3.4%	9.8%	11.4%	8.7%
Missing	0.0%	0.3%	0.2%	0.3%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.0	1.1	1.0
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.6	0.5	0.6
Asian/Pacific Islander (d)	0.1	0.0	0.2
American Indian/Alaska Native (e)	0.2	0.1	0.1

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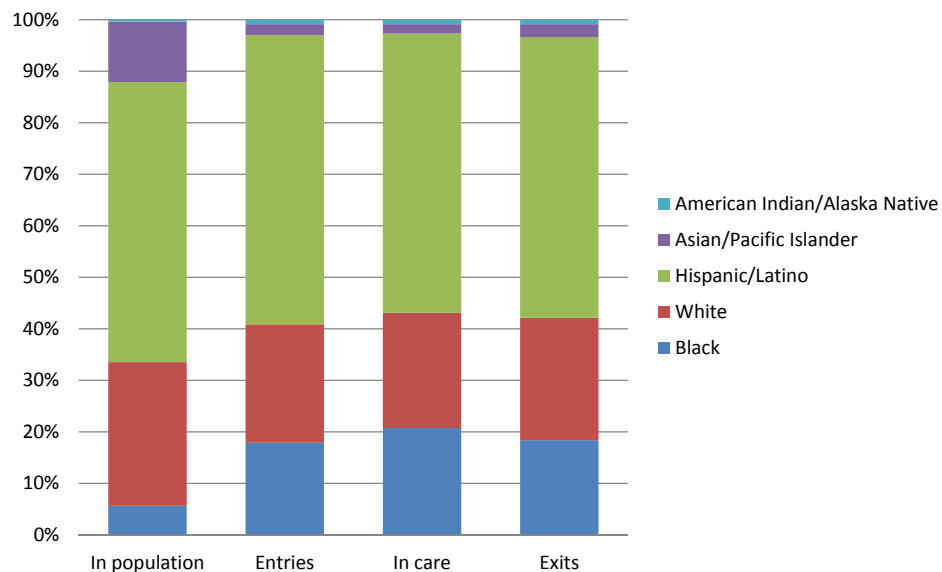
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

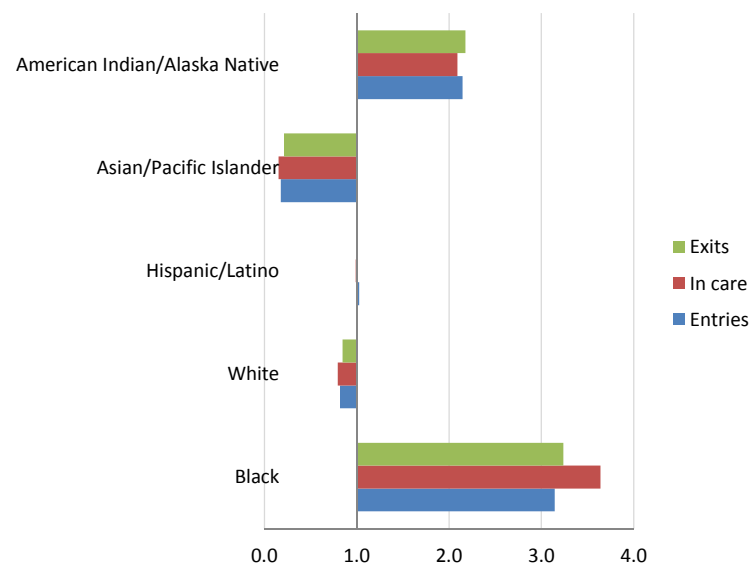
## Race/Ethnicity Profile

California

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	5.4%	16.9%	19.6%	17.4%
Caucasian/White (b)	26.6%	21.8%	21.2%	22.5%
Hispanic/Latino (c)	51.9%	53.3%	51.3%	51.7%
Asian/Pacific Islander (d)	11.2%	2.0%	1.7%	2.4%
American Indian/Alaska Native (e)	0.4%	0.8%	0.8%	0.8%
More than one race	4.5%	4.2%	4.8%	4.6%
Missing	0.0%	0.9%	0.5%	0.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	3.1	3.6	3.2
Caucasian/White (b)	0.8	0.8	0.8
Hispanic/Latino (c)	1.0	1.0	1.0
Asian/Pacific Islander (d)	0.2	0.2	0.2
American Indian/Alaska Native (e)	2.1	2.1	2.2

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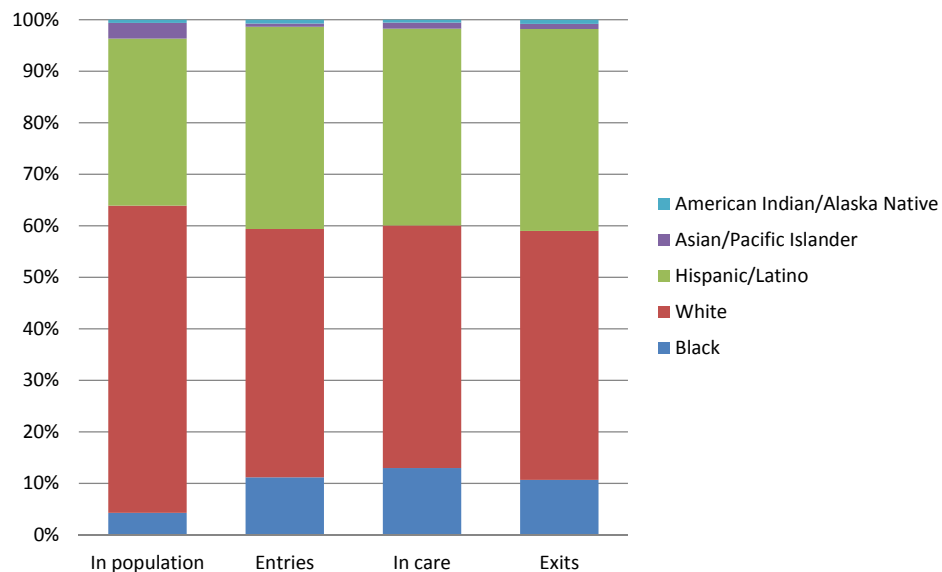
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

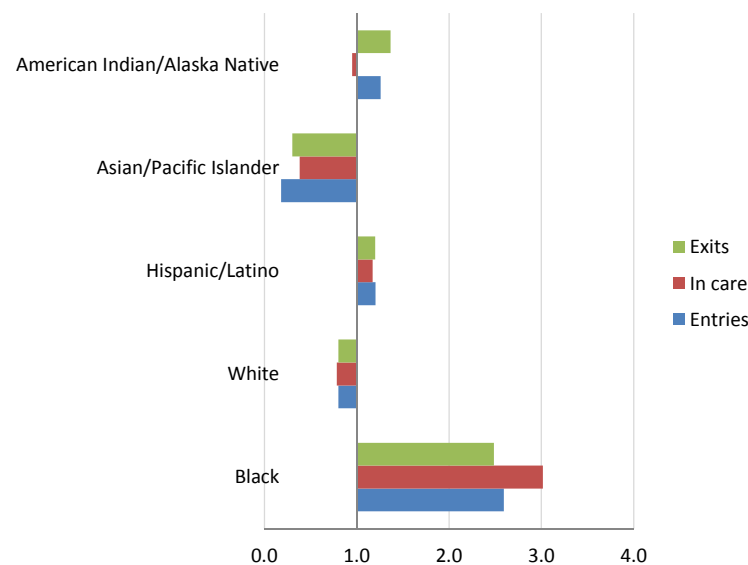
## Race/Ethnicity Profile

Colorado

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	4.1%	10.6%	12.4%	10.2%
Caucasian/White (b)	57.2%	45.9%	44.9%	45.9%
Hispanic/Latino (c)	31.0%	37.4%	36.4%	37.3%
Asian/Pacific Islander (d)	3.0%	0.5%	1.1%	0.9%
American Indian/Alaska Native (e)	0.6%	0.7%	0.6%	0.8%
More than one race	4.1%	4.4%	4.1%	4.6%
Missing	0.0%	0.5%	0.5%	0.2%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.6	3.0	2.5
Caucasian/White (b)	0.8	0.8	0.8
Hispanic/Latino (c)	1.2	1.2	1.2
Asian/Pacific Islander (d)	0.2	0.4	0.3
American Indian/Alaska Native (e)	1.3	1.0	1.4

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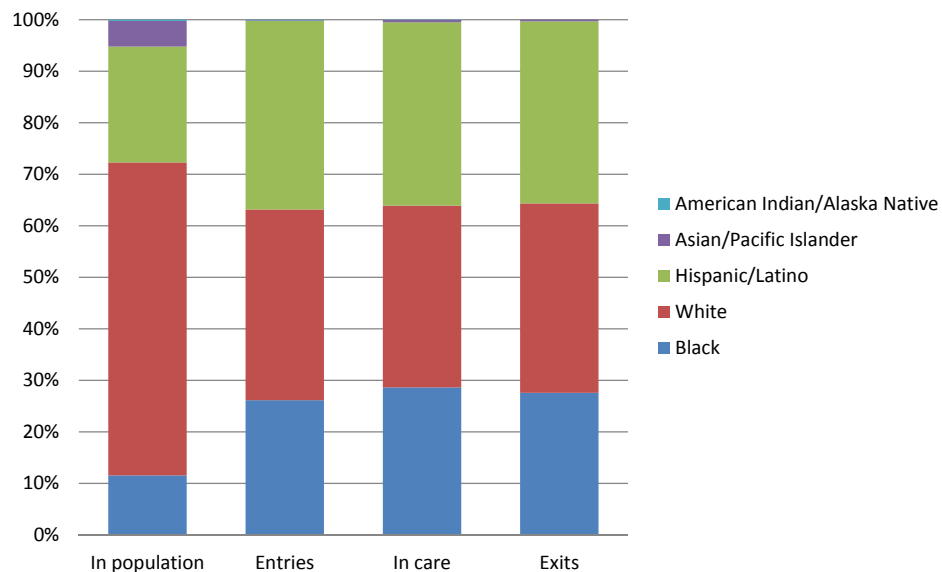
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

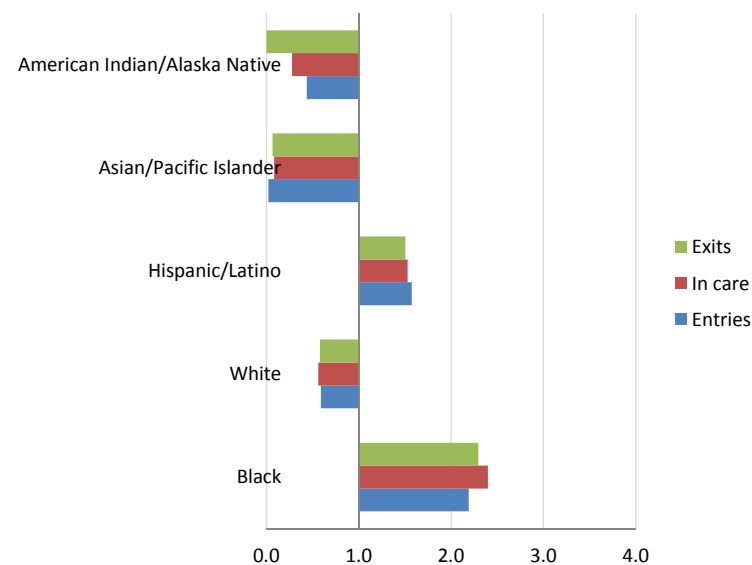
## Race/Ethnicity Profile

Connecticut

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	11.1%	24.4%	26.7%	25.5%
Caucasian/White (b)	58.6%	34.5%	33.0%	34.0%
Hispanic/Latino (c)	21.7%	34.2%	33.2%	32.7%
Asian/Pacific Islander (d)	4.8%	0.1%	0.4%	0.3%
American Indian/Alaska Native (e)	0.3%	0.1%	0.1%	0.0%
More than one race	3.6%	5.0%	5.8%	7.1%
Missing	0.0%	1.7%	0.9%	0.3%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.2	2.4	2.3
Caucasian/White (b)	0.6	0.6	0.6
Hispanic/Latino (c)	1.6	1.5	1.5
Asian/Pacific Islander (d)	0.0	0.1	0.1
American Indian/Alaska Native (e)	0.4	0.3	0.0

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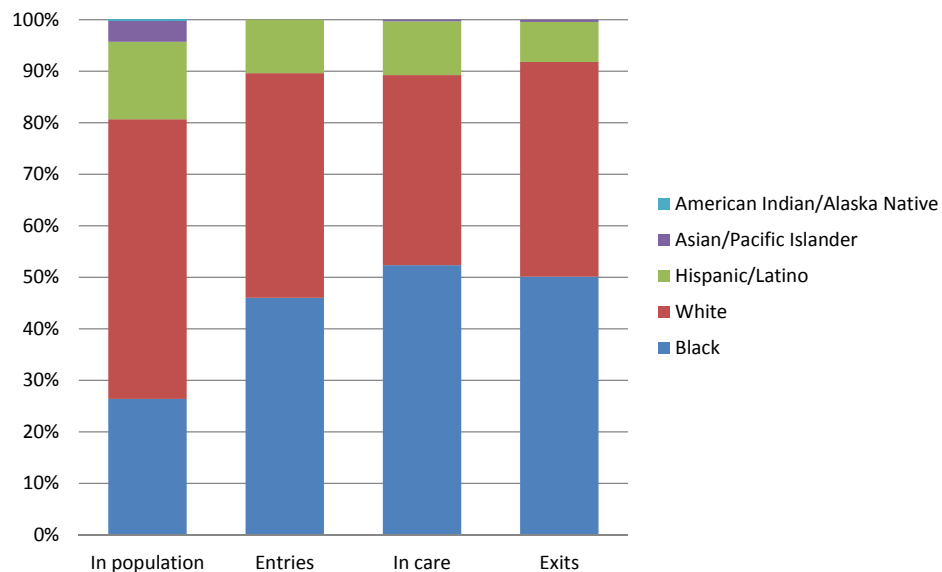
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

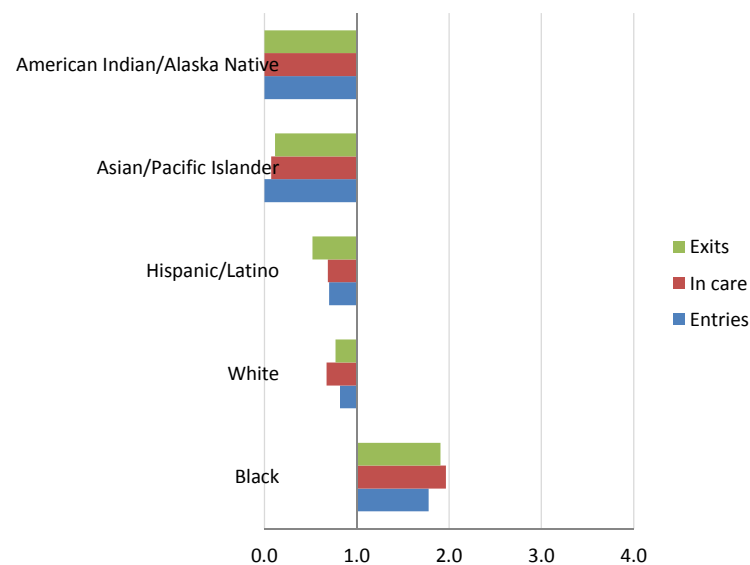
## Race/Ethnicity Profile

Delaware

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	25.1%	44.6%	49.3%	47.8%
Caucasian/White (b)	51.6%	42.2%	34.8%	39.7%
Hispanic/Latino (c)	14.3%	10.0%	9.8%	7.4%
Asian/Pacific Islander (d)	3.8%	0.0%	0.3%	0.4%
American Indian/Alaska Native (e)	0.3%	0.0%	0.0%	0.0%
More than one race	5.0%	3.2%	5.8%	4.6%
Missing	0.0%	0.0%	0.0%	0.0%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.8	2.0	1.9
Caucasian/White (b)	0.8	0.7	0.8
Hispanic/Latino (c)	0.7	0.7	0.5
Asian/Pacific Islander (d)	0.0	0.1	0.1
American Indian/Alaska Native (e)	0.0	0.0	0.0

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

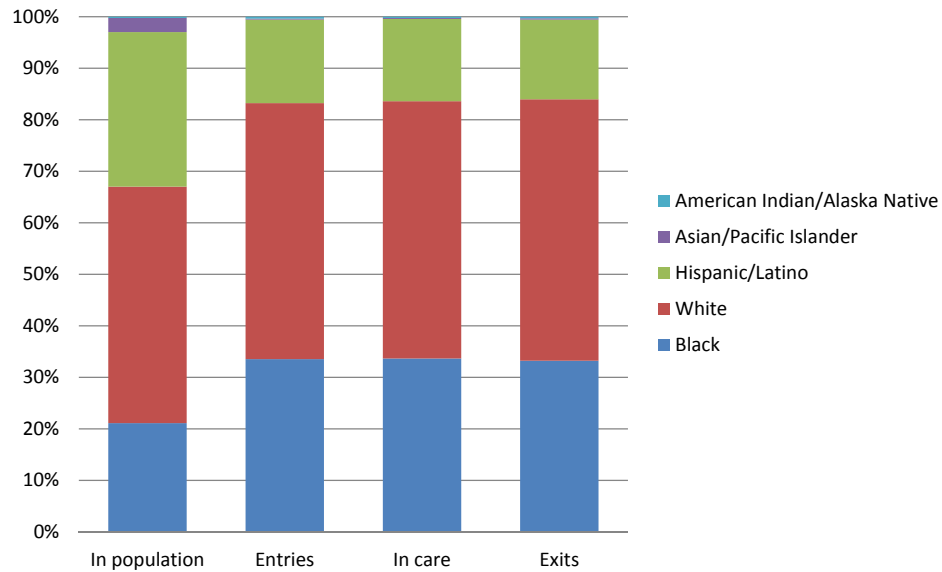
(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.



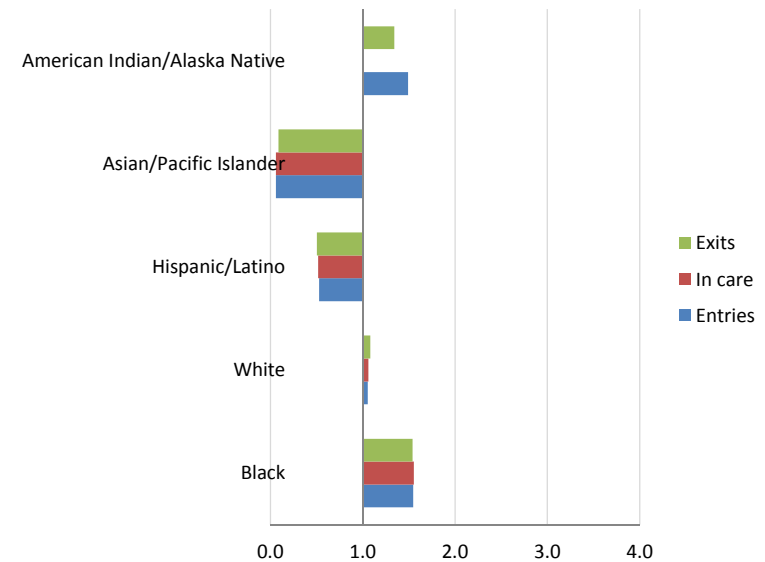
## Race/Ethnicity Profile

Florida

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	20.4%	31.6%	31.7%	31.4%
Caucasian/White (b)	44.3%	46.7%	47.0%	48.0%
Hispanic/Latino (c)	29.0%	15.3%	15.0%	14.6%
Asian/Pacific Islander (d)	2.6%	0.2%	0.2%	0.2%
American Indian/Alaska Native (e)	0.2%	0.4%	0.2%	0.3%
More than one race	3.4%	5.3%	5.3%	5.0%
Missing	0.0%	0.6%	0.5%	0.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.5	1.6	1.5
Caucasian/White (b)	1.1	1.1	1.1
Hispanic/Latino (c)	0.5	0.5	0.5
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	1.5	1.0	1.3

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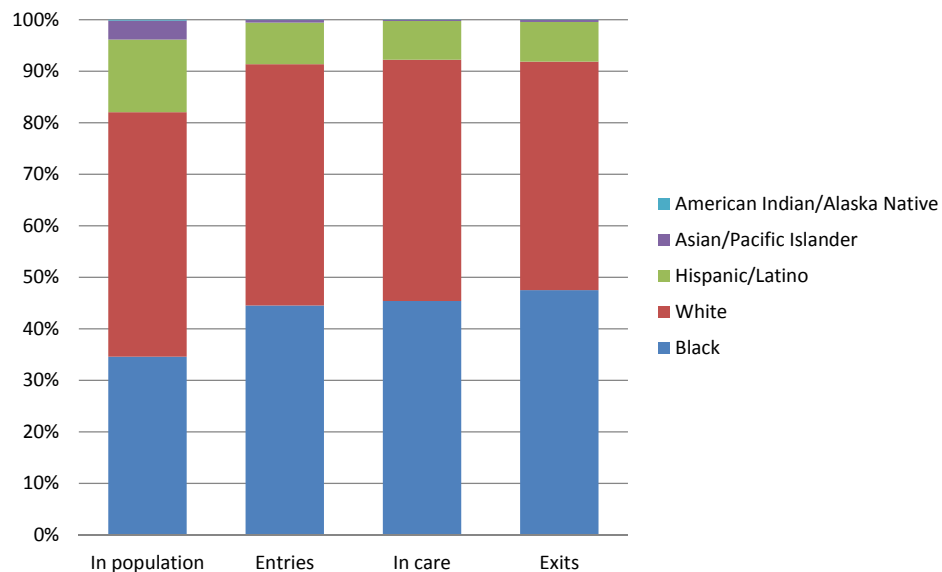
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

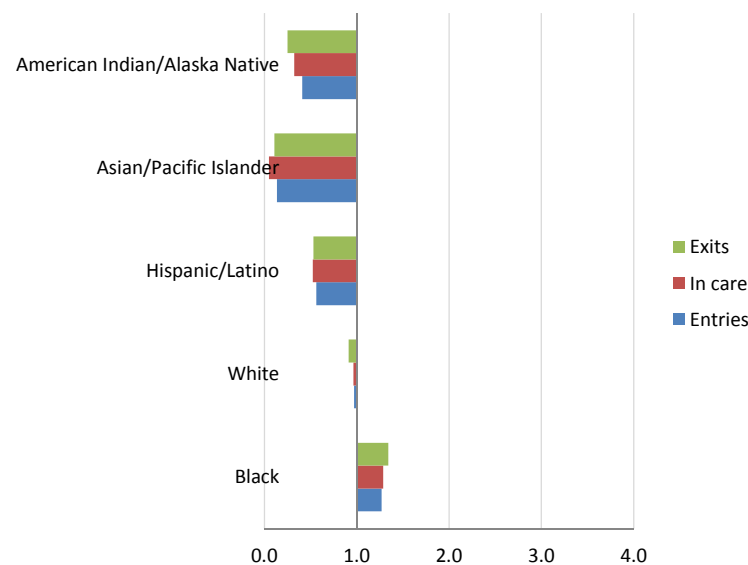
## Race/Ethnicity Profile

Georgia

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	33.4%	42.4%	43.0%	44.9%
Caucasian/White (b)	46.0%	44.7%	44.4%	41.9%
Hispanic/Latino (c)	13.6%	7.7%	7.1%	7.3%
Asian/Pacific Islander (d)	3.5%	0.5%	0.2%	0.4%
American Indian/Alaska Native (e)	0.2%	0.1%	0.1%	0.1%
More than one race	3.2%	4.5%	5.1%	5.3%
Missing	0.0%	0.2%	0.1%	0.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.3	1.3	1.3
Caucasian/White (b)	1.0	1.0	0.9
Hispanic/Latino (c)	0.6	0.5	0.5
Asian/Pacific Islander (d)	0.1	0.0	0.1
American Indian/Alaska Native (e)	0.4	0.3	0.2

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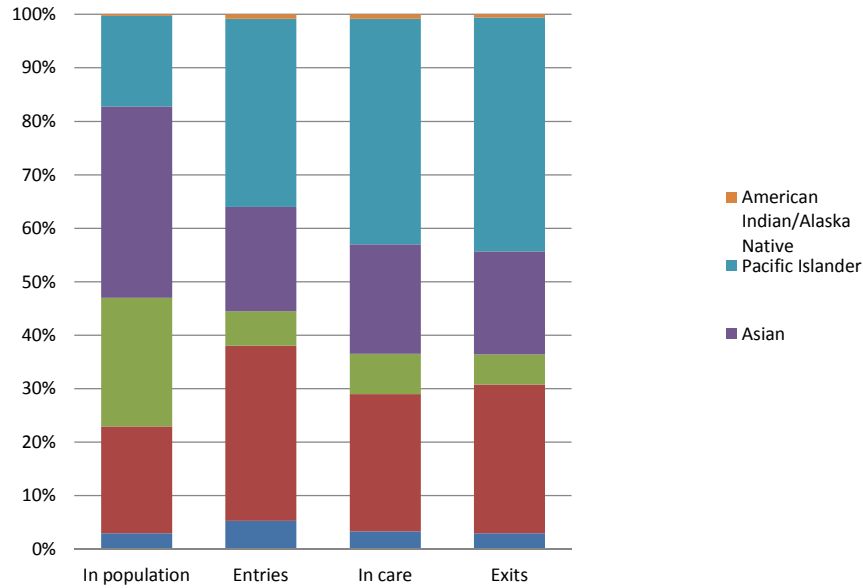
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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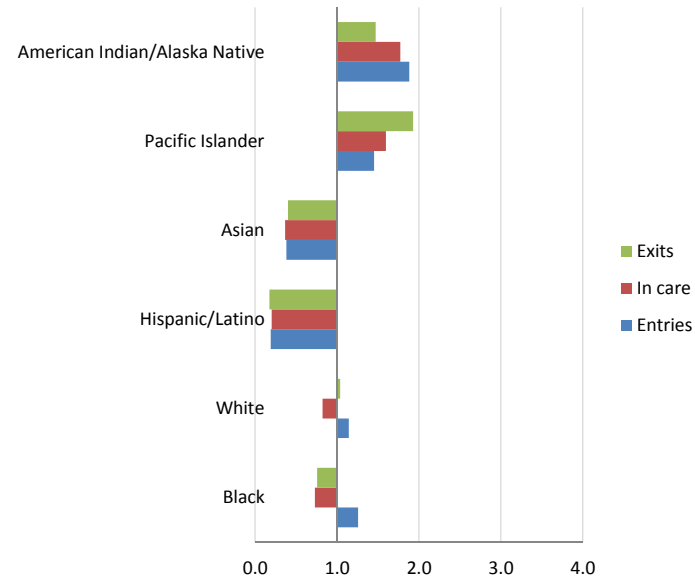
## Race/Ethnicity Profile

Hawaii

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



Race/ethnicity breakdowns				
	Population	Entries	In care	Exits
African American/Black (a)	2.0%	2.5%	1.5%	1.5%
Caucasian/White (b)	13.8%	15.8%	11.3%	14.3%
Hispanic/Latino (c)	16.5%	3.1%	3.3%	2.9%
Asian (d)	24.6%	9.4%	9.0%	9.9%
Pacific Islander (e)	11.6%	16.9%	18.6%	22.4%
American Indian/Alaska Native (f)	0.2%	0.4%	0.4%	0.3%
More than one race	31.2%	49.4%	54.5%	47.2%
Missing	0.0%	2.4%	1.4%	1.4%
Total	100%	100%	100%	100%

Racial Disproportionality Index			
	Entries	In care	Exits
African American/Black (a)	1.3	0.7	0.8
Caucasian/White (b)	1.1	0.8	1.0
Hispanic/Latino (c)	0.2	0.2	0.2
Asian (d)	0.4	0.4	0.4
Pacific Islander (e)	1.5	1.6	1.9
American Indian/Alaska Native (f)	1.9	1.8	1.5

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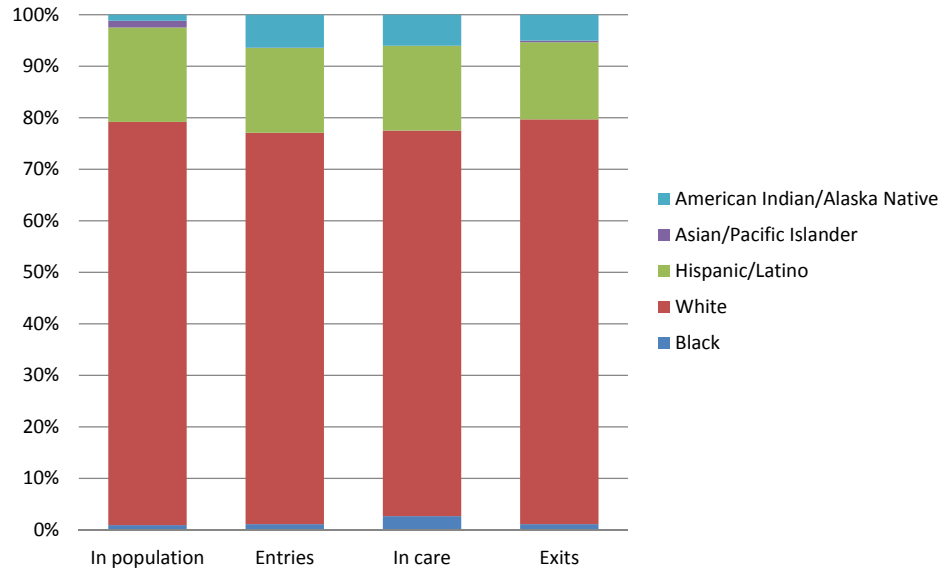
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

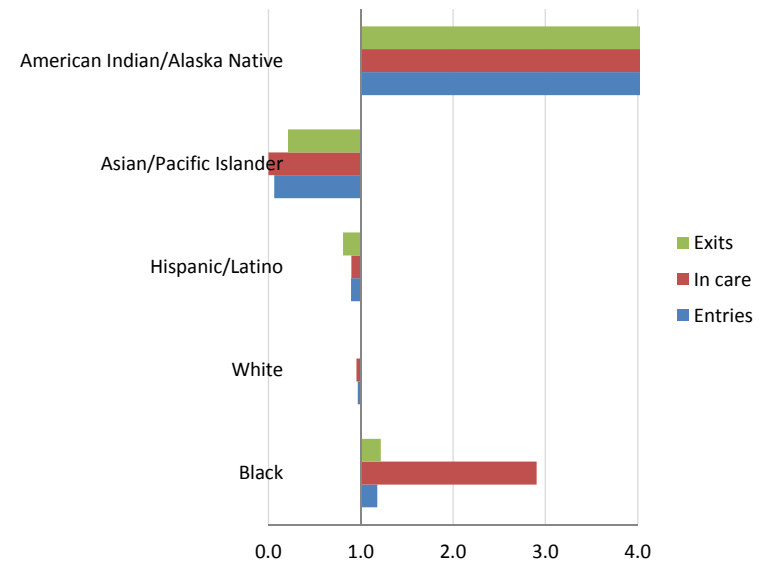
## Race/Ethnicity Profile

Idaho

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	0.9%	1.1%	2.6%	1.1%
Caucasian/White (b)	75.8%	73.4%	72.3%	75.1%
Hispanic/Latino (c)	17.7%	15.9%	15.9%	14.3%
Asian/Pacific Islander (d)	1.3%	0.1%	0.0%	0.3%
American Indian/Alaska Native (e)	1.1%	6.2%	5.8%	4.8%
More than one race	3.2%	2.2%	2.5%	4.0%
Missing	0.0%	1.1%	0.8%	0.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.2	2.9	1.2
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.9	0.9	0.8
Asian/Pacific Islander (d)	0.1	0.0	0.2
American Indian/Alaska Native (e)	5.4	5.1	4.2

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

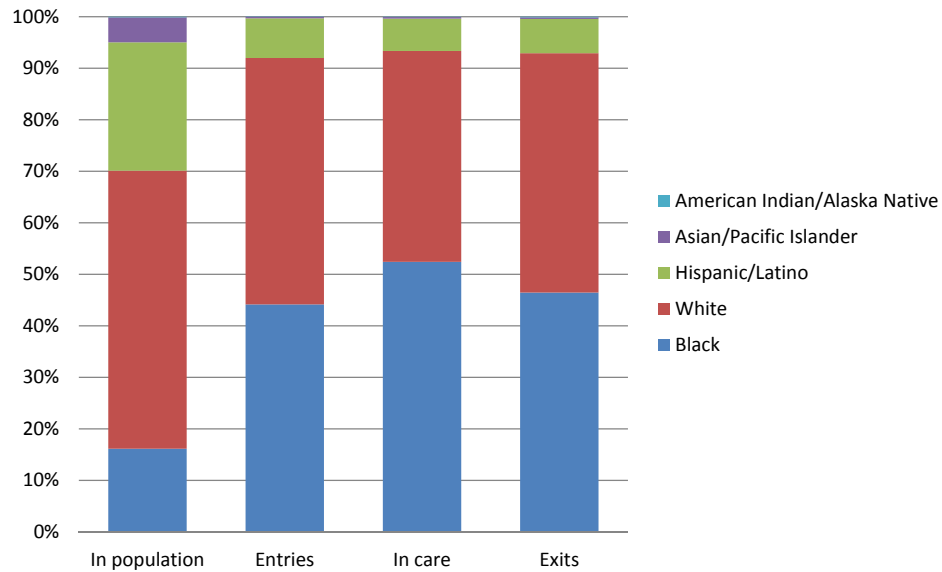
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

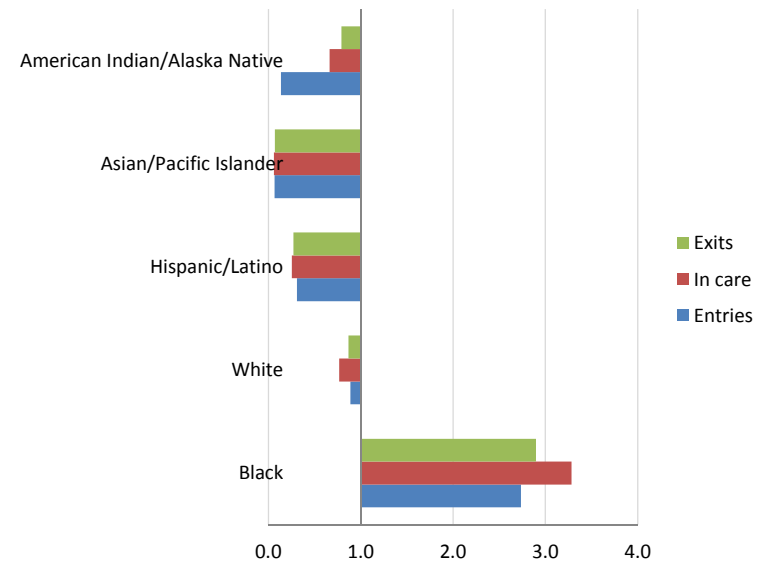
## Race/Ethnicity Profile

Illinois

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	15.7%	42.9%	51.4%	45.4%
Caucasian/White (b)	52.3%	46.4%	40.1%	45.4%
Hispanic/Latino (c)	24.1%	7.5%	6.2%	6.5%
Asian/Pacific Islander (d)	4.7%	0.3%	0.3%	0.3%
American Indian/Alaska Native (e)	0.1%	0.0%	0.1%	0.1%
More than one race	3.1%	0.2%	0.1%	0.1%
Missing	0.0%	2.8%	1.8%	2.0%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.7	3.3	2.9
Caucasian/White (b)	0.9	0.8	0.9
Hispanic/Latino (c)	0.3	0.3	0.3
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	0.1	0.7	0.8

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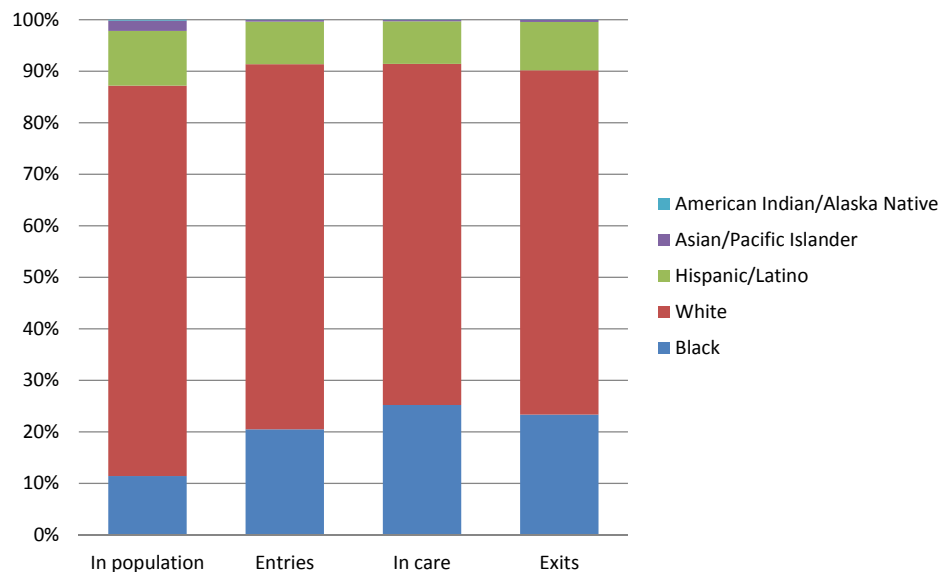
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

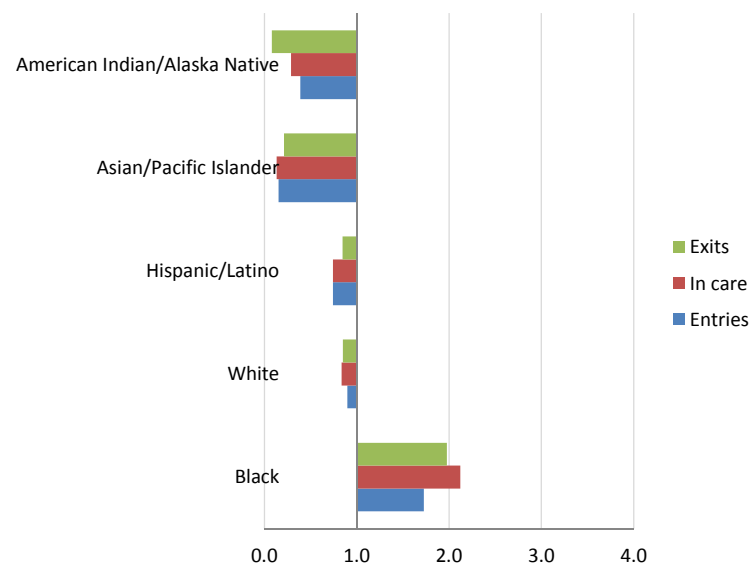
## Race/Ethnicity Profile

Indiana

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	11.0%	19.0%	23.3%	21.7%
Caucasian/White (b)	73.0%	65.6%	61.1%	62.1%
Hispanic/Latino (c)	10.3%	7.6%	7.6%	8.7%
Asian/Pacific Islander (d)	1.9%	0.3%	0.3%	0.4%
American Indian/Alaska Native (e)	0.2%	0.1%	0.1%	0.0%
More than one race	3.7%	7.3%	7.5%	6.7%
Missing	0.0%	0.2%	0.2%	0.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.7	2.1	2.0
Caucasian/White (b)	0.9	0.8	0.9
Hispanic/Latino (c)	0.7	0.7	0.8
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	0.4	0.3	0.1

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

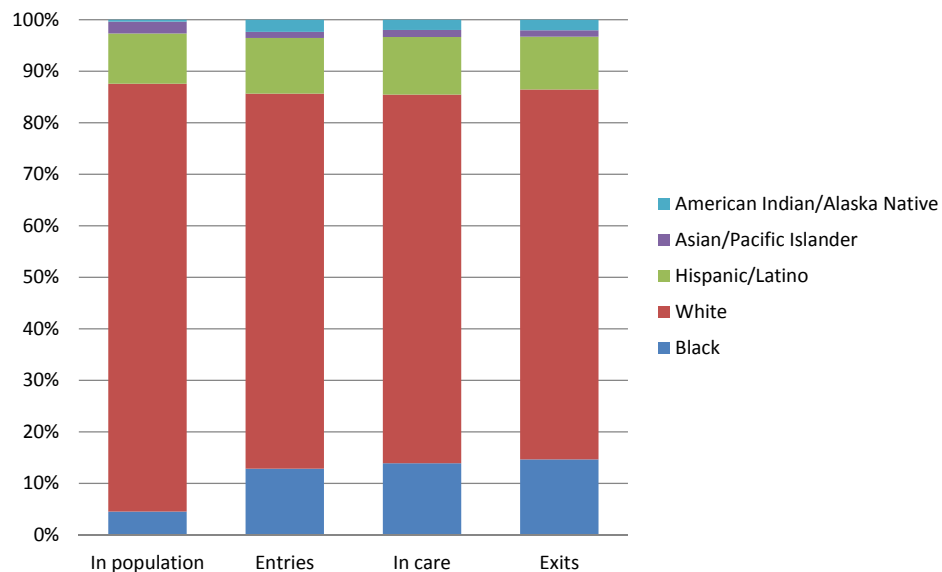
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

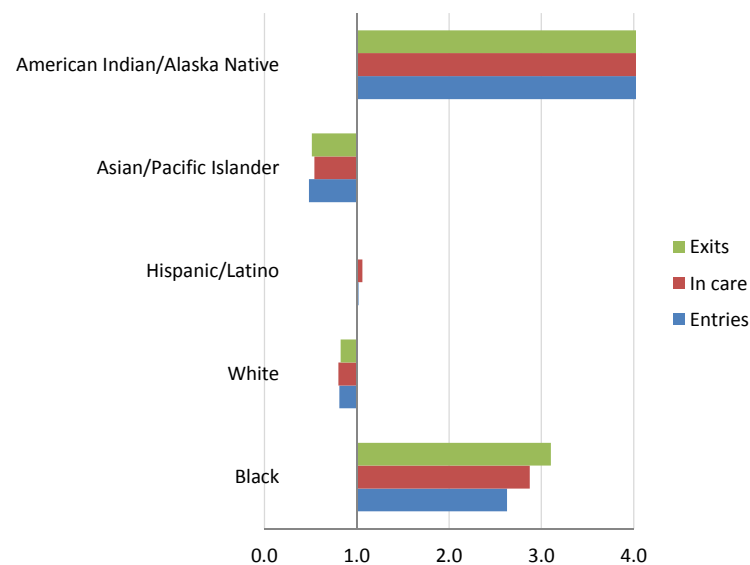
## Race/Ethnicity Profile

Iowa

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	4.4%	11.4%	12.5%	13.5%
Caucasian/White (b)	80.0%	64.9%	64.2%	66.1%
Hispanic/Latino (c)	9.5%	9.6%	10.0%	9.4%
Asian/Pacific Islander (d)	2.2%	1.1%	1.2%	1.1%
American Indian/Alaska Native (e)	0.3%	2.1%	1.8%	1.9%
More than one race	3.6%	3.8%	4.4%	4.1%
Missing	0.0%	7.0%	5.8%	3.8%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.6	2.9	3.1
Caucasian/White (b)	0.8	0.8	0.8
Hispanic/Latino (c)	1.0	1.1	1.0
Asian/Pacific Islander (d)	0.5	0.5	0.5
American Indian/Alaska Native (e)	6.1	5.2	5.5

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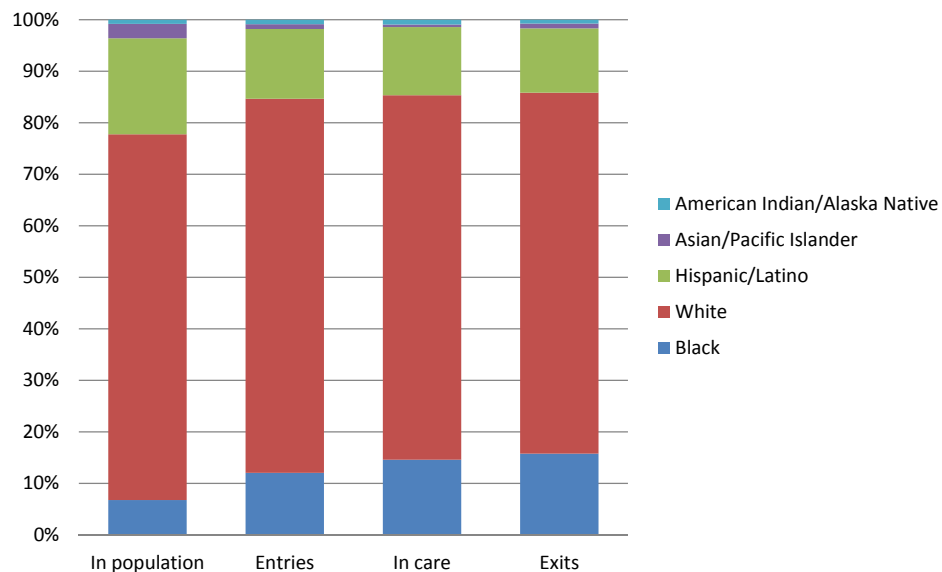
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

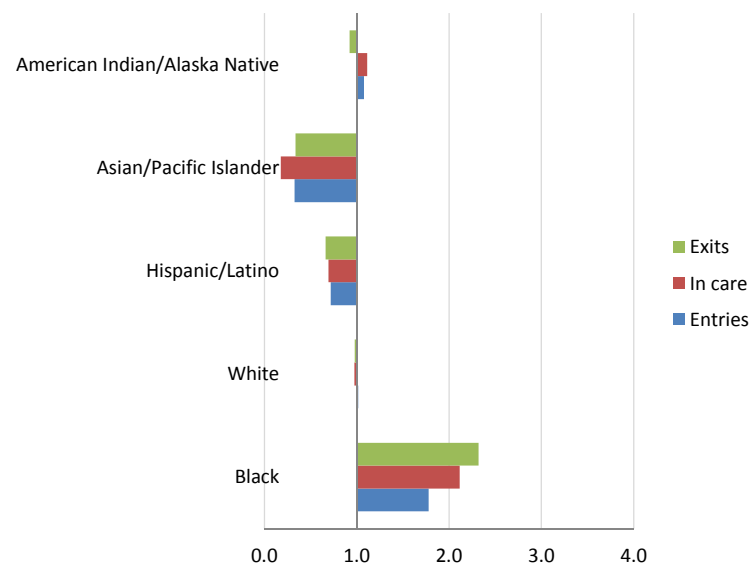
## Race/Ethnicity Profile

Kansas

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	6.4%	11.4%	13.6%	14.9%
Caucasian/White (b)	67.5%	68.6%	65.8%	66.1%
Hispanic/Latino (c)	17.8%	12.8%	12.3%	11.8%
Asian/Pacific Islander (d)	2.6%	0.9%	0.5%	0.9%
American Indian/Alaska Native (e)	0.8%	0.9%	0.9%	0.7%
More than one race	4.9%	5.4%	6.9%	5.5%
Missing	0.0%	0.1%	0.0%	0.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.8	2.1	2.3
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.7	0.7	0.7
Asian/Pacific Islander (d)	0.3	0.2	0.3
American Indian/Alaska Native (e)	1.1	1.1	0.9

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

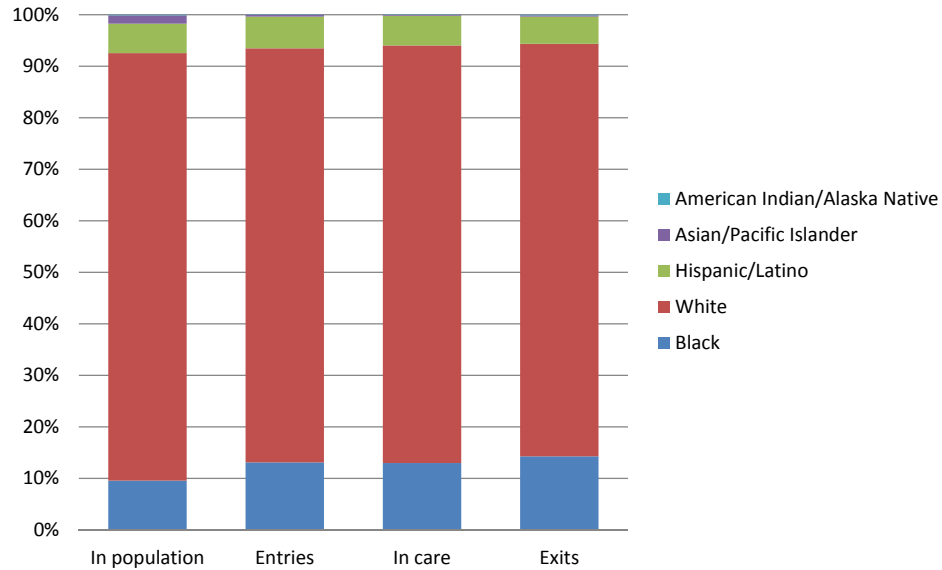
(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.



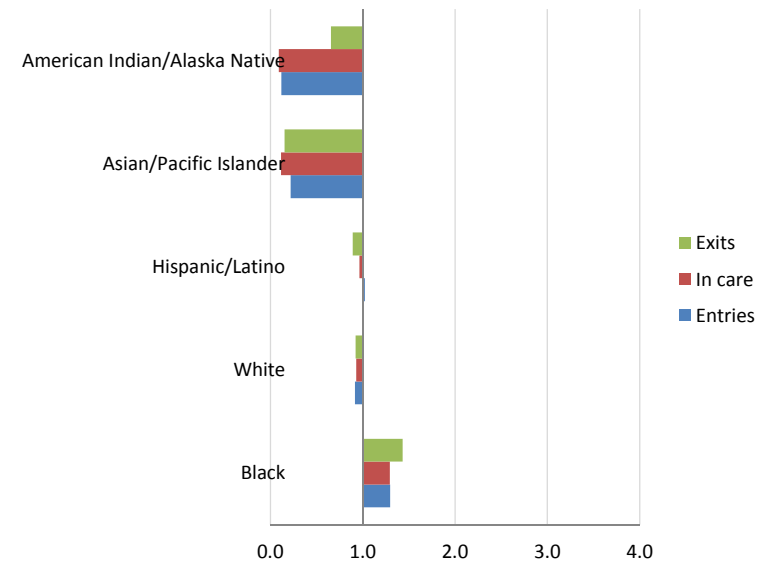
## Race/Ethnicity Profile

Kentucky

**Race/Ethnicity of Children in Out-of-Home Care, 2013**



**Racial Disproportionality Index, 2013**



**Race/ethnicity breakdowns**

	Population	Entries	In care	Exits
African American/Black (a)	9.2%	11.9%	11.9%	13.2%
Caucasian/White (b)	79.9%	73.3%	74.3%	73.6%
Hispanic/Latino (c)	5.5%	5.6%	5.3%	4.9%
Asian/Pacific Islander (d)	1.5%	0.3%	0.2%	0.2%
American Indian/Alaska Native (e)	0.2%	0.0%	0.0%	0.1%
More than one race	3.7%	4.5%	5.0%	4.3%
Missing	0.0%	4.3%	3.4%	3.7%
Total	100%	100%	100%	100%

**Racial Disproportionality Index**

	Entries	In care	Exits
African American/Black (a)	1.3	1.3	1.4
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	1.0	1.0	0.9
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	0.1	0.1	0.7

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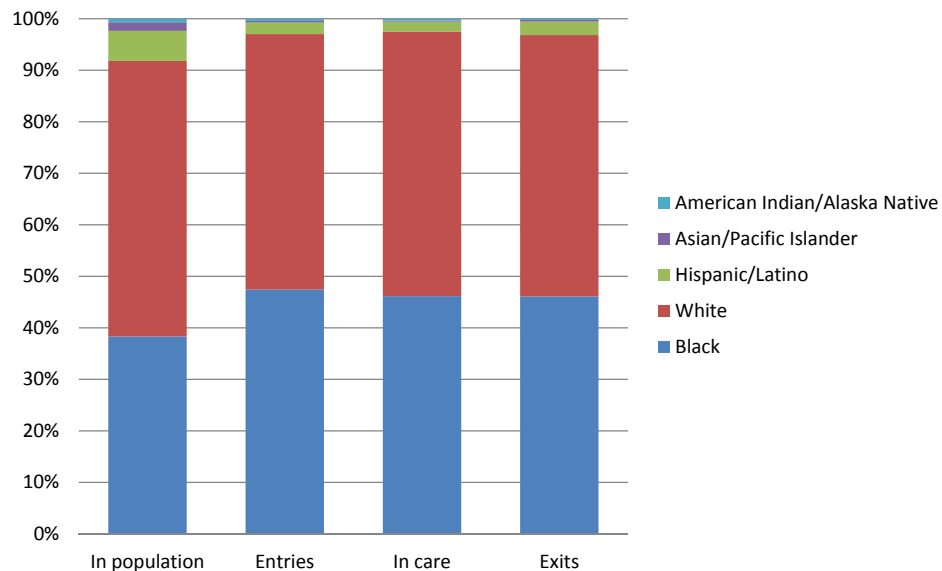
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

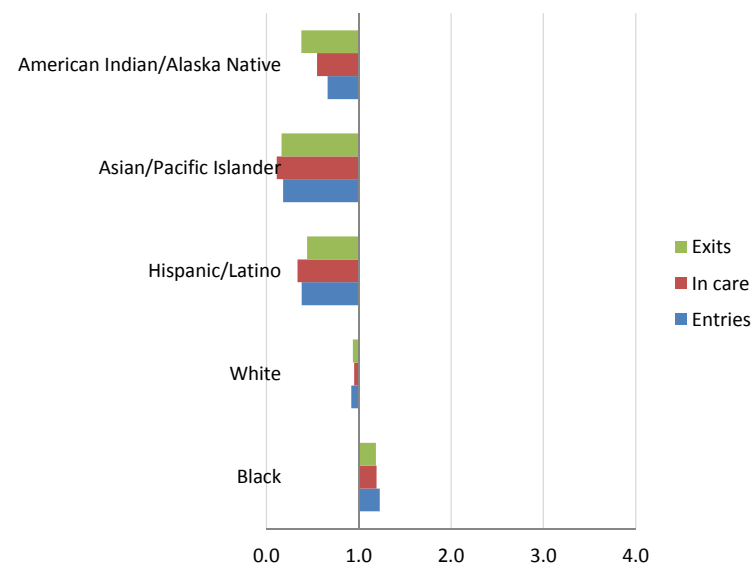
## Race/Ethnicity Profile

Louisiana

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	37.3%	45.9%	44.6%	44.3%
Caucasian/White (b)	52.0%	47.9%	49.5%	48.7%
Hispanic/Latino (c)	5.7%	2.2%	1.9%	2.5%
Asian/Pacific Islander (d)	1.6%	0.3%	0.2%	0.3%
American Indian/Alaska Native (e)	0.7%	0.5%	0.4%	0.3%
More than one race	2.7%	2.1%	2.6%	2.6%
Missing	0.0%	1.2%	0.9%	1.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.2	1.2	1.2
Caucasian/White (b)	0.9	1.0	0.9
Hispanic/Latino (c)	0.4	0.3	0.4
Asian/Pacific Islander (d)	0.2	0.1	0.2
American Indian/Alaska Native (e)	0.7	0.5	0.4

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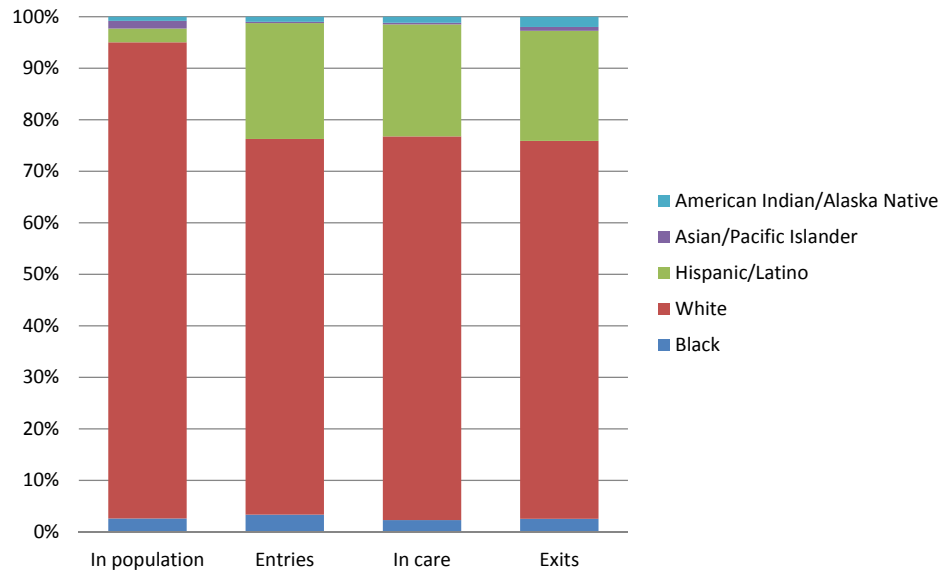
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

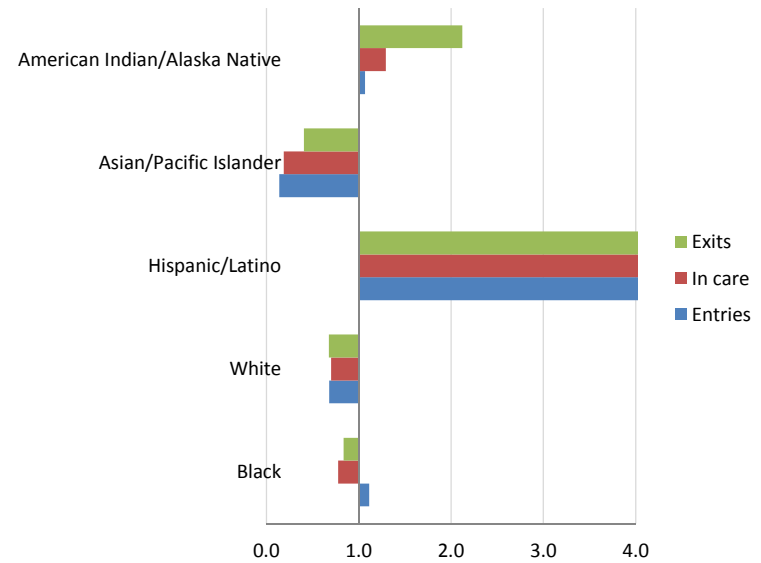
## Race/Ethnicity Profile

Maine

**Race/Ethnicity of Children in Out-of-Home Care, 2013**



**Racial Disproportionality Index, 2013**



**Race/ethnicity breakdowns**

	Population	Entries	In care	Exits
African American/Black (a)	2.5%	2.8%	2.0%	2.1%
Caucasian/White (b)	89.3%	60.9%	62.6%	60.4%
Hispanic/Latino (c)	2.6%	18.8%	18.2%	17.6%
Asian/Pacific Islander (d)	1.5%	0.2%	0.3%	0.6%
American Indian/Alaska Native (e)	0.8%	0.8%	1.0%	1.7%
More than one race	3.3%	3.3%	5.3%	6.2%
Missing	0.0%	13.1%	10.6%	11.6%
Total	100%	100%	100%	100%

**Racial Disproportionality Index**

	Entries	In care	Exits
African American/Black (a)	1.1	0.8	0.8
Caucasian/White (b)	0.7	0.7	0.7
Hispanic/Latino (c)	7.3	7.1	6.8
Asian/Pacific Islander (d)	0.1	0.2	0.4
American Indian/Alaska Native (e)	1.1	1.3	2.1

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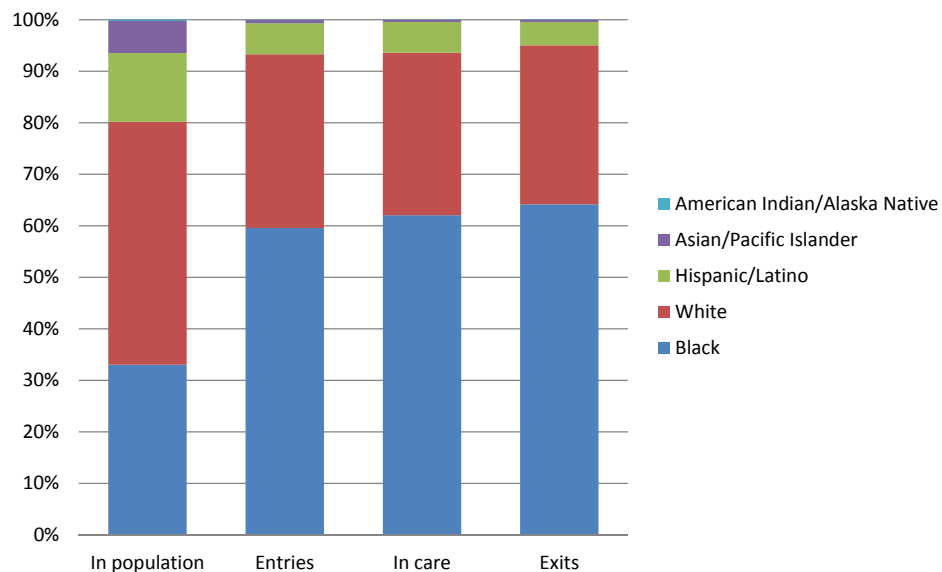
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

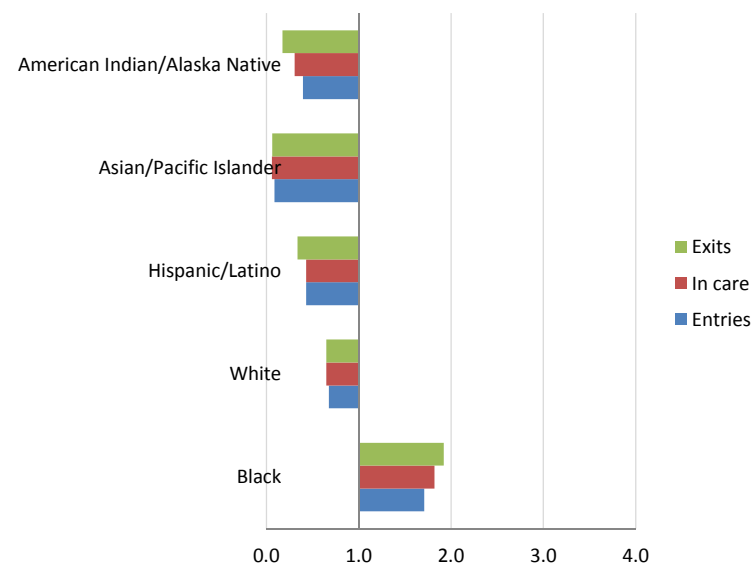
## Race/Ethnicity Profile

Maryland

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	31.4%	53.8%	57.3%	60.4%
Caucasian/White (b)	44.9%	30.5%	29.1%	29.1%
Hispanic/Latino (c)	12.7%	5.5%	5.5%	4.3%
Asian/Pacific Islander (d)	5.9%	0.5%	0.4%	0.4%
American Indian/Alaska Native (e)	0.2%	0.1%	0.1%	0.0%
More than one race	4.8%	4.3%	4.2%	3.1%
Missing	0.0%	5.4%	3.5%	2.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.7	1.8	1.9
Caucasian/White (b)	0.7	0.6	0.6
Hispanic/Latino (c)	0.4	0.4	0.3
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	0.4	0.3	0.2

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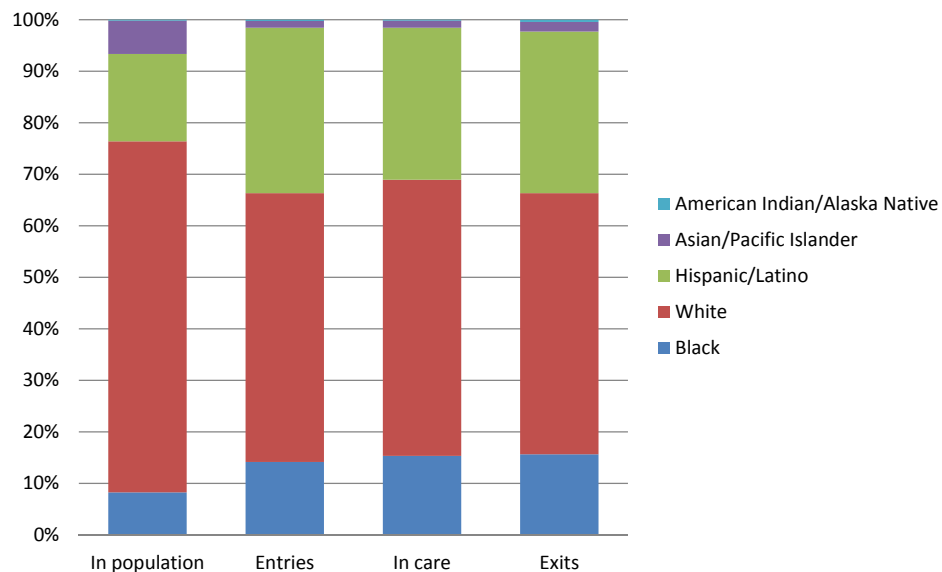
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

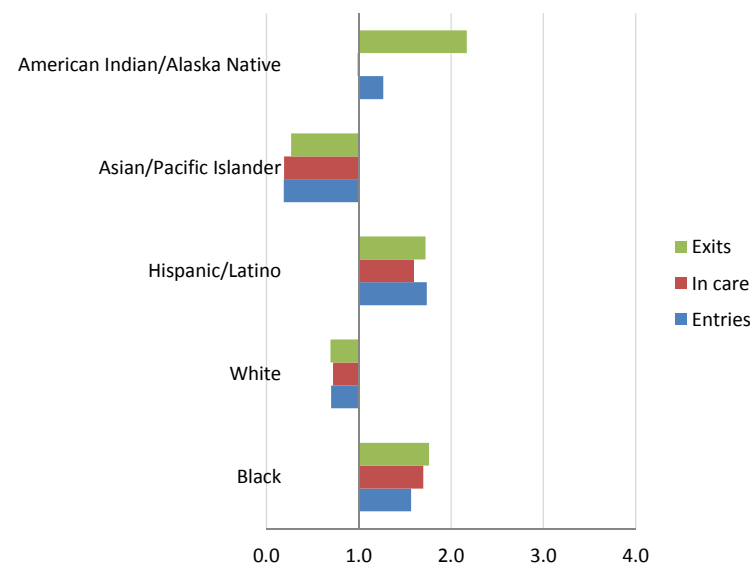
## Race/Ethnicity Profile

Massachusetts

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	8.0%	12.5%	13.6%	14.1%
Caucasian/White (b)	65.7%	46.1%	47.4%	45.5%
Hispanic/Latino (c)	16.3%	28.4%	26.2%	28.1%
Asian/Pacific Islander (d)	6.2%	1.2%	1.2%	1.7%
American Indian/Alaska Native (e)	0.2%	0.2%	0.2%	0.4%
More than one race	3.6%	6.1%	6.7%	6.0%
Missing	0.0%	5.4%	4.8%	4.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.6	1.7	1.8
Caucasian/White (b)	0.7	0.7	0.7
Hispanic/Latino (c)	1.7	1.6	1.7
Asian/Pacific Islander (d)	0.2	0.2	0.3
American Indian/Alaska Native (e)	1.3	1.0	2.2

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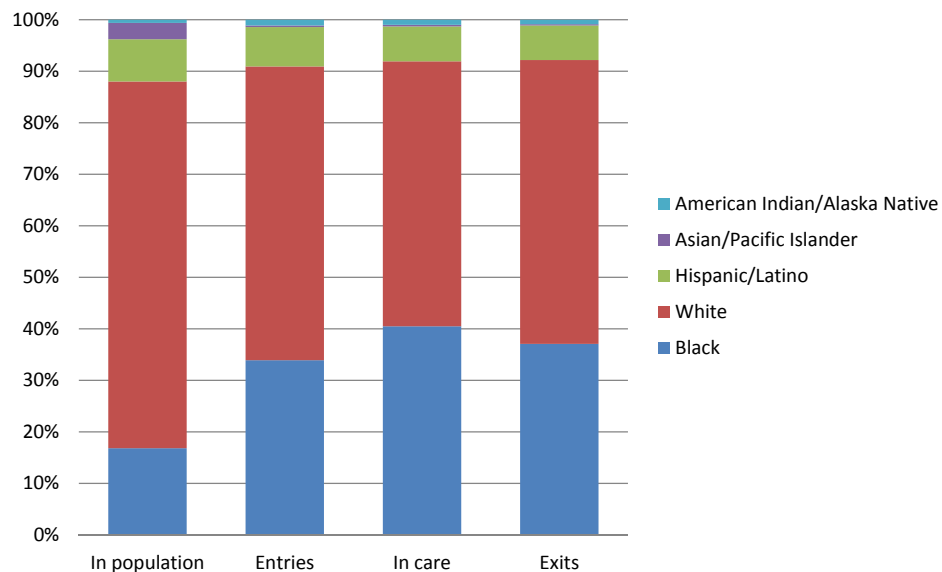
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

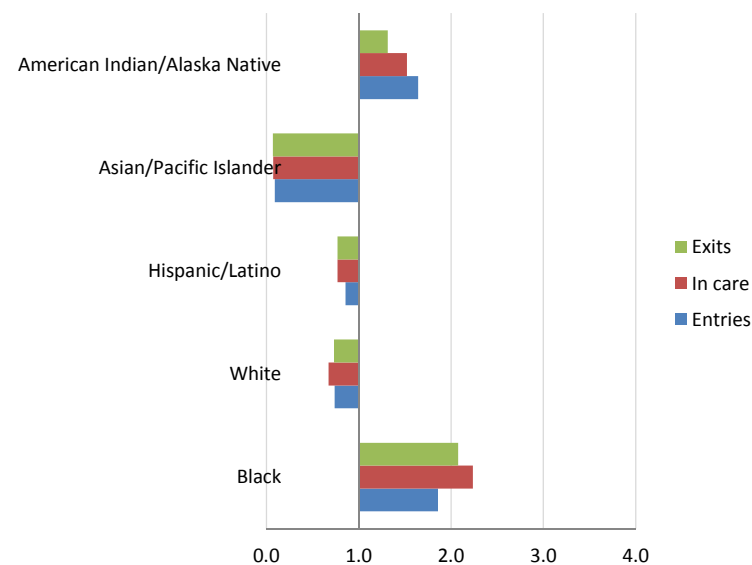
## Race/Ethnicity Profile

Michigan

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	16.1%	30.0%	36.1%	33.5%
Caucasian/White (b)	68.0%	50.4%	45.8%	49.8%
Hispanic/Latino (c)	7.9%	6.8%	6.0%	6.1%
Asian/Pacific Islander (d)	3.0%	0.3%	0.2%	0.2%
American Indian/Alaska Native (e)	0.6%	1.0%	0.9%	0.8%
More than one race	4.4%	11.4%	10.6%	9.5%
Missing	0.0%	0.2%	0.3%	0.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.9	2.2	2.1
Caucasian/White (b)	0.7	0.7	0.7
Hispanic/Latino (c)	0.9	0.8	0.8
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	1.6	1.5	1.3

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

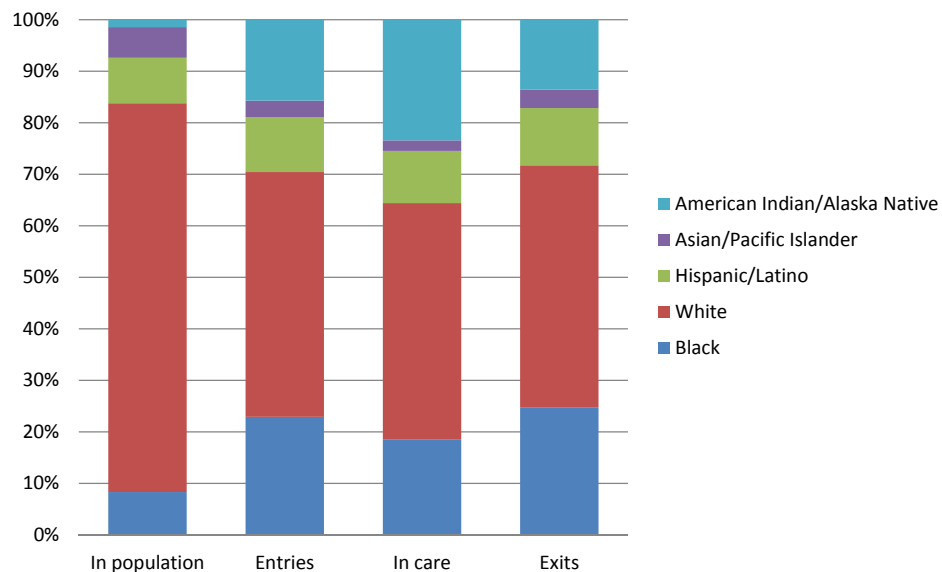
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

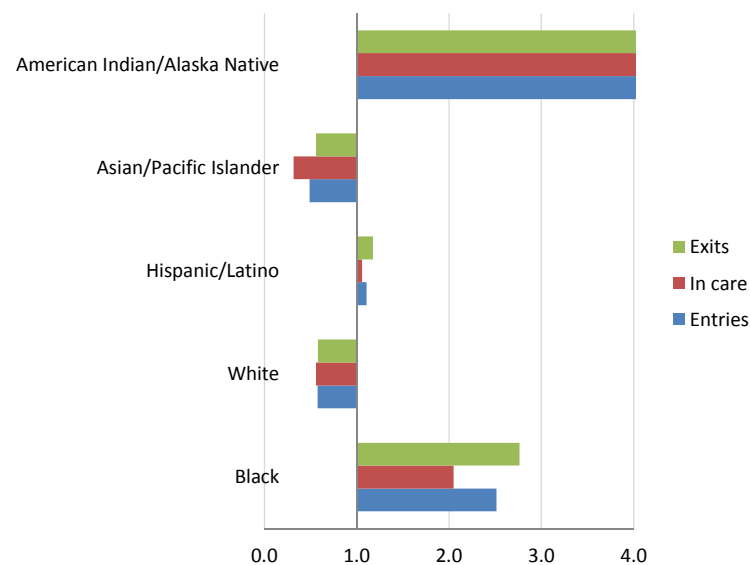
## Race/Ethnicity Profile

Minnesota

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	8.0%	20.0%	16.3%	22.0%
Caucasian/White (b)	71.9%	41.4%	40.2%	41.6%
Hispanic/Latino (c)	8.4%	9.3%	8.9%	9.9%
Asian/Pacific Islander (d)	5.7%	2.8%	1.8%	3.2%
American Indian/Alaska Native (e)	1.4%	13.7%	20.6%	12.0%
More than one race	4.7%	12.0%	11.7%	10.6%
Missing	0.0%	0.8%	0.5%	0.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.5	2.1	2.8
Caucasian/White (b)	0.6	0.6	0.6
Hispanic/Latino (c)	1.1	1.1	1.2
Asian/Pacific Islander (d)	0.5	0.3	0.6
American Indian/Alaska Native (e)	9.9	14.8	8.7

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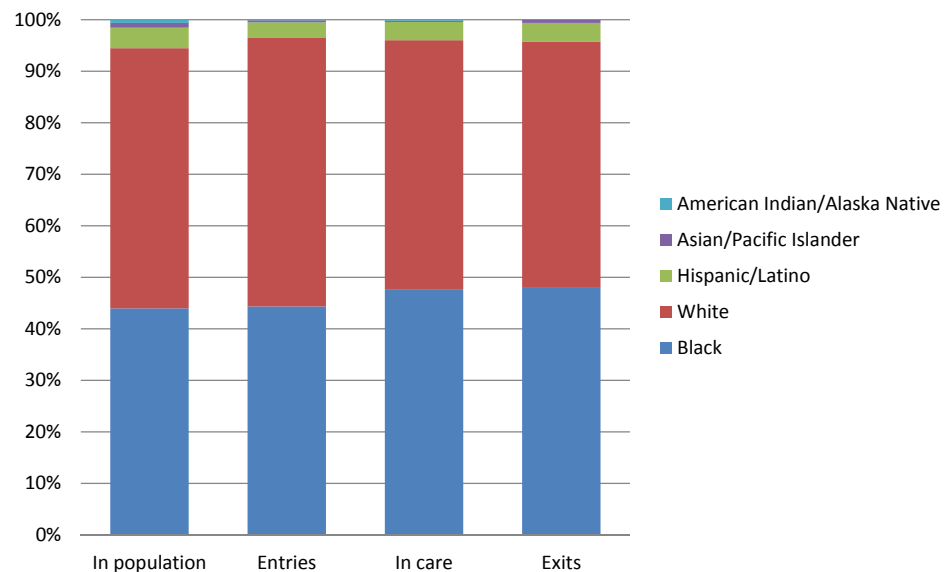
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

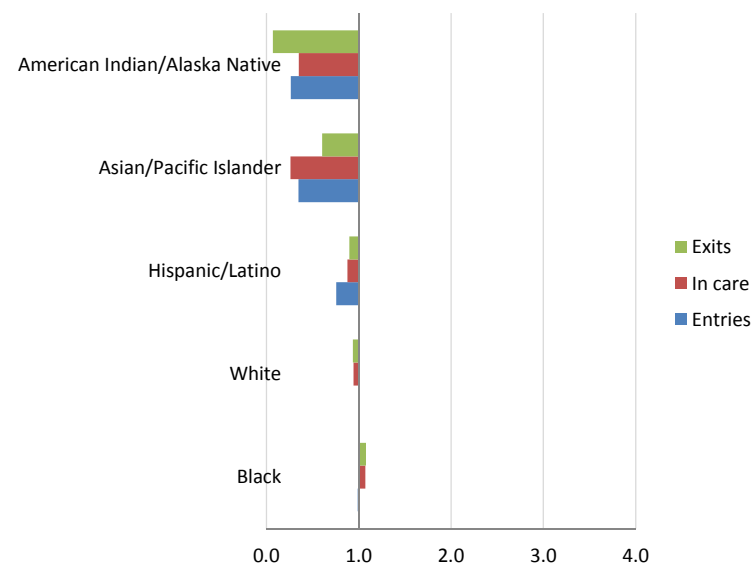
## Race/Ethnicity Profile

Mississippi

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	43.0%	42.6%	46.1%	46.5%
Caucasian/White (b)	49.4%	50.1%	46.7%	46.4%
Hispanic/Latino (c)	3.9%	2.9%	3.4%	3.5%
Asian/Pacific Islander (d)	0.9%	0.3%	0.2%	0.6%
American Indian/Alaska Native (e)	0.6%	0.2%	0.2%	0.0%
More than one race	2.2%	2.2%	2.2%	2.1%
Missing	0.0%	1.8%	1.2%	1.0%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.0	1.1	1.1
Caucasian/White (b)	1.0	0.9	0.9
Hispanic/Latino (c)	0.8	0.9	0.9
Asian/Pacific Islander (d)	0.3	0.3	0.6
American Indian/Alaska Native (e)	0.3	0.4	0.1

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

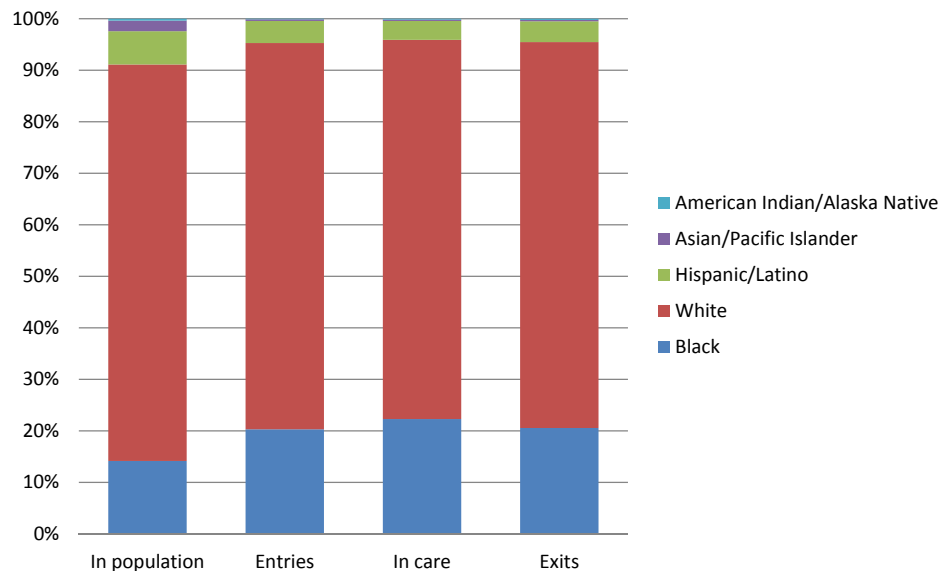
(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.



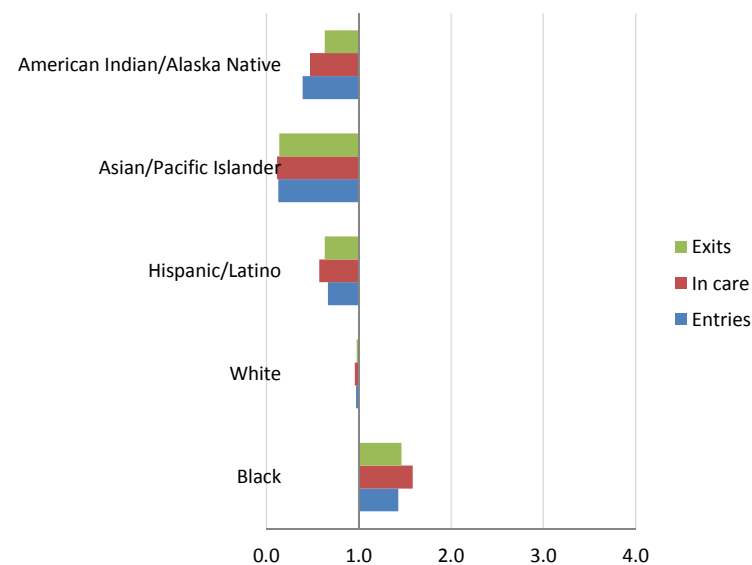
## Race/Ethnicity Profile

Missouri

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	13.6%	19.4%	21.5%	19.9%
Caucasian/White (b)	73.9%	71.8%	70.9%	72.3%
Hispanic/Latino (c)	6.2%	4.1%	3.5%	3.9%
Asian/Pacific Islander (d)	1.9%	0.2%	0.2%	0.3%
American Indian/Alaska Native (e)	0.4%	0.2%	0.2%	0.3%
More than one race	4.0%	1.8%	1.5%	1.7%
Missing	0.0%	2.5%	2.2%	1.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.4	1.6	1.5
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.7	0.6	0.6
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	0.4	0.5	0.6

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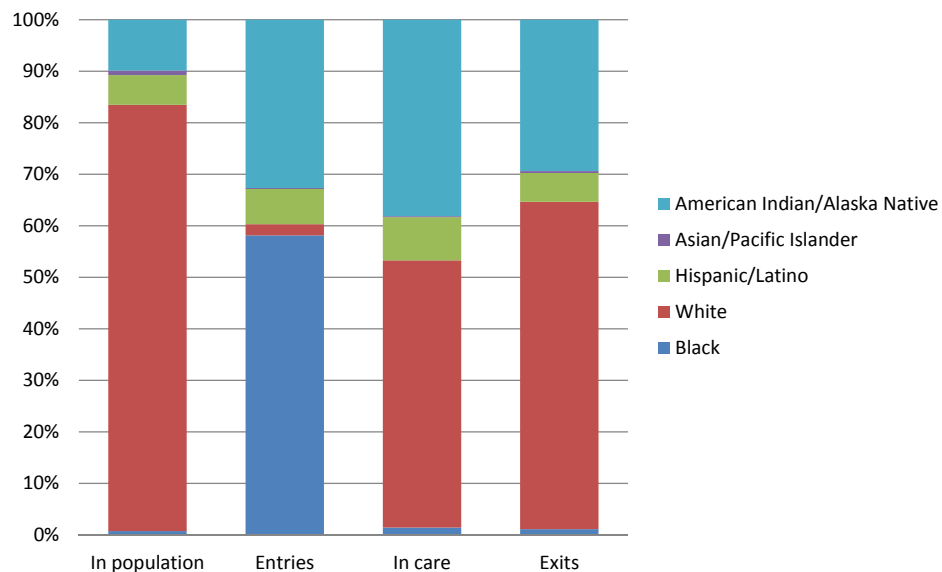
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

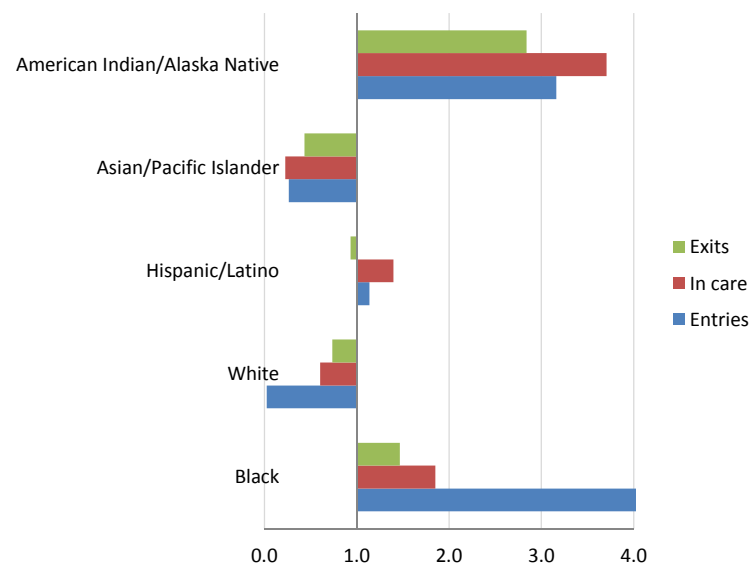
## Race/Ethnicity Profile

Montana

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	0.7%	53.3%	1.3%	1.0%
Caucasian/White (b)	79.1%	2.0%	47.7%	58.1%
Hispanic/Latino (c)	5.5%	6.3%	7.7%	5.2%
Asian/Pacific Islander (d)	0.8%	0.2%	0.2%	0.3%
American Indian/Alaska Native (e)	9.5%	29.9%	35.1%	26.9%
More than one race	4.4%	7.0%	6.9%	7.4%
Missing	0.0%	1.4%	1.1%	1.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	76.0	1.9	1.5
Caucasian/White (b)	0.0	0.6	0.7
Hispanic/Latino (c)	1.1	1.4	0.9
Asian/Pacific Islander (d)	0.3	0.2	0.4
American Indian/Alaska Native (e)	3.2	3.7	2.8

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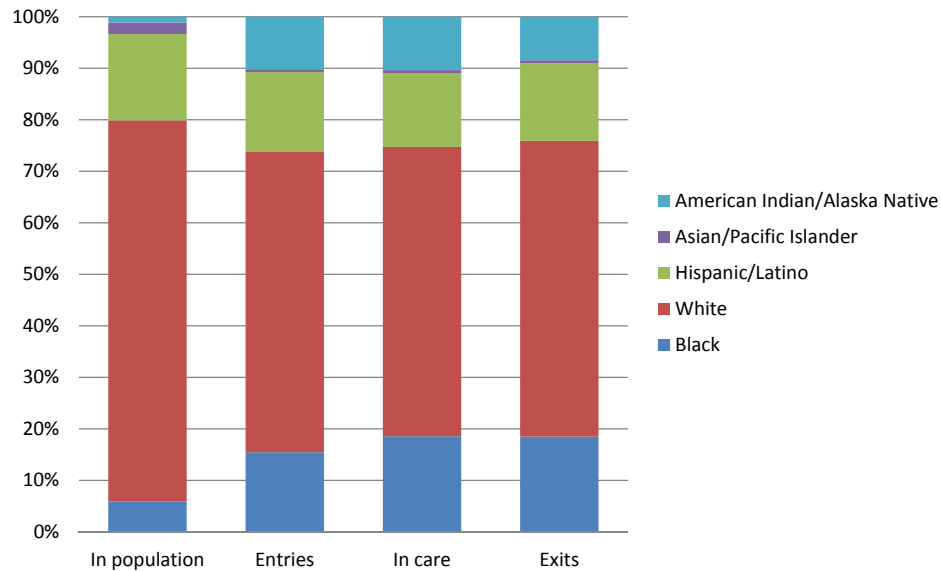
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

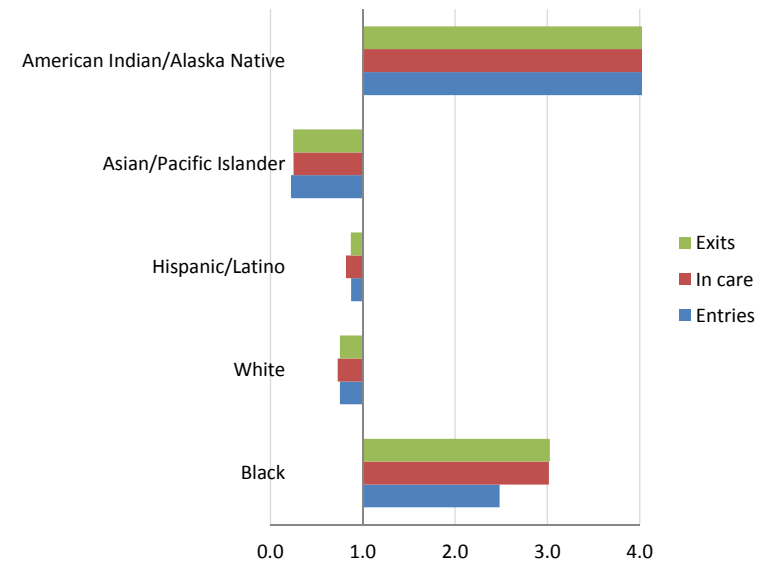
## Race/Ethnicity Profile

Nebraska

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	5.7%	14.2%	17.2%	17.3%
Caucasian/White (b)	71.1%	53.6%	52.0%	53.6%
Hispanic/Latino (c)	16.1%	14.1%	13.2%	14.1%
Asian/Pacific Islander (d)	2.2%	0.5%	0.5%	0.5%
American Indian/Alaska Native (e)	1.1%	9.4%	9.6%	7.9%
More than one race	3.7%	4.0%	4.7%	3.9%
Missing	0.0%	4.2%	2.7%	2.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.5	3.0	3.0
Caucasian/White (b)	0.8	0.7	0.8
Hispanic/Latino (c)	0.9	0.8	0.9
Asian/Pacific Islander (d)	0.2	0.3	0.2
American Indian/Alaska Native (e)	8.5	8.8	7.2

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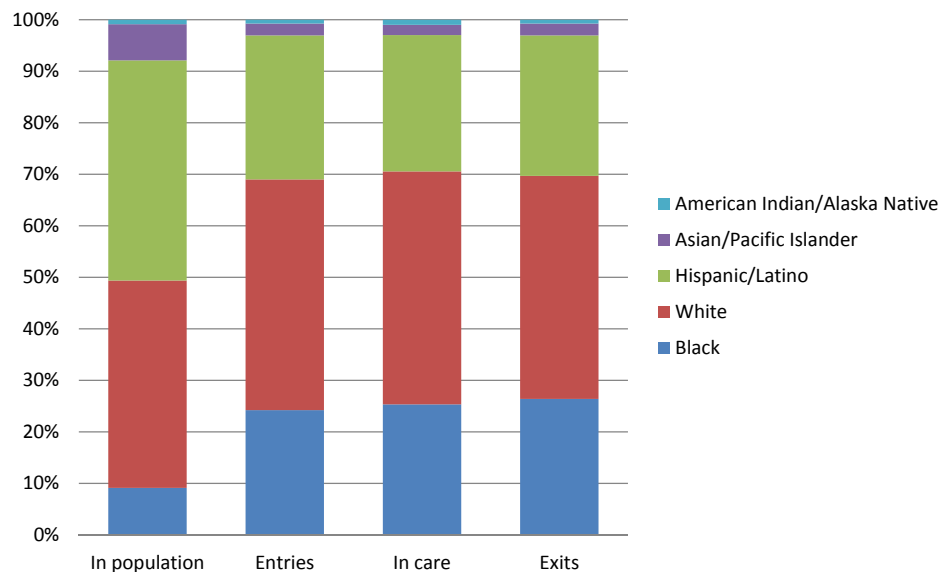
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

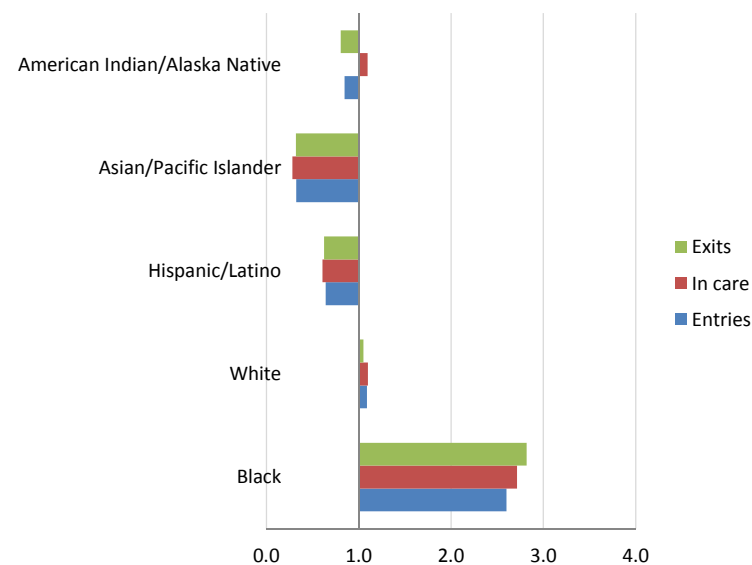
## Race/Ethnicity Profile

Nevada

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	8.6%	22.4%	23.4%	24.3%
Caucasian/White (b)	37.9%	41.3%	41.7%	39.9%
Hispanic/Latino (c)	40.2%	25.8%	24.4%	25.1%
Asian/Pacific Islander (d)	6.6%	2.1%	1.9%	2.1%
American Indian/Alaska Native (e)	0.8%	0.7%	0.9%	0.7%
More than one race	5.8%	7.4%	7.7%	7.7%
Missing	0.0%	0.2%	0.1%	0.2%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.6	2.7	2.8
Caucasian/White (b)	1.1	1.1	1.1
Hispanic/Latino (c)	0.6	0.6	0.6
Asian/Pacific Islander (d)	0.3	0.3	0.3
American Indian/Alaska Native (e)	0.8	1.1	0.8

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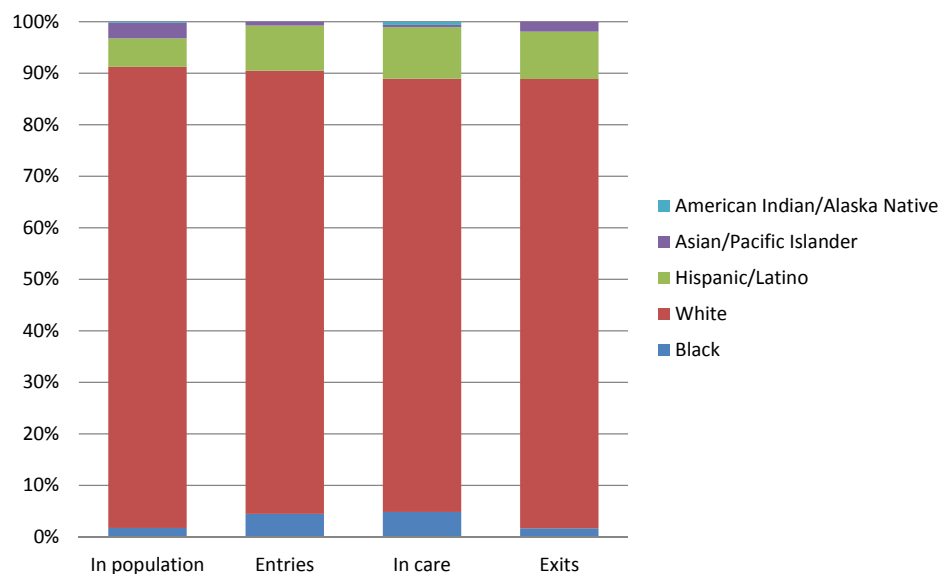
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

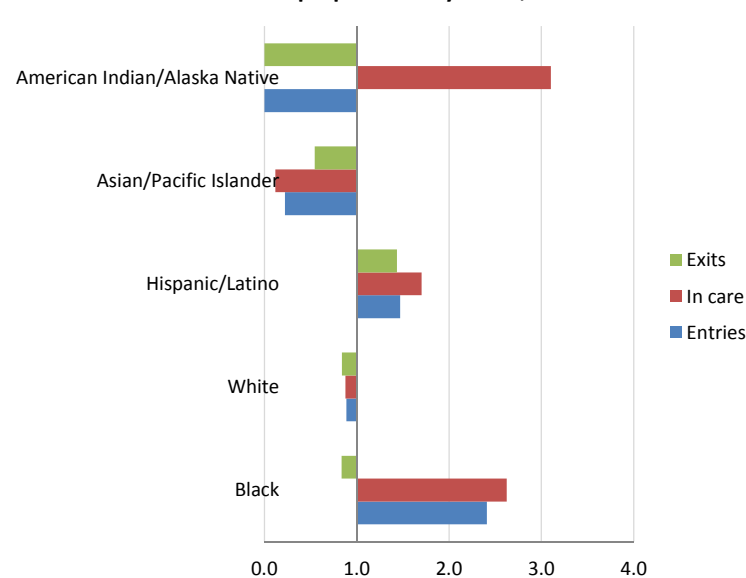
## Race/Ethnicity Profile

New Hampshire

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	1.7%	4.0%	4.4%	1.4%
Caucasian/White (b)	86.7%	77.0%	76.0%	72.7%
Hispanic/Latino (c)	5.3%	7.8%	9.1%	7.6%
Asian/Pacific Islander (d)	3.0%	0.7%	0.4%	1.6%
American Indian/Alaska Native (e)	0.2%	0.0%	0.6%	0.0%
More than one race	3.2%	4.0%	4.5%	5.1%
Missing	0.0%	6.5%	5.2%	11.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.4	2.6	0.8
Caucasian/White (b)	0.9	0.9	0.8
Hispanic/Latino (c)	1.5	1.7	1.4
Asian/Pacific Islander (d)	0.2	0.1	0.5
American Indian/Alaska Native (e)	0.0	3.1	0.0

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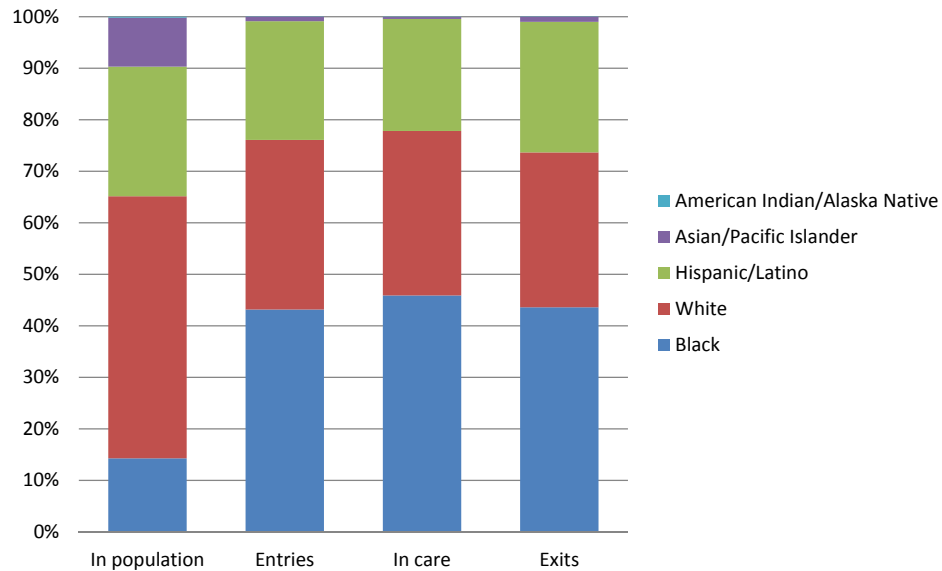
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

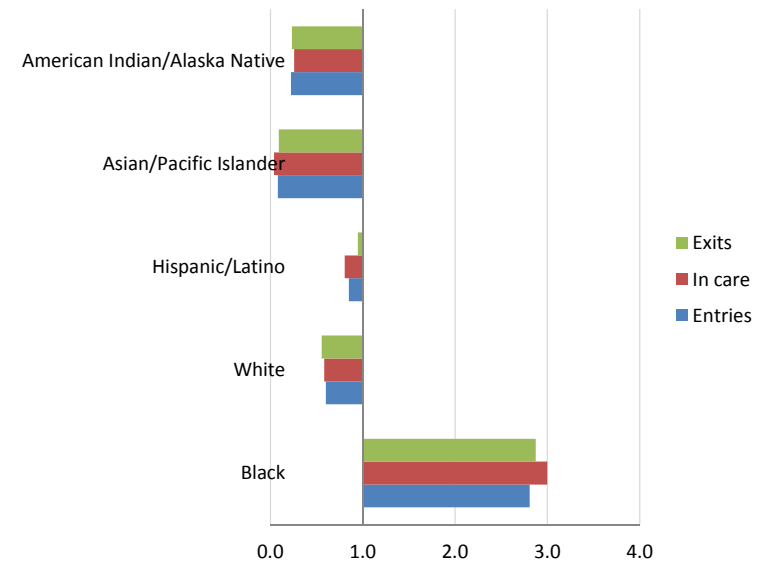
## Race/Ethnicity Profile

New Jersey

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	13.8%	38.9%	41.5%	39.8%
Caucasian/White (b)	49.4%	29.7%	28.9%	27.5%
Hispanic/Latino (c)	24.4%	20.8%	19.7%	23.1%
Asian/Pacific Islander (d)	9.3%	0.8%	0.4%	0.9%
American Indian/Alaska Native (e)	0.2%	0.0%	0.0%	0.0%
More than one race	2.9%	2.8%	3.6%	3.0%
Missing	0.0%	7.0%	5.9%	5.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.8	3.0	2.9
Caucasian/White (b)	0.6	0.6	0.6
Hispanic/Latino (c)	0.9	0.8	0.9
Asian/Pacific Islander (d)	0.1	0.0	0.1
American Indian/Alaska Native (e)	0.2	0.3	0.2

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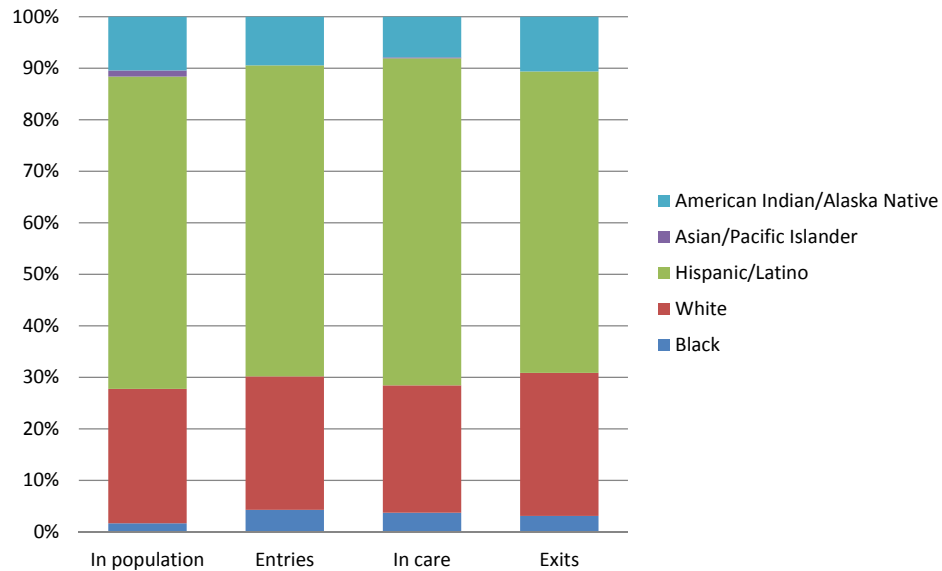
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

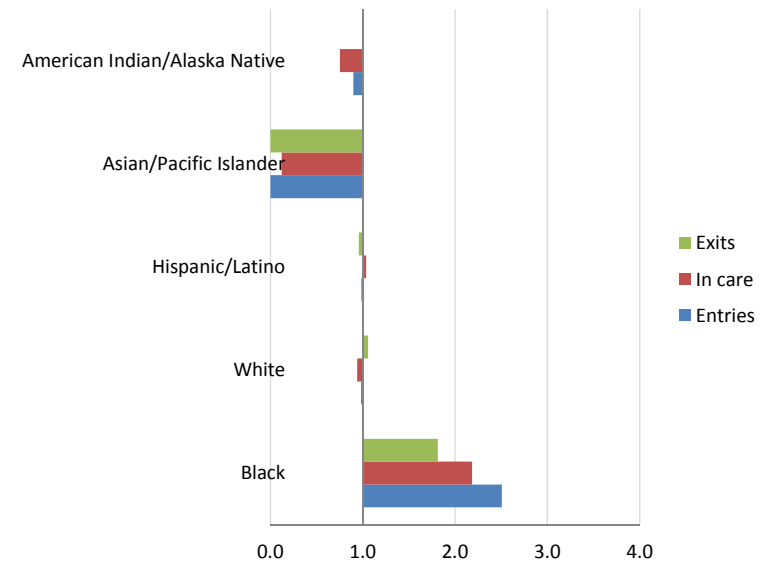
## Race/Ethnicity Profile

New Mexico

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	1.7%	4.1%	3.6%	3.0%
Caucasian/White (b)	25.4%	25.0%	23.9%	26.9%
Hispanic/Latino (c)	59.1%	58.3%	61.4%	56.7%
Asian/Pacific Islander (d)	1.2%	0.0%	0.1%	0.0%
American Indian/Alaska Native (e)	10.2%	9.1%	7.7%	10.3%
More than one race	2.5%	2.4%	3.2%	2.0%
Missing	0.0%	1.1%	0.1%	1.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.5	2.2	1.8
Caucasian/White (b)	1.0	0.9	1.1
Hispanic/Latino (c)	1.0	1.0	1.0
Asian/Pacific Islander (d)	0.0	0.1	0.0
American Indian/Alaska Native (e)	0.9	0.8	1.0

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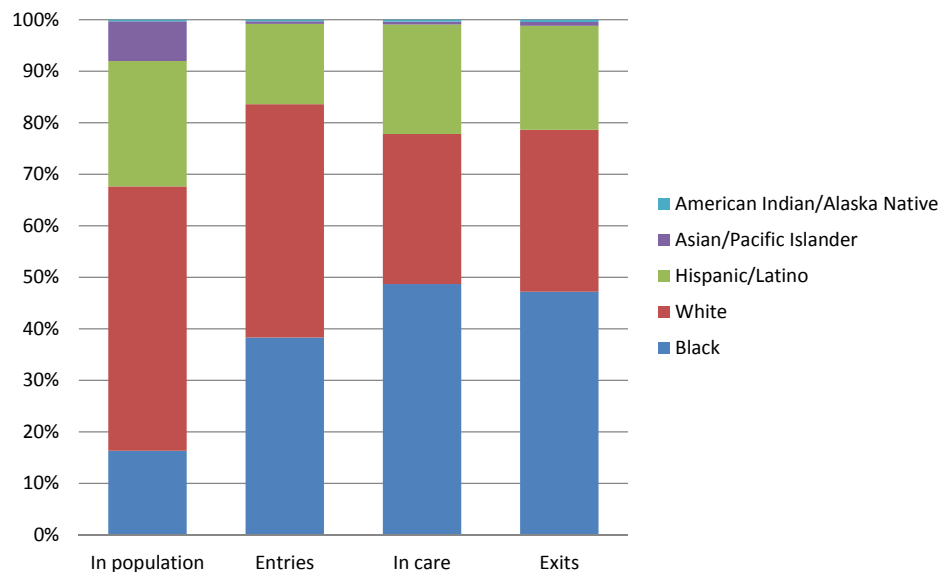
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

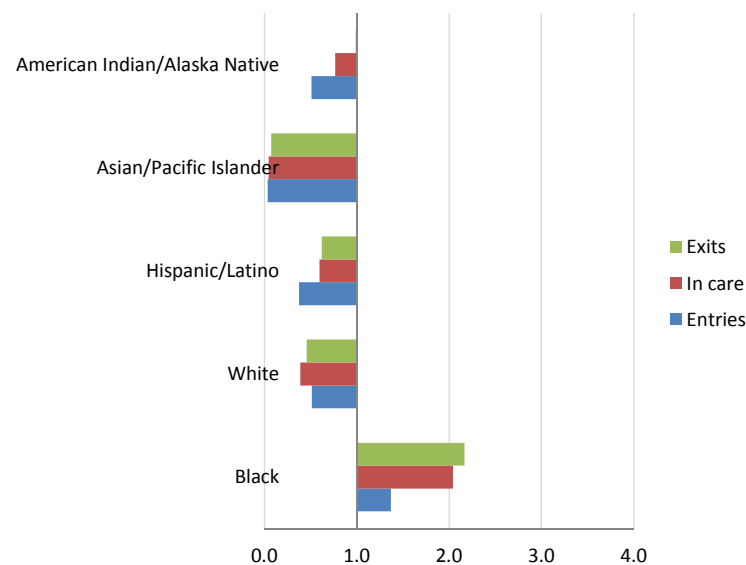
## Race/Ethnicity Profile

New York

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	15.8%	21.7%	32.3%	34.3%
Caucasian/White (b)	49.6%	25.6%	19.3%	22.8%
Hispanic/Latino (c)	23.6%	8.8%	14.1%	14.6%
Asian/Pacific Islander (d)	7.4%	0.3%	0.4%	0.5%
American Indian/Alaska Native (e)	0.3%	0.2%	0.3%	0.3%
More than one race	3.2%	4.6%	3.6%	4.0%
Missing	0.0%	38.9%	30.1%	23.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.4	2.0	2.2
Caucasian/White (b)	0.5	0.4	0.5
Hispanic/Latino (c)	0.4	0.6	0.6
Asian/Pacific Islander (d)	0.0	0.0	0.1
American Indian/Alaska Native (e)	0.5	0.8	1.0

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

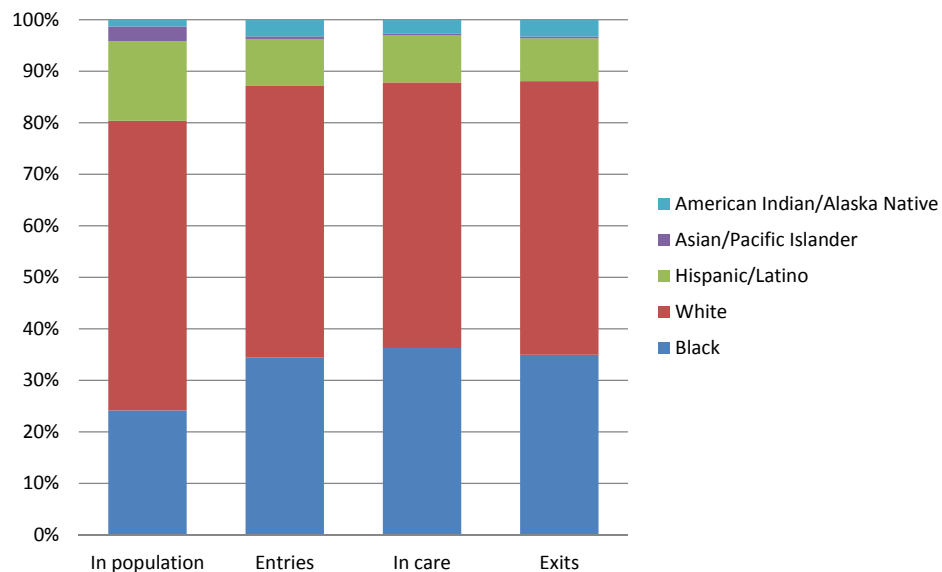
(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.



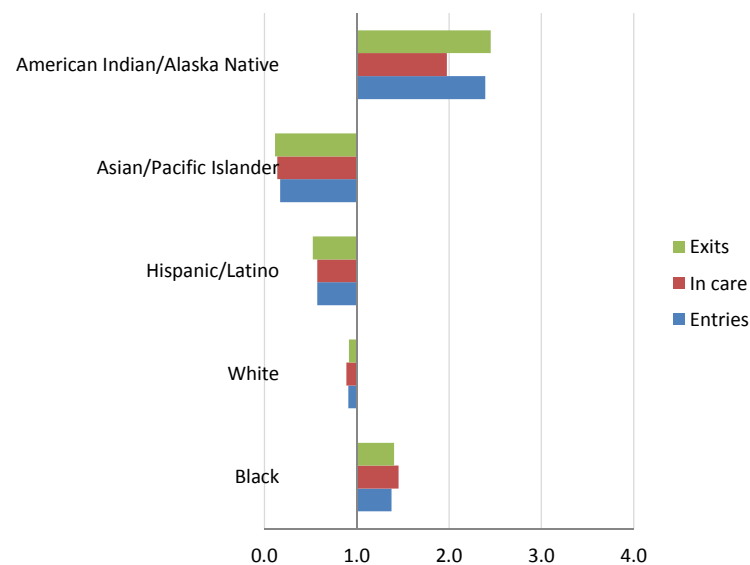
## Race/Ethnicity Profile

North Carolina

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	23.2%	32.0%	33.8%	32.7%
Caucasian/White (b)	54.0%	49.1%	48.0%	49.6%
Hispanic/Latino (c)	14.8%	8.5%	8.5%	7.8%
Asian/Pacific Islander (d)	2.8%	0.5%	0.4%	0.3%
American Indian/Alaska Native (e)	1.3%	3.0%	2.5%	3.1%
More than one race	3.9%	5.9%	6.2%	5.8%
Missing	0.0%	1.0%	0.6%	0.7%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.4	1.5	1.4
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	0.6	0.6	0.5
Asian/Pacific Islander (d)	0.2	0.1	0.1
American Indian/Alaska Native (e)	2.4	2.0	2.4

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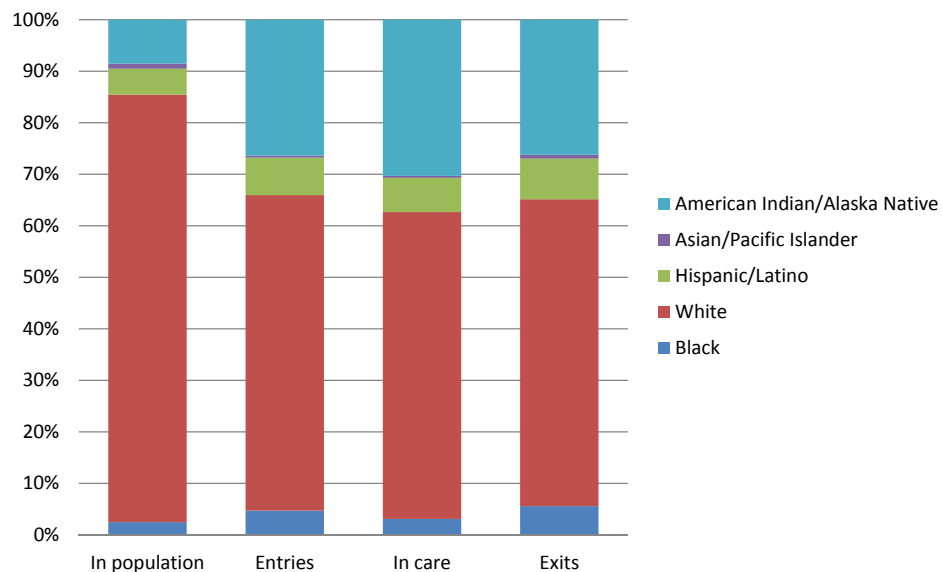
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

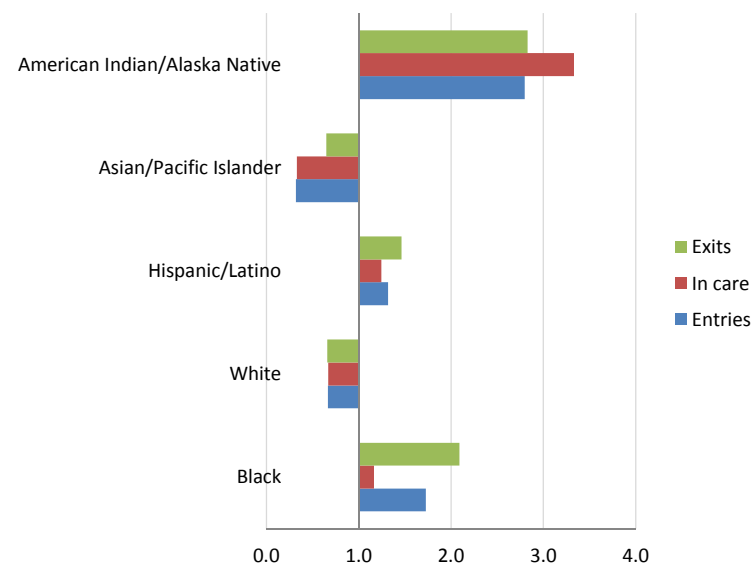
## Race/Ethnicity Profile

North Dakota

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	2.4%	4.1%	2.8%	5.0%
Caucasian/White (b)	79.8%	53.1%	53.6%	52.6%
Hispanic/Latino (c)	4.8%	6.3%	5.9%	7.0%
Asian/Pacific Islander (d)	1.0%	0.3%	0.3%	0.6%
American Indian/Alaska Native (e)	8.2%	22.9%	27.3%	23.2%
More than one race	3.8%	9.7%	7.8%	8.2%
Missing	0.0%	3.6%	2.2%	3.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.7	1.2	2.1
Caucasian/White (b)	0.7	0.7	0.7
Hispanic/Latino (c)	1.3	1.2	1.5
Asian/Pacific Islander (d)	0.3	0.3	0.6
American Indian/Alaska Native (e)	2.8	3.3	2.8

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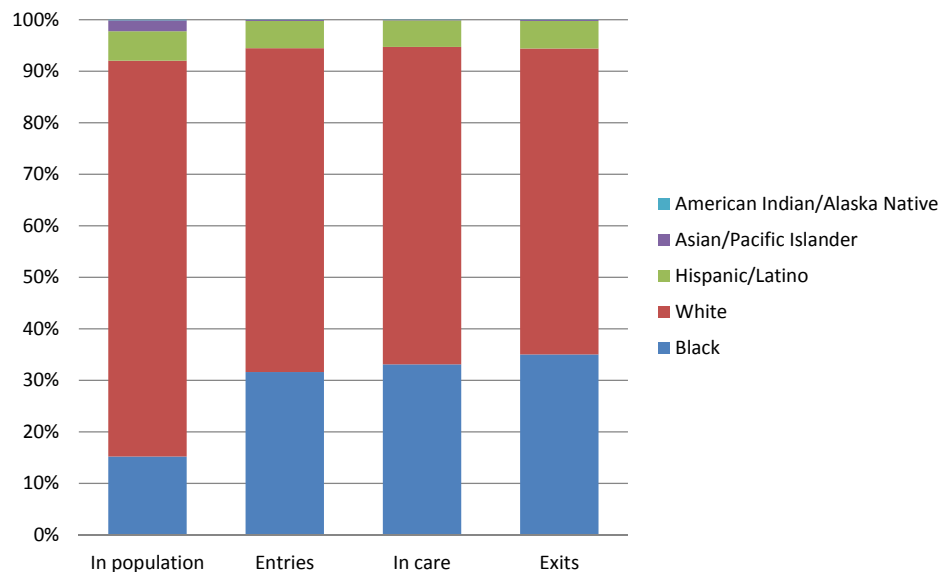
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

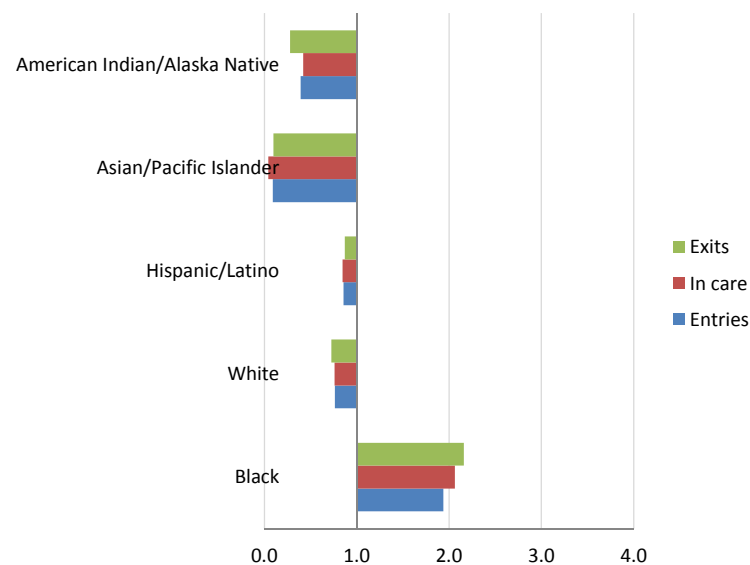
## Race/Ethnicity Profile

Ohio

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	14.6%	28.2%	30.0%	31.4%
Caucasian/White (b)	73.5%	56.2%	55.9%	53.2%
Hispanic/Latino (c)	5.5%	4.7%	4.6%	4.8%
Asian/Pacific Islander (d)	2.0%	0.2%	0.1%	0.2%
American Indian/Alaska Native (e)	0.2%	0.1%	0.1%	0.0%
More than one race	4.3%	8.7%	8.3%	8.3%
Missing	0.0%	2.0%	0.9%	2.0%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.9	2.1	2.2
Caucasian/White (b)	0.8	0.8	0.7
Hispanic/Latino (c)	0.9	0.8	0.9
Asian/Pacific Islander (d)	0.1	0.0	0.1
American Indian/Alaska Native (e)	0.4	0.4	0.3

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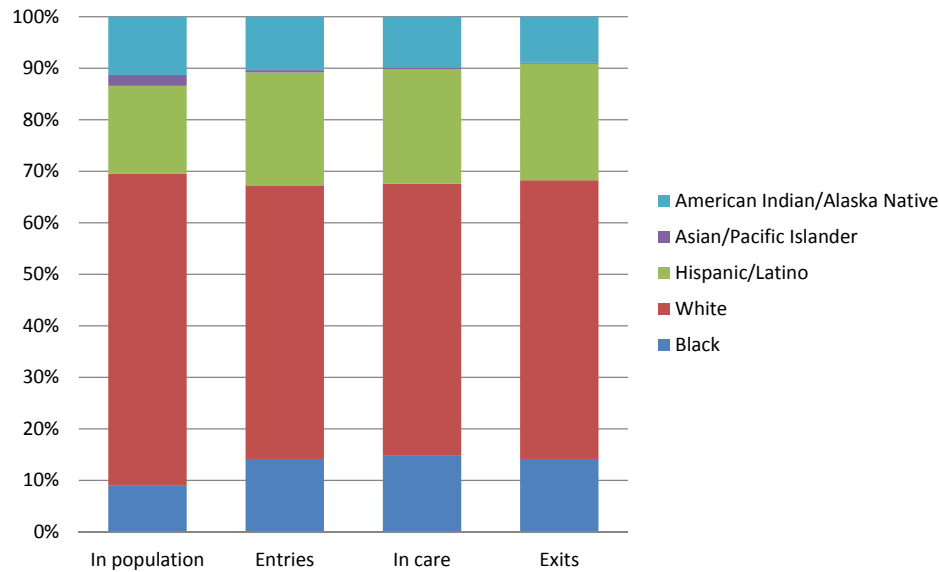
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

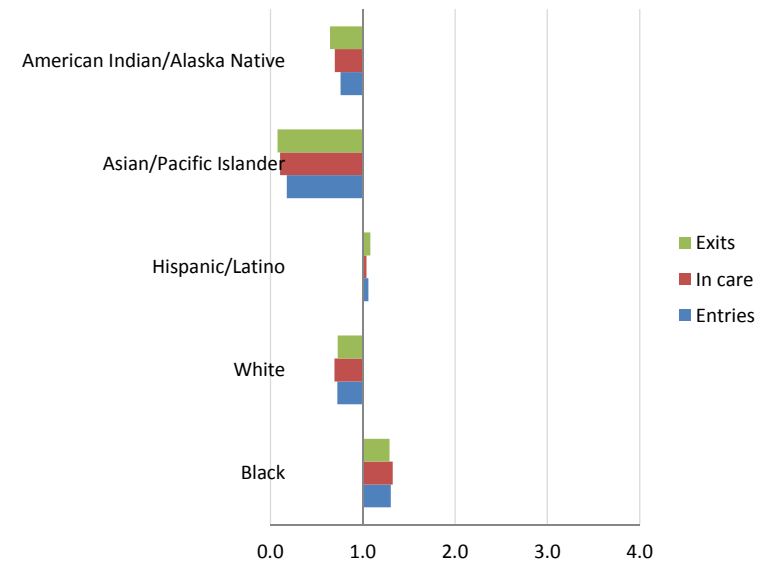
## Race/Ethnicity Profile

Oklahoma

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	8.1%	10.6%	10.8%	10.5%
Caucasian/White (b)	54.9%	39.8%	38.1%	40.0%
Hispanic/Latino (c)	15.5%	16.4%	16.1%	16.7%
Asian/Pacific Islander (d)	2.0%	0.3%	0.2%	0.2%
American Indian/Alaska Native (e)	10.2%	7.8%	7.1%	6.6%
More than one race	9.3%	25.0%	27.7%	26.0%
Missing	0.0%	0.1%	0.0%	0.1%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.3	1.3	1.3
Caucasian/White (b)	0.7	0.7	0.7
Hispanic/Latino (c)	1.1	1.0	1.1
Asian/Pacific Islander (d)	0.2	0.1	0.1
American Indian/Alaska Native (e)	0.8	0.7	0.6

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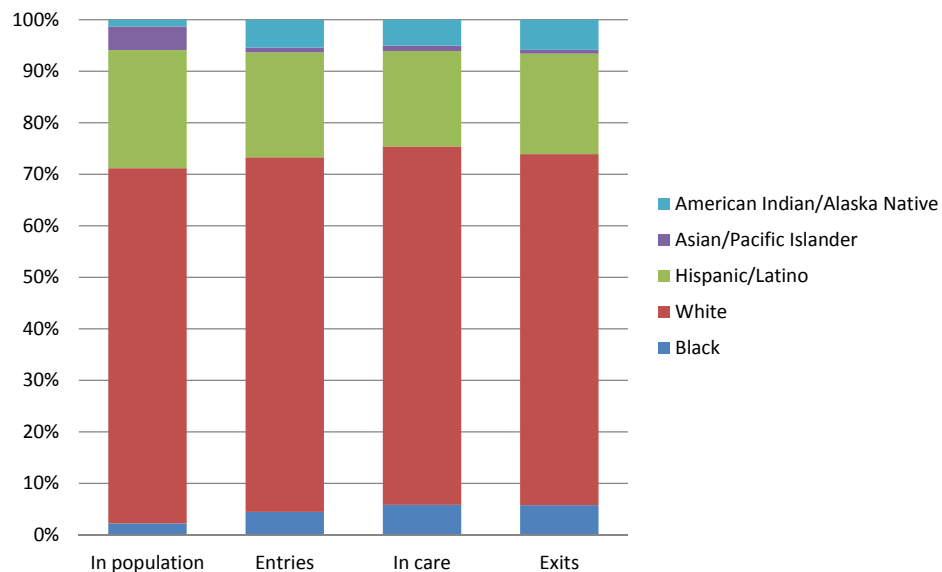
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

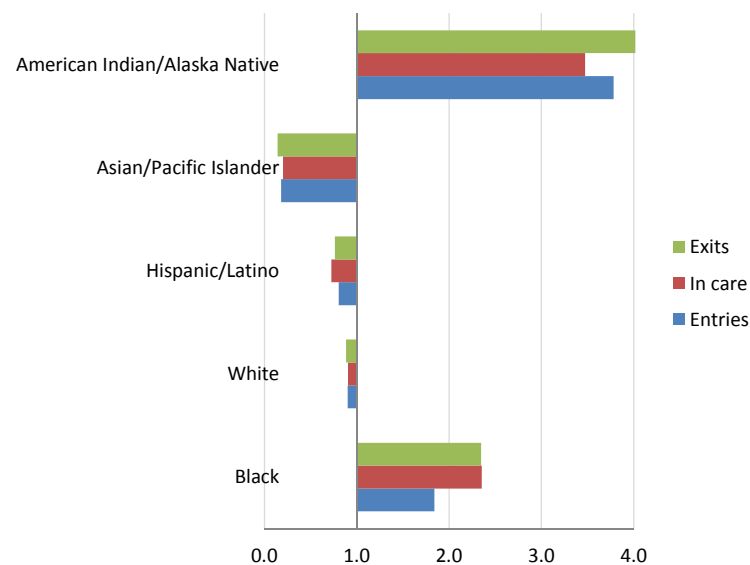
## Race/Ethnicity Profile

Oregon

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	2.1%	3.8%	4.9%	4.9%
Caucasian/White (b)	65.0%	58.8%	58.8%	57.5%
Hispanic/Latino (c)	21.6%	17.4%	15.7%	16.5%
Asian/Pacific Islander (d)	4.3%	0.8%	0.9%	0.6%
American Indian/Alaska Native (e)	1.2%	4.6%	4.3%	4.9%
More than one race	5.8%	6.4%	11.1%	10.1%
Missing	0.0%	8.2%	4.4%	5.5%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.8	2.4	2.3
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	0.8	0.7	0.8
Asian/Pacific Islander (d)	0.2	0.2	0.1
American Indian/Alaska Native (e)	3.8	3.5	4.0

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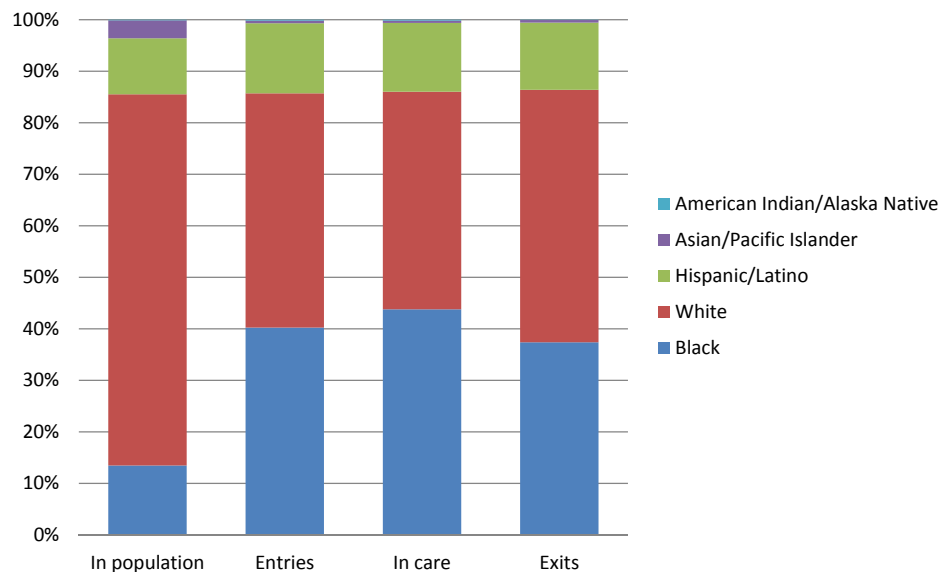
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

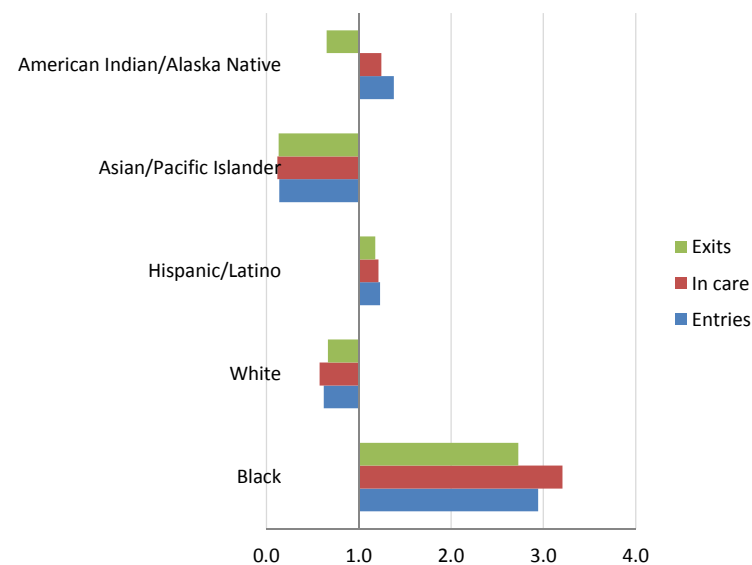
## Race/Ethnicity Profile

Pennsylvania

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	13.0%	38.2%	41.6%	35.4%
Caucasian/White (b)	69.5%	43.1%	40.2%	46.4%
Hispanic/Latino (c)	10.5%	12.9%	12.7%	12.3%
Asian/Pacific Islander (d)	3.4%	0.5%	0.4%	0.4%
American Indian/Alaska Native (e)	0.1%	0.2%	0.2%	0.1%
More than one race	3.6%	3.7%	3.9%	3.9%
Missing	0.0%	1.4%	1.1%	1.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.9	3.2	2.7
Caucasian/White (b)	0.6	0.6	0.7
Hispanic/Latino (c)	1.2	1.2	1.2
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	1.4	1.2	0.7

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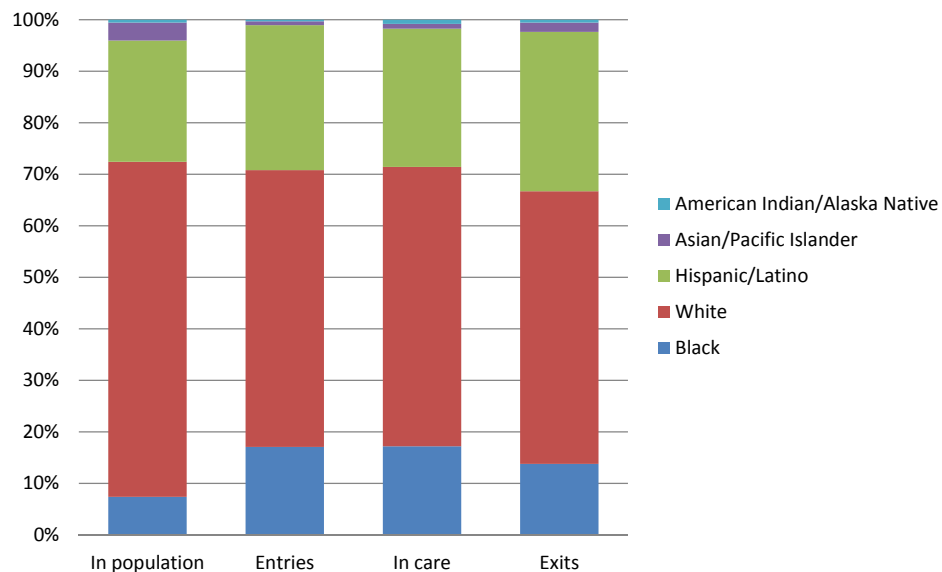
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

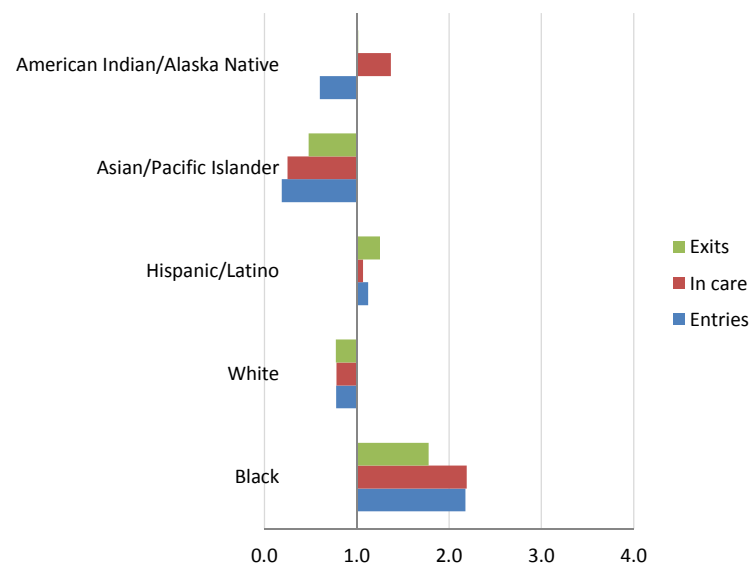
## Race/Ethnicity Profile

Rhode Island

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	7.1%	15.4%	15.5%	12.6%
Caucasian/White (b)	62.3%	48.4%	48.7%	48.2%
Hispanic/Latino (c)	22.5%	25.4%	24.1%	28.2%
Asian/Pacific Islander (d)	3.4%	0.6%	0.8%	1.6%
American Indian/Alaska Native (e)	0.5%	0.3%	0.7%	0.5%
More than one race	4.3%	6.9%	8.0%	7.2%
Missing	0.0%	3.0%	2.2%	1.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.2	2.2	1.8
Caucasian/White (b)	0.8	0.8	0.8
Hispanic/Latino (c)	1.1	1.1	1.3
Asian/Pacific Islander (d)	0.2	0.2	0.5
American Indian/Alaska Native (e)	0.6	1.4	1.0

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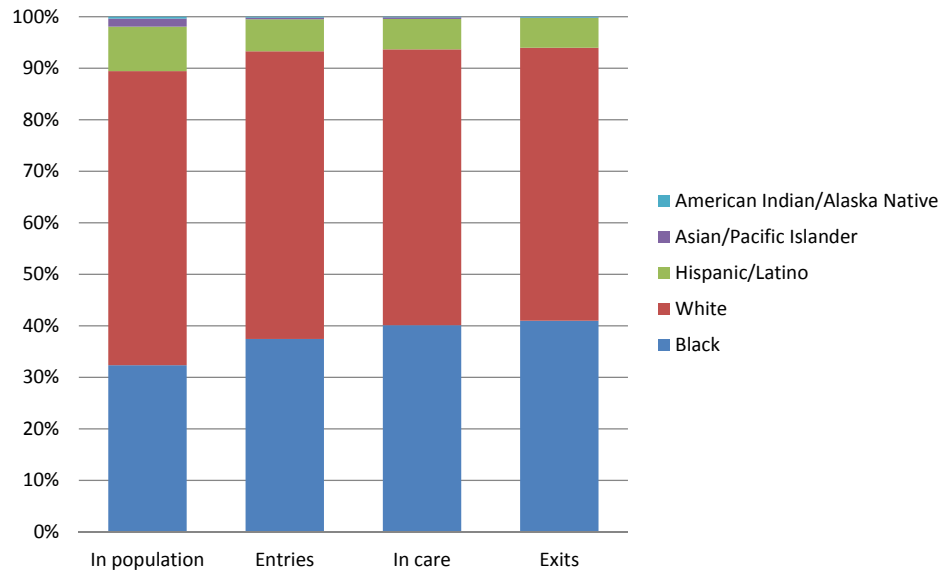
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

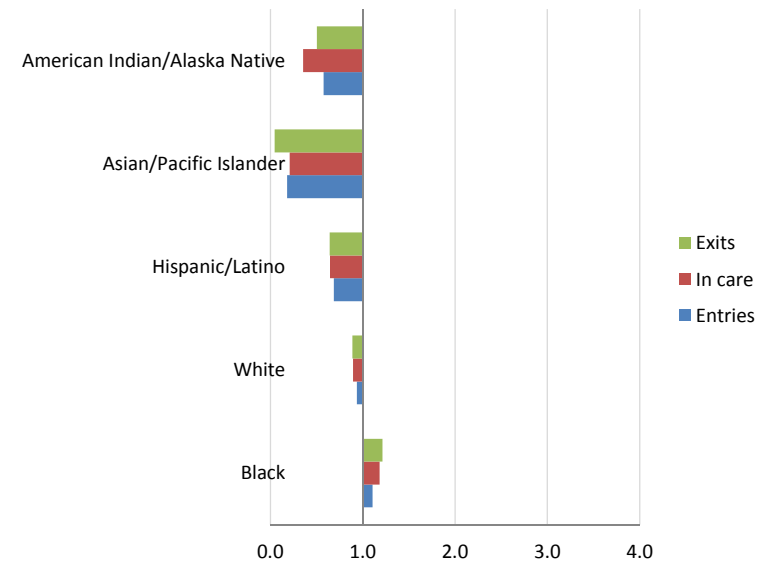
## Race/Ethnicity Profile

South Carolina

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	31.3%	34.6%	37.0%	37.9%
Caucasian/White (b)	55.1%	51.6%	49.3%	49.0%
Hispanic/Latino (c)	8.3%	5.8%	5.4%	5.4%
Asian/Pacific Islander (d)	1.5%	0.3%	0.3%	0.1%
American Indian/Alaska Native (e)	0.4%	0.2%	0.1%	0.2%
More than one race	3.4%	6.4%	7.2%	6.5%
Missing	0.0%	1.2%	0.7%	1.0%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.1	1.2	1.2
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	0.7	0.6	0.6
Asian/Pacific Islander (d)	0.2	0.2	0.0
American Indian/Alaska Native (e)	0.6	0.4	0.5

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

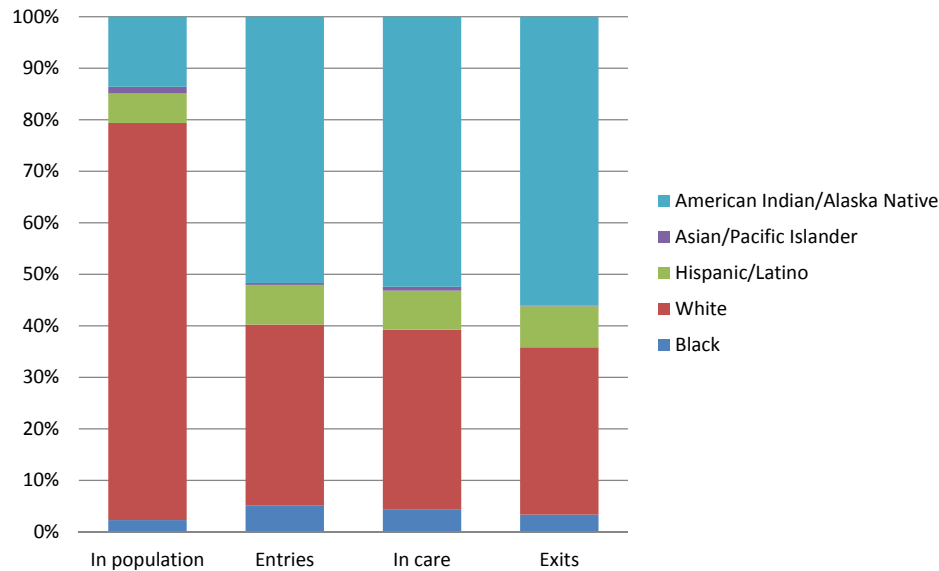
(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.



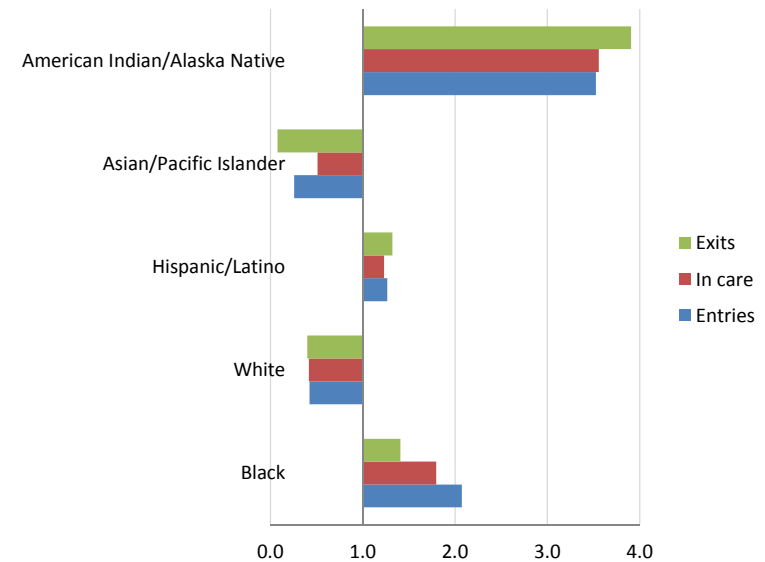
## Race/Ethnicity Profile

South Dakota

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	2.2%	4.5%	3.9%	3.1%
Caucasian/White (b)	73.8%	31.3%	30.9%	29.5%
Hispanic/Latino (c)	5.4%	6.9%	6.7%	7.2%
Asian/Pacific Islander (d)	1.3%	0.3%	0.6%	0.1%
American Indian/Alaska Native (e)	13.1%	46.0%	46.4%	51.0%
More than one race	4.2%	10.3%	11.4%	8.2%
Missing	0.0%	0.6%	0.0%	0.9%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.1	1.8	1.4
Caucasian/White (b)	0.4	0.4	0.4
Hispanic/Latino (c)	1.3	1.2	1.3
Asian/Pacific Islander (d)	0.3	0.5	0.1
American Indian/Alaska Native (e)	3.5	3.6	3.9

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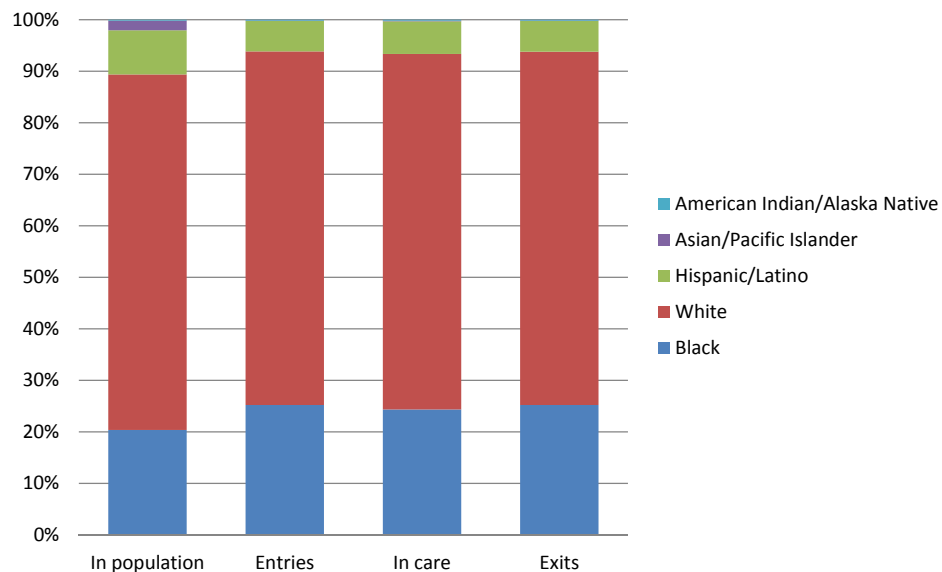
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

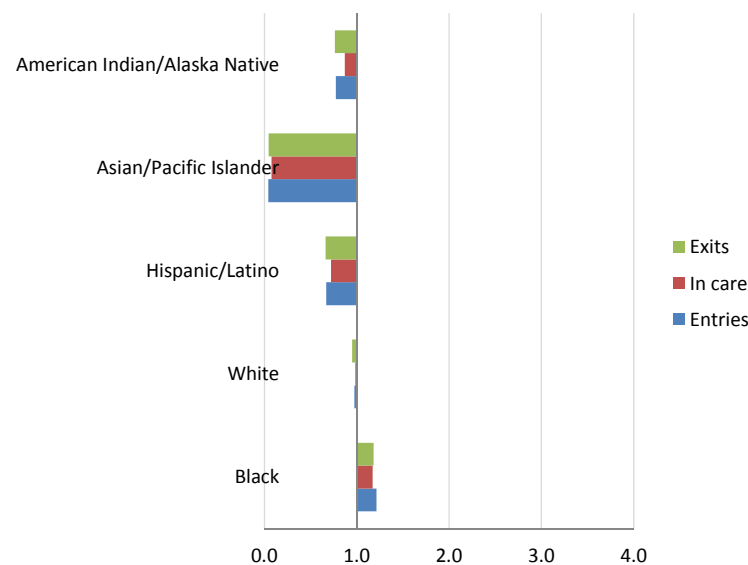
## Race/Ethnicity Profile

Tennessee

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	19.7%	23.9%	23.1%	23.3%
Caucasian/White (b)	66.7%	65.1%	65.6%	63.5%
Hispanic/Latino (c)	8.3%	5.6%	6.0%	5.5%
Asian/Pacific Islander (d)	1.8%	0.1%	0.1%	0.1%
American Indian/Alaska Native (e)	0.2%	0.2%	0.2%	0.2%
More than one race	3.3%	3.5%	4.7%	2.2%
Missing	0.0%	1.7%	0.3%	5.3%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.2	1.2	1.2
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.7	0.7	0.7
Asian/Pacific Islander (d)	0.0	0.1	0.0
American Indian/Alaska Native (e)	0.8	0.9	0.8

Disproportionality is the level at which groups of children are present in the child welfare system at higher or lower percentages or rates than in the general population. An index of 1.0 reflects no disproportionality. An index of greater than 1.0 reflects overrepresentation. An index of less than 1.0 reflects underrepresentation.

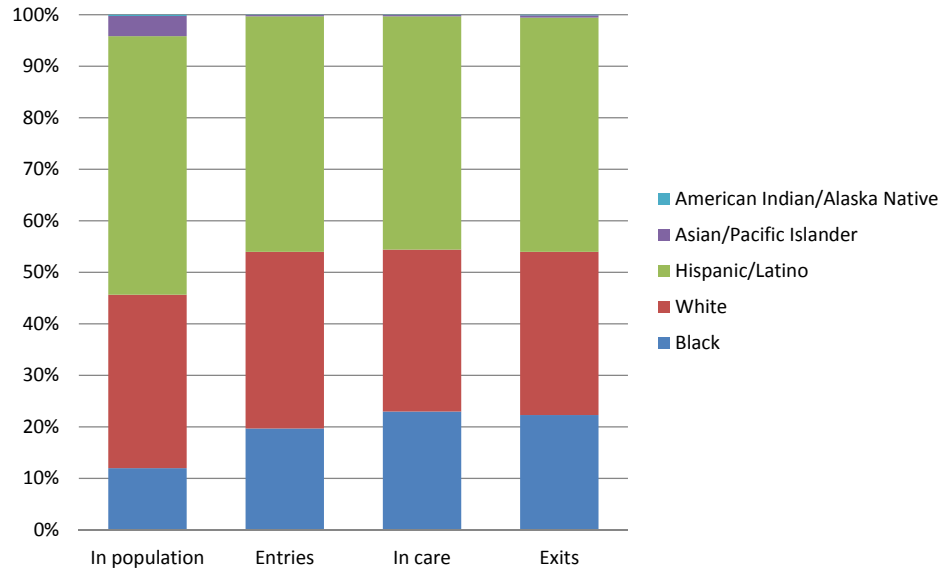
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

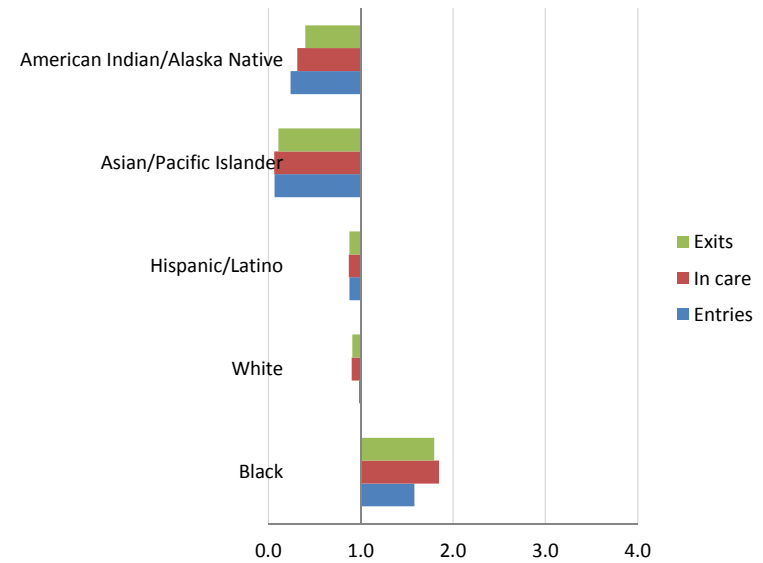
## Race/Ethnicity Profile

Texas

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	11.7%	18.6%	21.7%	21.1%
Caucasian/White (b)	32.9%	32.3%	29.7%	29.9%
Hispanic/Latino (c)	49.0%	43.1%	42.7%	43.0%
Asian/Pacific Islander (d)	3.8%	0.3%	0.2%	0.4%
American Indian/Alaska Native (e)	0.3%	0.1%	0.1%	0.1%
More than one race	2.3%	4.0%	4.3%	4.3%
Missing	0.0%	1.7%	1.3%	1.2%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.6	1.8	1.8
Caucasian/White (b)	1.0	0.9	0.9
Hispanic/Latino (c)	0.9	0.9	0.9
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	0.2	0.3	0.4

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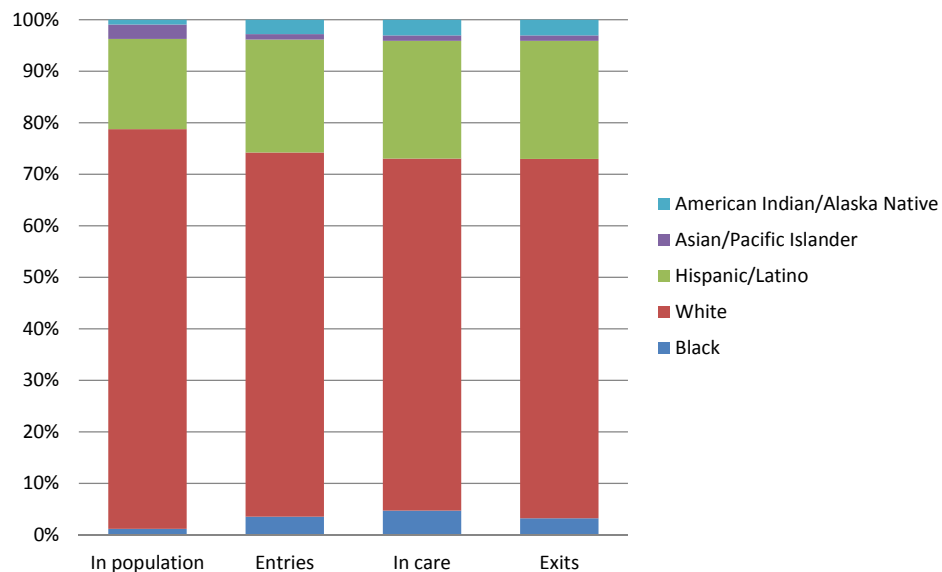
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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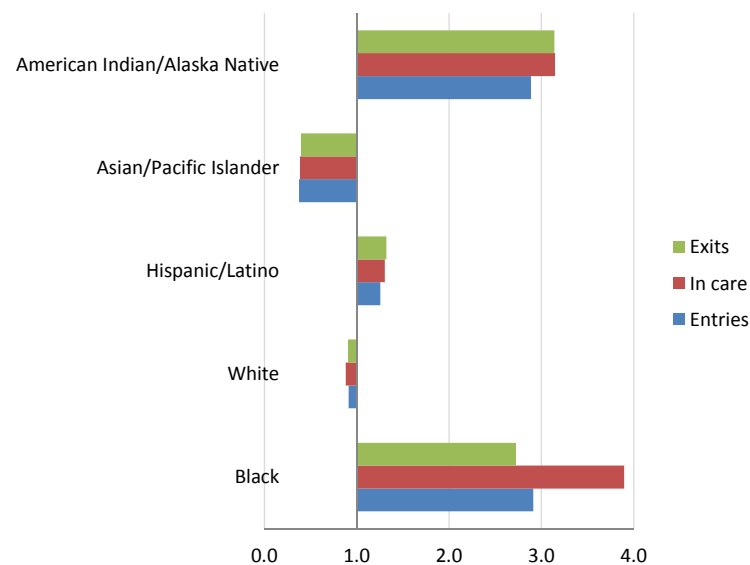
## Race/Ethnicity Profile

Utah

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	1.2%	3.4%	4.5%	3.2%
Caucasian/White (b)	75.0%	68.4%	66.1%	67.9%
Hispanic/Latino (c)	16.9%	21.2%	22.1%	22.3%
Asian/Pacific Islander (d)	2.7%	1.0%	1.0%	1.1%
American Indian/Alaska Native (e)	0.9%	2.7%	3.0%	2.9%
More than one race	3.3%	2.9%	3.0%	2.1%
Missing	0.0%	0.4%	0.3%	0.5%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.9	3.9	2.7
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	1.3	1.3	1.3
Asian/Pacific Islander (d)	0.4	0.4	0.4
American Indian/Alaska Native (e)	2.9	3.1	3.1

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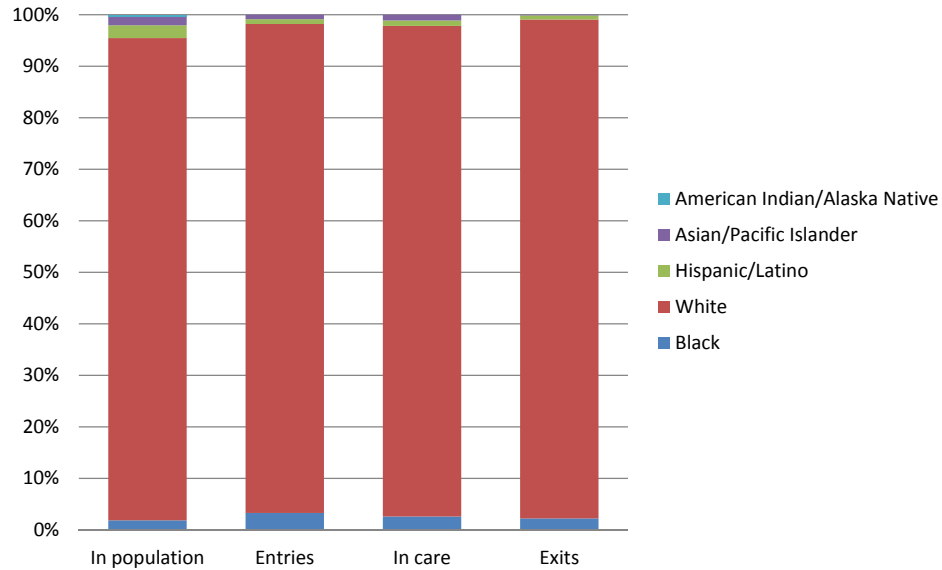
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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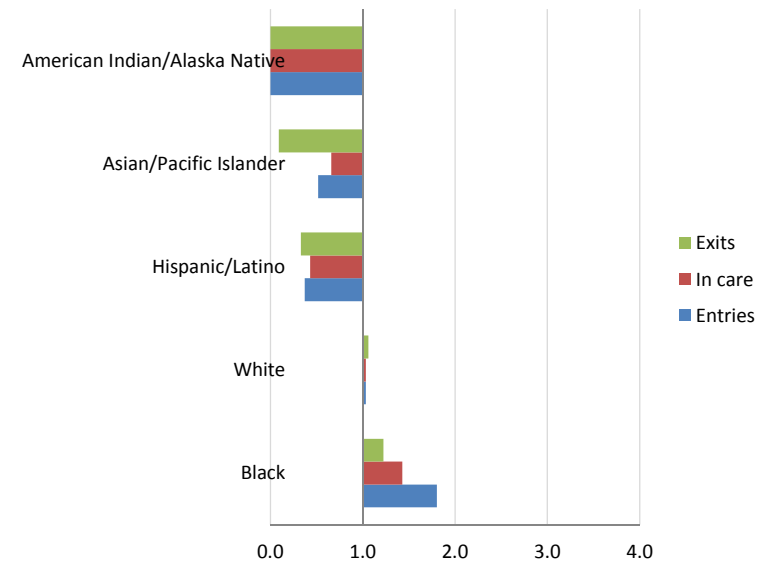
## Race/Ethnicity Profile

Vermont

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	1.8%	3.2%	2.6%	2.2%
Caucasian/White (b)	90.4%	93.4%	93.5%	95.9%
Hispanic/Latino (c)	2.4%	0.9%	1.0%	0.8%
Asian/Pacific Islander (d)	1.7%	0.9%	1.1%	0.2%
American Indian/Alaska Native (e)	0.3%	0.0%	0.0%	0.0%
More than one race	3.4%	0.1%	0.5%	0.2%
Missing	0.0%	1.5%	1.2%	0.8%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.8	1.4	1.2
Caucasian/White (b)	1.0	1.0	1.1
Hispanic/Latino (c)	0.4	0.4	0.3
Asian/Pacific Islander (d)	0.5	0.7	0.1
American Indian/Alaska Native (e)	0.0	0.0	0.0

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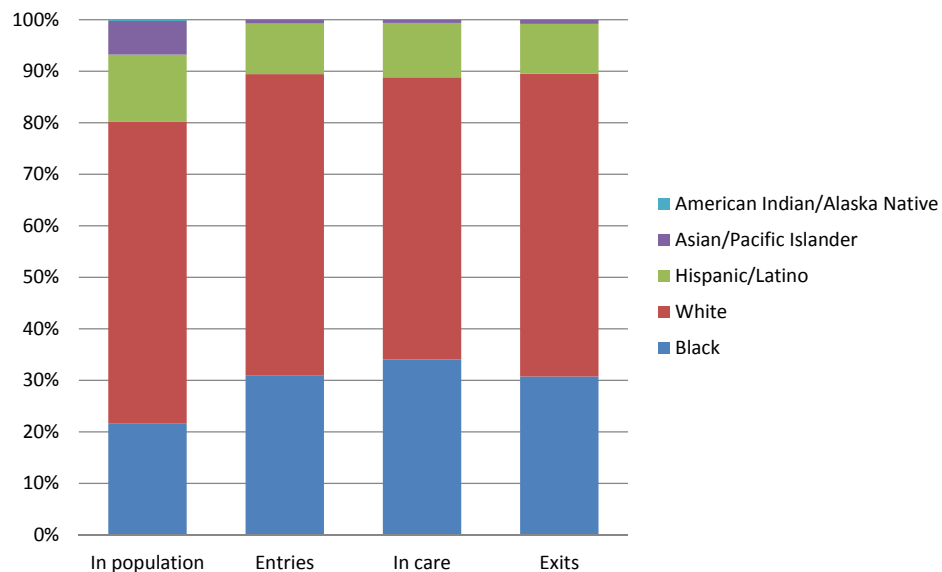
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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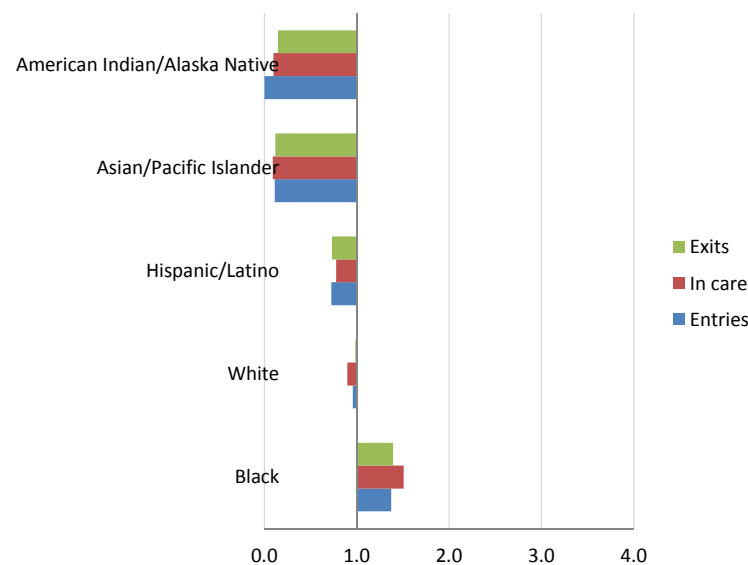
## Race/Ethnicity Profile

Virginia

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	20.5%	28.2%	30.9%	28.6%
Caucasian/White (b)	55.5%	53.1%	49.8%	54.7%
Hispanic/Latino (c)	12.3%	8.9%	9.6%	9.0%
Asian/Pacific Islander (d)	6.2%	0.7%	0.6%	0.7%
American Indian/Alaska Native (e)	0.2%	0.0%	0.0%	0.0%
More than one race	5.2%	8.1%	8.3%	6.4%
Missing	0.0%	1.0%	0.7%	0.6%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	1.4	1.5	1.4
Caucasian/White (b)	1.0	0.9	1.0
Hispanic/Latino (c)	0.7	0.8	0.7
Asian/Pacific Islander (d)	0.1	0.1	0.1
American Indian/Alaska Native (e)	0.0	0.1	0.1

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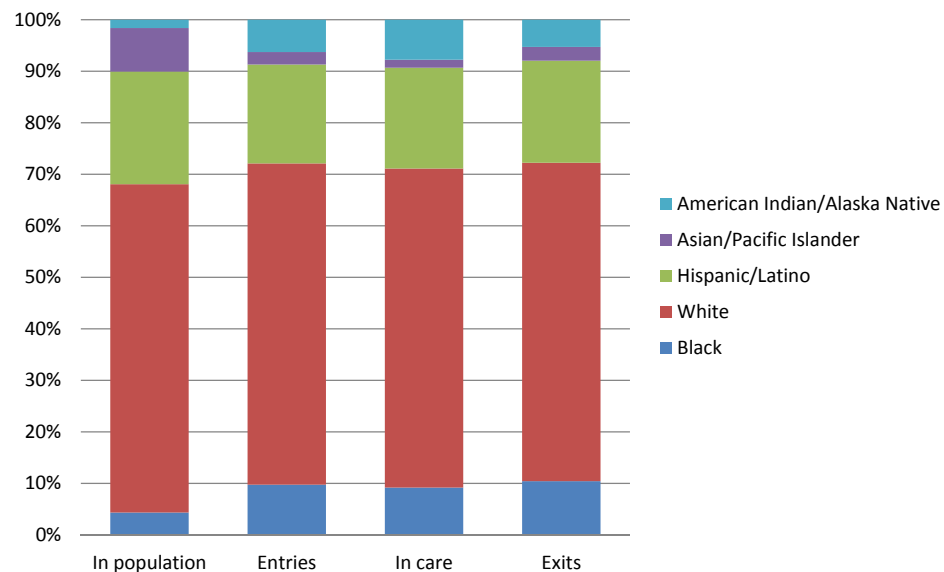
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

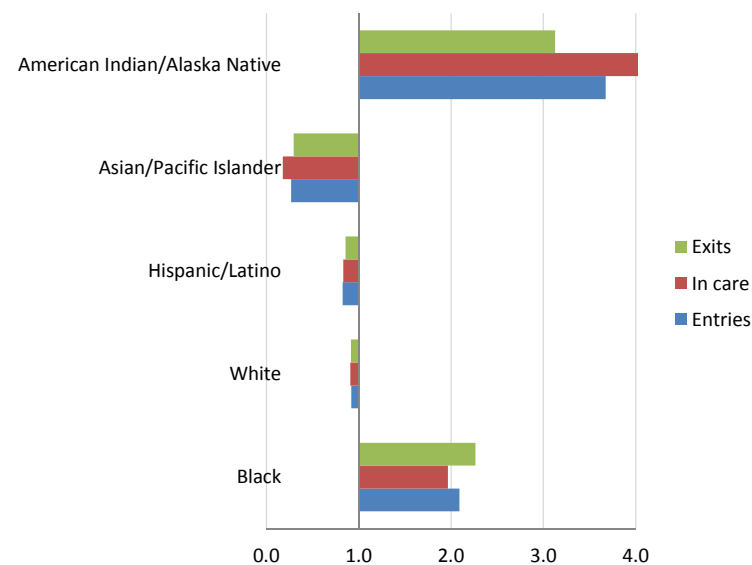
## Race/Ethnicity Profile

Washington

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	4.0%	8.4%	7.9%	9.1%
Caucasian/White (b)	58.8%	54.0%	53.4%	53.9%
Hispanic/Latino (c)	20.2%	16.6%	16.8%	17.3%
Asian/Pacific Islander (d)	7.8%	2.1%	1.4%	2.3%
American Indian/Alaska Native (e)	1.5%	5.4%	6.7%	4.6%
More than one race	7.7%	11.5%	12.9%	12.2%
Missing	0.0%	1.9%	0.9%	0.4%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	2.1	2.0	2.3
Caucasian/White (b)	0.9	0.9	0.9
Hispanic/Latino (c)	0.8	0.8	0.9
Asian/Pacific Islander (d)	0.3	0.2	0.3
American Indian/Alaska Native (e)	3.7	4.5	3.1

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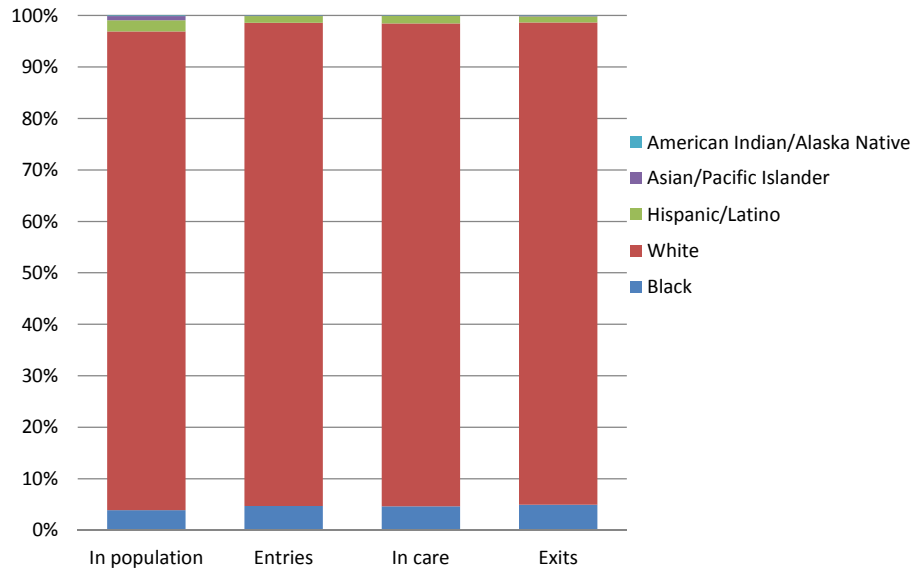
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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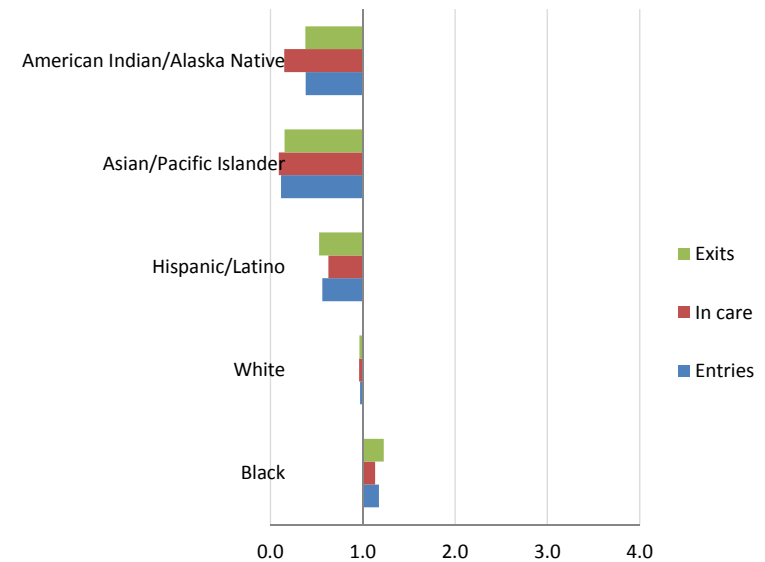
## Race/Ethnicity Profile

### West Virginia

**Race/Ethnicity of Children in Out-of-Home Care, 2013**



**Racial Disproportionality Index, 2013**



**Race/ethnicity breakdowns**

	Population	Entries	In care	Exits
African American/Black (a)	3.8%	4.4%	4.3%	4.6%
Caucasian/White (b)	89.7%	87.0%	86.1%	86.6%
Hispanic/Latino (c)	2.1%	1.2%	1.3%	1.1%
Asian/Pacific Islander (d)	0.7%	0.1%	0.1%	0.1%
American Indian/Alaska Native (e)	0.2%	0.1%	0.0%	0.1%
More than one race	3.6%	6.3%	7.4%	7.3%
Missing	0.0%	0.9%	0.8%	0.3%
Total	100%	100%	100%	100%

**Racial Disproportionality Index**

	Entries	In care	Exits
African American/Black (a)	1.2	1.1	1.2
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	0.6	0.6	0.5
Asian/Pacific Islander (d)	0.1	0.1	0.2
American Indian/Alaska Native (e)	0.4	0.2	0.4

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

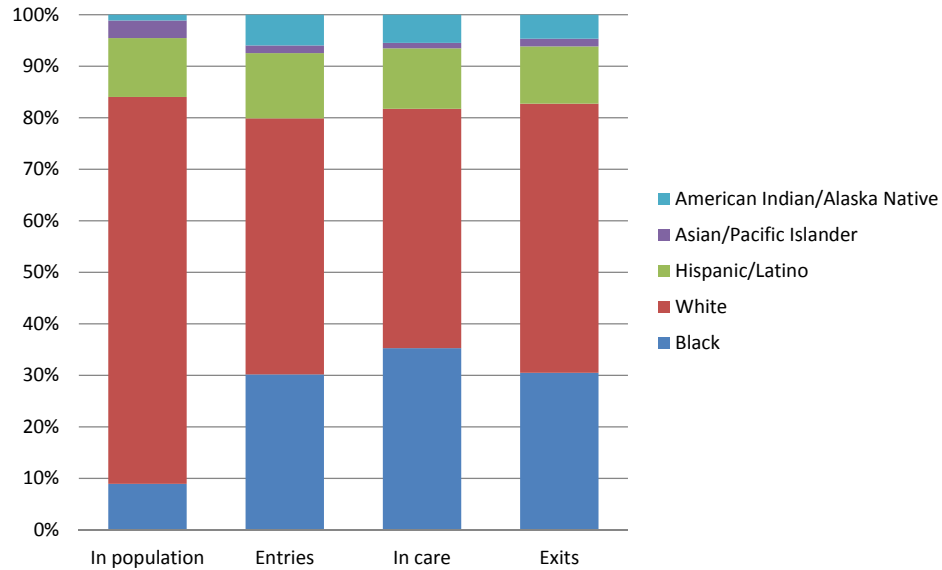
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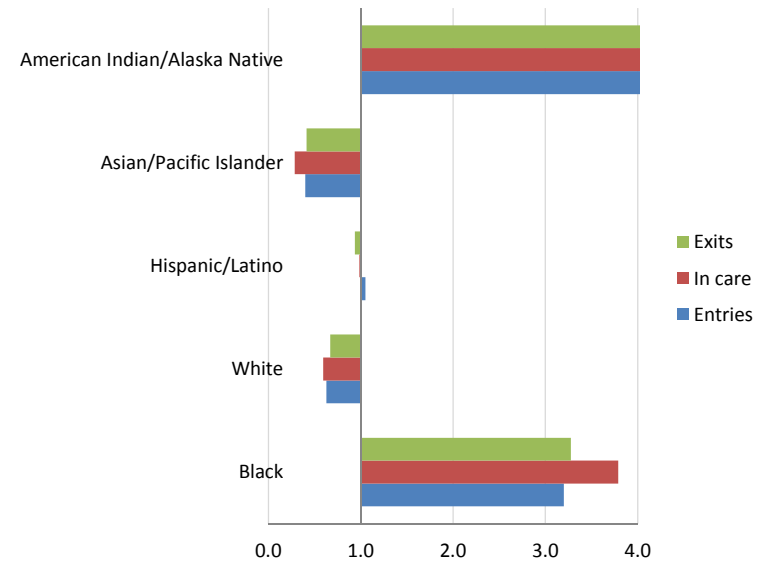
## Race/Ethnicity Profile

Wisconsin

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	8.6%	27.7%	32.7%	28.3%
Caucasian/White (b)	72.4%	45.6%	43.1%	48.4%
Hispanic/Latino (c)	11.0%	11.6%	10.9%	10.3%
Asian/Pacific Islander (d)	3.3%	1.3%	0.9%	1.4%
American Indian/Alaska Native (e)	1.1%	5.5%	5.1%	4.3%
More than one race	3.6%	5.7%	5.7%	5.1%
Missing	0.0%	2.7%	1.6%	2.2%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

	Entries	In care	Exits
African American/Black (a)	3.2	3.8	3.3
Caucasian/White (b)	0.6	0.6	0.7
Hispanic/Latino (c)	1.1	1.0	0.9
Asian/Pacific Islander (d)	0.4	0.3	0.4
American Indian/Alaska Native (e)	5.2	4.8	4.1

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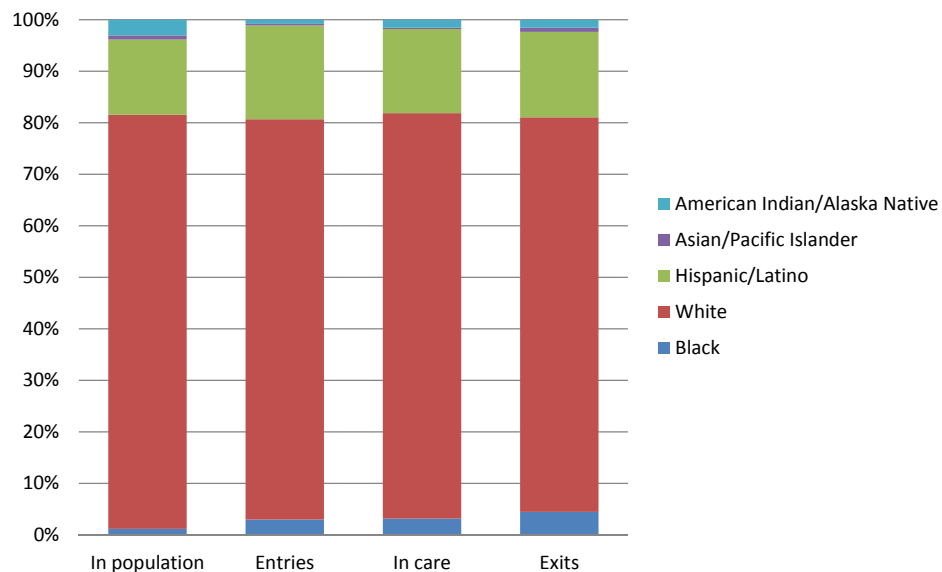
Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

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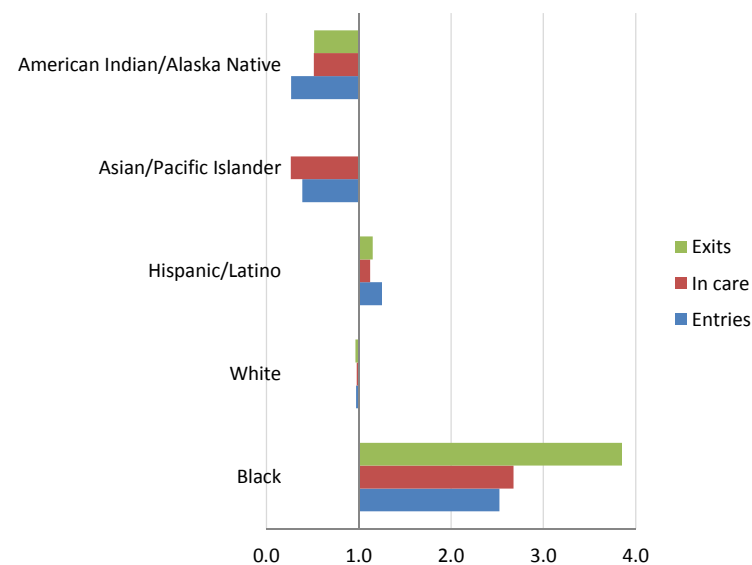
## Race/Ethnicity Profile

Wyoming

### Race/Ethnicity of Children in Out-of-Home Care, 2013



### Racial Disproportionality Index, 2013



#### Race/ethnicity breakdowns

	Population	Entries	In care	Exits
African American/Black (a)	1.1%	2.9%	3.1%	4.4%
Caucasian/White (b)	77.9%	75.6%	76.4%	75.2%
Hispanic/Latino (c)	14.2%	17.7%	15.9%	16.3%
Asian/Pacific Islander (d)	0.8%	0.3%	0.2%	0.8%
American Indian/Alaska Native (e)	3.0%	0.8%	1.5%	1.5%
More than one race	3.1%	1.1%	1.6%	0.9%
Missing	0.0%	1.6%	1.3%	0.9%
Total	100%	100%	100%	100%

#### Racial Disproportionality Index

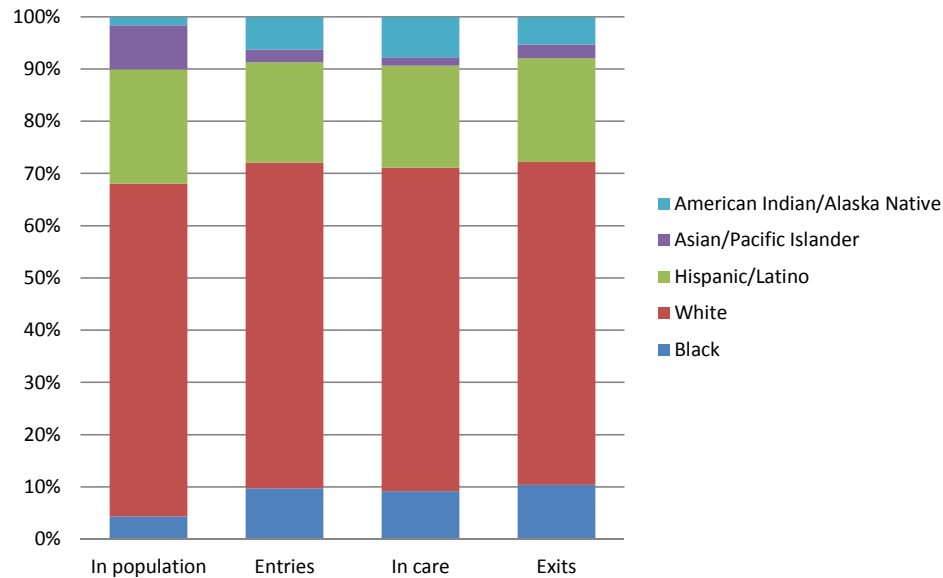
	Entries	In care	Exits
African American/Black (a)	2.5	2.7	3.9
Caucasian/White (b)	1.0	1.0	1.0
Hispanic/Latino (c)	1.3	1.1	1.2
Asian/Pacific Islander (d)	0.4	0.3	1.0
American Indian/Alaska Native (e)	0.3	0.5	0.5

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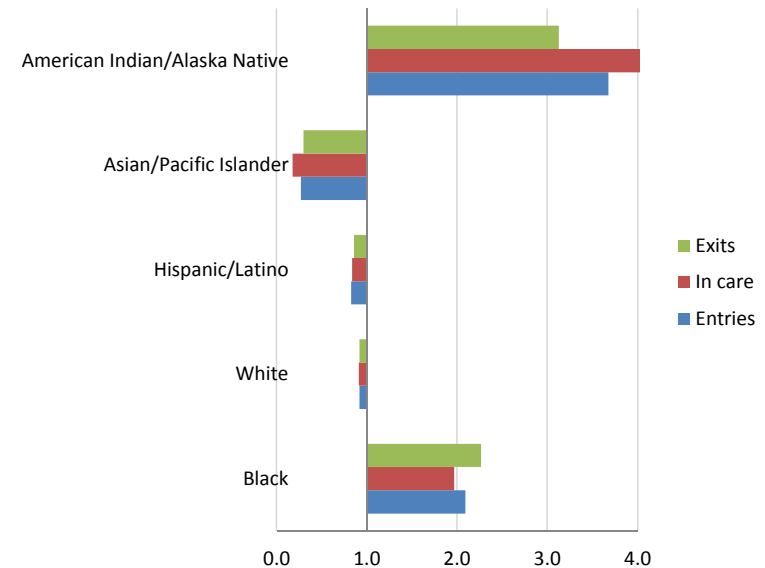
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**Race/Ethnicity of Children in Out-of-Home Care, 2013**



**Racial Disproportionality Index, 2013**



**Race/ethnicity breakdowns**

	Population	Entries	In care	Exits
African American/Black (a)	59.0%	81.3%	87.6%	85.2%
Caucasian/White (b)	20.9%	0.3%	0.2%	1.0%
Hispanic/Latino (c)	14.1%	9.3%	9.2%	9.1%
Asian/Pacific Islander (d)	2.2%	0.0%	0.2%	0.0%
American Indian/Alaska Native (e)	0.2%	0.0%	0.0%	0.0%
More than one race	3.6%	1.0%	0.7%	0.3%
Missing	0.0%	8.3%	2.3%	4.5%
Total	100%	100%	100%	100%

**Racial Disproportionality Index**

	Entries	In care	Exits
African American/Black (a)	1.4	1.5	1.4
Caucasian/White (b)	0.0	0.0	0.0
Hispanic/Latino (c)	0.7	0.6	0.6
Asian/Pacific Islander (d)	0.0	0.1	0.0
American Indian/Alaska Native (e)	0.0	0.0	0.0

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Source: Out-of-home care data from the Adoption and Foster Care Analysis and Reporting System, 2013 and 2013 population estimates from Census.gov.

(a) Children identified by the child welfare system as African American, non-Hispanic, and with only one race category. (b) Children identified by the child welfare system as White, non-Hispanic, and with only one race category. (c) Children identified by the child welfare system as having Hispanic origins; not a racial category. (d) Children identified by the child welfare system as Asian, which includes Hawaiian and Pacific Islander, non-Hispanic and with only one race category. (e) Children identified by the child welfare system as Native American, non-Hispanic, and with only one race category.

## **Bay Area Collaborative of American Indian Resources (BACAIR)**



The Bay Area Collaborative of American Indian Resources (BACAIR) is a gathering of Native American agency, state, and county representatives that practice within a framework of respect, wellness, cultural affirmation, healing and restoration for American Indian/Alaska Native families residing in the greater Bay Area. BACAIR promotes culturally appropriate responsiveness; strengthens permanent connections; informs policy and practice; honors government to government relations; provides guidance through governmental and agency systems; and facilitates awareness and access to resources for American Indian/Alaska Native families through collaboration, advocacy, engagement and education.

### **Los Angeles ICWA Stakeholders' Roundtable**

Judge Amy Pellman initiated a court-coordinated community response to Indian Child Welfare Act (ICWA) cases in Los Angeles County. In June of 2013, Judge Pellman requested the assistance of Vida Castaneda and Ann Gilmour from the Tribal/State Programs Unit, and TribalSTAR, a training academy program to create an ICWA stakeholders' roundtable for LA county comprised of tribal elders, ICWA advocates, tribal community leaders, TANF providers, school district representatives, parents' attorneys, children's attorneys, county counsel, adoption attorneys, representatives from the LA County Department of Children and Family Services, tribal representatives from tribes located outside California, local tribal representatives, native service providers, Casey Family Agency representatives, American Indian Children's Council representatives and statewide ICWA task force representatives. The attendance at each meeting ranges from 40-50 people on average.

Judge Pellman's vision was to bring together all ICWA stakeholders in LA for quarterly meetings in an effort to improve relations, increase effective communication, work on collaborative projects, improve long standing issues and overall provide better potential outcomes for Native American families. Judge Pellman convened a team that has successfully established a strong collaboration among equal partners, working together in a culturally respectful way to address issues of mutual concern.

This Roundtable has begun to address long-standing issues between the tribal and non-tribal communities. The meetings provide a safe environment for everyone to forward in an amicable way. They have also provided an opportunity for the tribal community to know Judge Pellman, develop trust, and gain a better understanding of how the court operates.

## **The Riverside County Tribal Alliance**

The Riverside County Tribal Alliance for Indian Children and Families is dedicated to increasing participation, communication, and understanding among the Court, the Tribes, and County agencies serving Native American families. The Alliance was formed in 2005 under the leadership of the Riverside Superior Court. The goal is to minimize Court and County intervention and increase Tribal participation and control over Native American children and families by developing culturally appropriate services. Alliance members are working to create and sustain partnerships founded upon understanding, communication, and cultural awareness among the sovereign tribal nations and community and governmental agencies.

The Alliance meets three times a year. Meetings are hosted by Alliance members and include presentations and discussions involving cultural awareness issues and Tribal programs. The Alliance has developed work groups that meet regularly throughout the year to discuss Tribal and Court issues. These workgroups are: Tribal Expert Witnesses; Standing Education Committee; Placement and Foster Care; and Domestic Violence.

# **Bay Area Collaborative of American Indian Resources (BACAIR)-Charter**

*Approved [Insert date], 2016*

## **Mission Statement:**

The Bay Area Collaborative of American Indian Resources (BACAIR) is a gathering of Native American agency, state, and county representatives that practice within a framework of respect, wellness, cultural affirmation, healing and restoration for American Indian/Alaska Native families residing in the greater Bay Area. BACAIR promotes culturally appropriate responsiveness; strengthens permanent connections; informs policy and practice; honors government to government relations; provides guidance through governmental and agency systems; and facilitates awareness and access to resources for American Indian/Alaska Native families through collaboration, advocacy, engagement and education.

## **BACAIR Membership & Structure:**

### **Membership**

BACAIR is currently comprised of Native American, state and county agency representatives within the San Francisco Bay Area. Membership and participation is encouraged by all agencies that serve American Indian/Alaska Native children and families in the greater Bay Area.

BACAIR membership includes the following organizations:

- American Indian Child Resource Center (AICRC)
- Intertribal Friendship House (IFH)
- Native American Health Center (NAHC)-San Francisco & Oakland sites
- Washoe Native TANF
- Indigenous Nations Child and Family Agency (INCFA)
- Judicial Council of California
- Alameda County Department of Children and Family Services
- San Francisco Human Services Agency

BACAIR has established placeholders for the following organizations and is particularly interested in developing partnerships with representatives from:

- Tribal Government Representatives
- Native and Non-Native Service Providers
- Parent Advocate Agency Representatives
- Juvenile Probation Representatives

- Judicial Officers
- Attorneys
- Title VII Representatives
- Housing and Urban Development Representatives
- Transition Youth Programs
- Behavioral Health Program Representatives
- Substance Abuse Program Representatives
- Additional greater Bay Area counties

All new members of the BACAIR will receive an official orientation and welcome by the BACAIR Steering Committee. The introductory process will help orient new members to the mission, goals and structure of the collaborative. It is the expectation of the collaborative that representation of member agencies be inclusive of leadership as well as direct service professionals. This inclusive approach is upheld to cultivate shared ownership of BACAIR collaborative efforts.

### **Membership Participation**

BACAIR success is dependent on members having active and authentic participation in meetings, events, and promoting practice change within systems and the community at large. Therefore, it is imperative that members attend meetings regularly to learn, share, and promote the spirit of ICWA at all levels of community and organization we work in or collaborate with. All member agencies shall participate in at least one affinity group regularly.

Tribal Members participation is critical in raising the voice and experience of American Indian/Alaska Natives. BACAIR honors and values this fundamental sharing of the rich history of rituals and customs to always anchor our dialogue, collective work, and lift our spirits to take on greater endeavors and challenges for change.

### **Structure**

The BACAIR structure serves to provide strategic focus on efforts that ultimately produce desired outcomes. The structure is supported by the guiding principles of BACAIR which include:

- The continuous forward progress as a collective
- The recognition of successes as a collective body through celebration
- The collaborative partnership is based on kindness and lifting up of other members
- The collaborative embraces a spirit of renewal, healing and wellness of all members
- The journey is never ending

## **BACAIR Meeting Structure Organization**

1. **BACAIR Steering Committee** – Representation on this body currently consists of a Native American Agency, leadership from local county child welfare systems, Casey Family Programs and staff for the Judicial Council of California. The steering committee will meet monthly to develop the overall vision for the collaborative, identify funding sources, responsible for promoting recommendations to system leaders that improve child welfare policy and practices related to services for Native American/Alaskan Indian youth and families, reviews recommendations to prioritize and guide actions of the affinity workgroups, plan for roundtable meetings and organize welcome orientation for new members.
2. **BACAIR Roundtable** – Representation on this body consists of all members of the collaborative as well as invited guests. The roundtable meets every other month and alternates locations between San Francisco and Alameda Counties. The roundtable meets to share cultural customs and traditions as well as to receive briefings on activities of the steering and affinity workgroups and updates from member agencies.
3. **BACAIR Affinity Workgroups** –Representation on affinity workgroups is a diverse and balanced team from member agencies. Affinity workgroups meet quarterly at minimum or more often as needed to develop recommendations on goals and strategies that will achieve desired outcomes of the collaborative in the following areas:
  - a. **Policy-** to include technical assistance, state interface, procedures, publications, judiciary;
  - b. **Outreach-** recruitment for BACAIR membership, communications, education, engagement, events, training, connections;
  - c. **Practice-**Team Decision Making Meetings, linkages to resources, practice advancements, urban trails.

Each affinity group shall identify who is responsible for the following for every meeting:

- a. Meeting Logistics
- b. Writing the Meeting Notes
- c. Co-Facilitators

### **Voting:**

1. 1 vote per Tribal government, agency and chair persons;
2. BACAIR chair persons may vote as needed;
3. BACAIR steering committee will decide on membership.



## **Funding:**

1. Grants will be sought to fund small projects including the creation of BACAIR brochures, welcome packets for new members and resource materials;
2. The Steering Committee will work closely with identified grant specialists that will assist BACAIR in seeking funding for specialized projects;
3. BACAIR members will work collaboratively on shared responsibilities for materials, events and identified projects;
4. Assignments to these shared responsibilities will be decided as a group.

## **Highlights and Accomplishments-LA ICWA Stakeholders' Roundtable** **2014-2015**

### **January 24, 2014**

- Beginning of outreach for the creation of LA county's peacemaking court
- Formation of subcommittees:
  - Recruitment of Foster Homes
  - Inquiry and Notice
  - Training
  - Private Adoption/Probate Guardianship
  - Communication and Tribal Engagement
  - Culturally Competent Resources & Services
  - Peacemaking

### **May 2, 2014**

- Attendees identified issues in regards to: psychotropic medication for children in foster care, outreach to tribes, noticing, ICWA training and recruitment of foster homes
- Sharing of resources/agencies with the group began
- Efforts began to recruit Native American foster homes through a PSA the ICWA Taskforce and members of the Recruitment of Foster Homes subcommittee created; outreach to be conducted at tribal community events
- Culturally Competent Resources and Services Subcommittee in discussion to revise the "Red Pages" booklet to now also include non-tribal agencies that can provide services to Native American families throughout LA County

### **July 25, 2014**

- Recruitment of Foster Homes sub-committee beginning to conduct outreach to tribes and FFAs in an effort to recruit Native foster homes
- Strong requests from the group for attorneys and judicial officers to be trained on ICWA

### **October 24, 2014**

- Active foster parent recruiting plan-Navajo, Cherokee, Choctaw, Picayune Rancherio Chukchansi, and Northport Rancherio were mailed brochures and cover letters. The Recruitment of Foster Homes subcommittee distributed brochures and invites for recruiting event on November 2, 2014 via email. This subcommittee also conducted a great amount of outreach to recruit homes at every tribal community event.
- The Culturally Competent Resources and Services Sub-committee finished updating the Red Pages booklet of resources consisting of tribal and non-tribal agency resource listings that serve Native American Families in LA County.

### **December 5, 2014**

- Judge Nash darkened 20 courtrooms for a mandatory training on ICWA
- Los Angeles Superior Court Judicial Officers and attorneys were trained on ICWA history and purpose, technical and practical training on law.

### **February 27, 2015**

- The First Annual Native Recruitment event was held on 11/20/2014. As a result, five people are going through the process of being evaluated and approved to become foster and adoptive parents. There will be a presentation to the Los Angeles Chapter of the American Indian Chamber of Commerce in April 2015.
- On January 31, 2015, an ICWA and genealogy training was conducted for community members.
- Outreach began to local universities/colleges to attend meetings and volunteer opportunities for students within the tribal community.
- Several meeting attendees attended TribalSTAR's Training the Trainer Event for additional information on conducting an ICWA training.
- Two PSA sound bites were created to recruit additional Native foster homes.
- Tribal Court-State Court Forum, Co-Chair, Appellate Justice Dennis M. Perluss attended this particular meeting to provide information about the Tribal Court-State Court Forum and interact with meeting attendees.

- Peacemaking Film, Vanessa Petty, Red Hook Project, Brooklyn, NY- Ms. Petty gave a presentation on the Peacemaking process in Red Hook. A film was shown of participants describing their experiences with the Peacemaking project in the pilot year.
- Recruiting Foster Homes, Margaret Orrantia, Tribal Star- Ms. Orrantia gave a presentation regarding the history of the recruitment and retention of American Indian foster families, strategies that agencies or the community can utilize to recruit additional homes and the process of certifying/licensing Native American homes.

### **May 15, 2015**

- Casey Family Programs offered to assist the group with strategic planning.
- The Center for Council (<http://www.centerforcouncil.org/>) will be helping Judge Pellman with the Peacemaking Court Pilot Program.
- Recruitment of Foster Homes sub-committee reported that the 5 Native American families that requested to be foster parents are no longer participating in becoming licensed foster homes. This sub-committee will conduct outreach to those particular families to get a better understanding of why they declined to continue the process and review training materials to make sure they are culturally appropriate.
- The Communication and Tribal Engagement sub-committee is beginning to contact out of state tribes to ask the preferred method of contact from social workers etc in California and the ways they can interact/teach cultural traditions to their tribal children in foster care.

*Award Winning*

# RED PAGES® 2015



A RESOURCE GUIDE FOR THE  
AMERICAN INDIAN/ALASKA NATIVE COMMUNITY  
IN LOS ANGELES COUNTY

UNITED AMERICAN INDIAN INVOLVEMENT, INC.  
SEVEN GENERATIONS CHILD AND FAMILY SERVICES



UNITED AMERICAN INDIAN INVOLVEMENT, INC.  
SEVEN GENERATIONS CHILD AND FAMILY SERVICES  
1125 W. 6TH ST., SUITE 103  
LOS ANGELES, CA 90017

*“Promoting harmony and healing in American Indian Youth  
and their families in Los Angeles County”*



In 2001, United American Indian Involvement, Inc. (UAI) Circles of Care (COC) project was one of seven projects nationally awarded a three-year planning grant from the Substance Abuse and Mental Health Service Administration (SAMHSA). This grant supported the design of a System of Care model (SOC) for the local American Indian and Alaskan Native (AI/AN) community in Los Angeles County. As a part of this project, the AI/AN community reported a need for a resource directory and recommended calling it the "Red Pages".

In 2005, UAI was awarded the SAMHSA System of Care (SOC) a six-year implementation grant. This grant allowed Seven Generations Child and Family Services to establish a full array of **culturally appropriate mental health and support services organized into a coordinated network in order to meet the unique clinical and functional needs of American Indian/Alaska Native children, youth and families in Los Angeles County.** The UAI SOC project was able to finalize this resource directory based on the community's recommendations and continues to publish a revised issue each year.

If you have any further suggestions or additions please contact:  
**United American Indian Involvement, Inc.**  
**Seven Generations Child and Family Services**  
Phone: (213) 241-0979, Ext. 7106  
Email: [seven\\_generations@hotmail.com](mailto:seven_generations@hotmail.com)



A series of horizontal lines for writing, starting with a decorative geometric pattern on the left side.



# INDIAN NATIVE COMMUNITIES OF CARE



Brings together California’s American Indian and Alaska Native Wellness Movement.

Los Angeles County is home to the largest urban population of Native Americans in the country with over 154,000. Representing over 125 different tribes and geographically dispersed widely throughout Los Angeles County, at times Native Americans in L.A. may feel isolated. However, you are not alone.

The Historical Trauma Native Americans have experienced has had profound impact on our path to wellness. Together we will overcome the impact of Historical Trauma to ensure each Native person in Los Angeles is on a path to wellness.

We as American Indians and Alaska Natives are a part of a community that cares, and you can seek and receive help for your mental, emotional, spiritual, and physical health and wellness.



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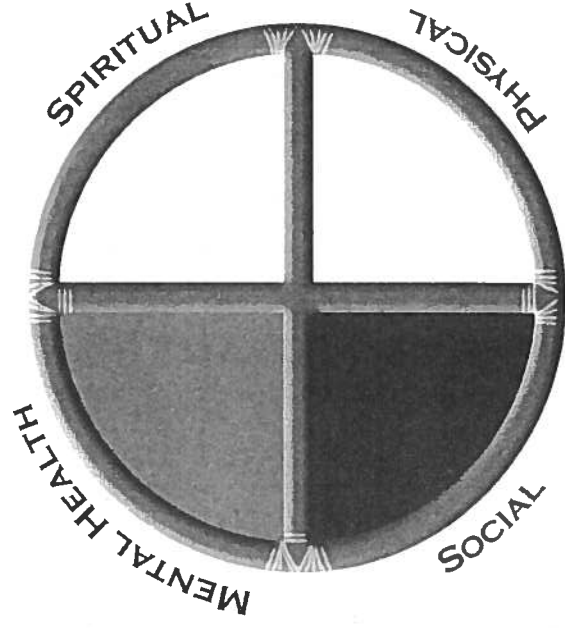
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We all cope with issues differently, but we are all Native Americans and can draw strength from our culture and traditions. The services we receive must be culturally appropriate services and with our culture and traditions integrated into our overall care.

As a youth, you are very important to our Native community. As our future, you are the next generation. Your health and wellness are important, not just for this generation, but the generations behind you and the generations to come. We are here for you.

As Native people we are not defined by a feeling or a diagnosis, but we are people that matter. We are Tribes and Native American organizations working together to support behavioral health and wellness for mind, body, and spirit.

Los Angeles has many supportive services and resources available to our Native community. We are a community that cares.





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**I. AMERICAN INDIAN/ALASKA NATIVE AGENCIES**

The County of Los Angeles has a wealth of social services available to its residents. There are primarily five American Indian social service organizations in Los Angeles County that provide a range of services to the community. Two of these are private, non-profit agencies: United American Indian Involvement, Inc. and the Southern California Indian Center. The three public sector programs include the Department of Mental Health American Indian Counseling Center, the Department of Children and Family Services Indian Child Welfare Program, and Torres-Martinez Tribal Temporary Assistance to Needy Families (TANF). There are several additional American Indian programs and independent providers that offer more specialized services. The following is a description of the AI/AN human services providers utilized by the community in Los Angeles County.

**UNITED AMERICAN INDIAN INVOLVEMENT, INC.**

1125 West 6th St., Suite 103  
Los Angeles, CA 90017  
Tel: (213) 202-3970 • Fax: (213) 202-3977  
[www.uaii.org](http://www.uaii.org)

Founded in 1974, United American Indian Involvement, Inc. (UAIH) is a non-profit multi-service agency, located in SPA 4 area of Los Angeles, whose mission is to enhance the health and well being of the American Indian/Alaska Native community in all of Los Angeles County. Currently, UAIH provides a wide range of services to more than 3000 American Indians across Los Angeles County. These services include outreach, case management, linkage and referral, health education and promotion, risk assessment, disease and injury prevention, STD/TB/Hepatitis screening, access to medical and dental services, vocational counseling, youth services (mentorship, education, tutoring, recreation, and cultural activities), substance abuse counseling and treatment, and mental health services.

*continued on next page*

UAI provides these services to AI/AN men, women, and children across Los Angeles County through a System of Care, which utilizes Memoranda of Understanding (MOU's) with other partnering agencies and providers. Because the AI/AN community is dispersed throughout the County, UAI has determined that this is the most effective manner in which to provide these services to its targeted population. A brief description of the different programs that comprise UAI's system of services is offered:

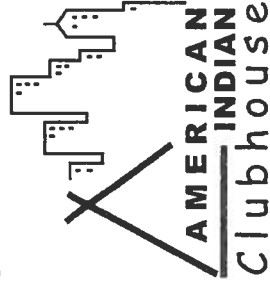
### **UAI - Central High School Program**

Central High School is an instructional program thru LAUSD that provides a culturally sensitive program for AI/AN youth who are in need of an alternative program to complete high school. This program provides all the course work and academic testing required by LAUSD to earn a high school diploma. Regular hours of instruction are from 8:00am to 12:30pm, Monday through Friday. Students should be at least 16 years of age and may be older than 18 to be considered for enrollment. Our mission is to provide academic, health and social services, which are culturally responsive to the needs of our AI/AN youth and their families. The school also encourages all students to attend after-school and Saturday classes at nearby colleges and career training institutions and will provide information and placement assistance for students to find them.

### **UAI - Los Angeles American Indian Clubhouse**

The mission of the Clubhouse is to provide services that enhance the growth and well-being of AI/AN youth in Los Angeles in a manner that is respectful to cultural and tribal values. The Clubhouse offers an after-school enrichment program and weekend activities to youth, ages 5-17.

- TUTORING and EDUCATIONAL ACTIVITIES
- SPORTS and RECREATIONAL ACTIVITIES
- CULTURAL ACTIVITIES and FIELD TRIPS
- PEER WORKSHOPS that DEVELOP SELF-ESTEEM, CONFIDENCE, and JOB SKILLS
- PREVENTION/AWARENESS about SUBSTANCE/TOBACCO ABUSE, and TEEN PREGNANCY



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### **Domestic Violence Hotline**

24 hours per day, 7 days per week.  
Adult Domestic Violence: (310) 370-5902  
Adolescent Domestic Violence: (310) 379-3620

### **Elder Abuse Hotline**

24 hours per day, 7 days per week.  
Toll Free: (800) 992-1660  
(877) 477-3646

### **Mental Health Information Hotline**

Provides 24-hour crisis intervention services  
as well as mental health referrals.  
24 hours per day, 7 days per week.  
Toll Free: (800) 854-7771

### **Pregnancy Counseling Hotline**

Provides free pregnancy testing baby items and confidential counseling.  
Bilingual.  
24 hours per day, 7 days per week.  
Toll Free: (877) 675-5900  
Tel: (310) 518-4135  
[www.harborpregnancy@sbcglobal.net](http://www.harborpregnancy@sbcglobal.net)

### **Rape Hotline "Peace Over Violence Organization"**

24 hours per day, 7 days per week.  
(213) 626-3393  
(626) 793-3385  
[www.peaceoverviolence.org](http://www.peaceoverviolence.org)

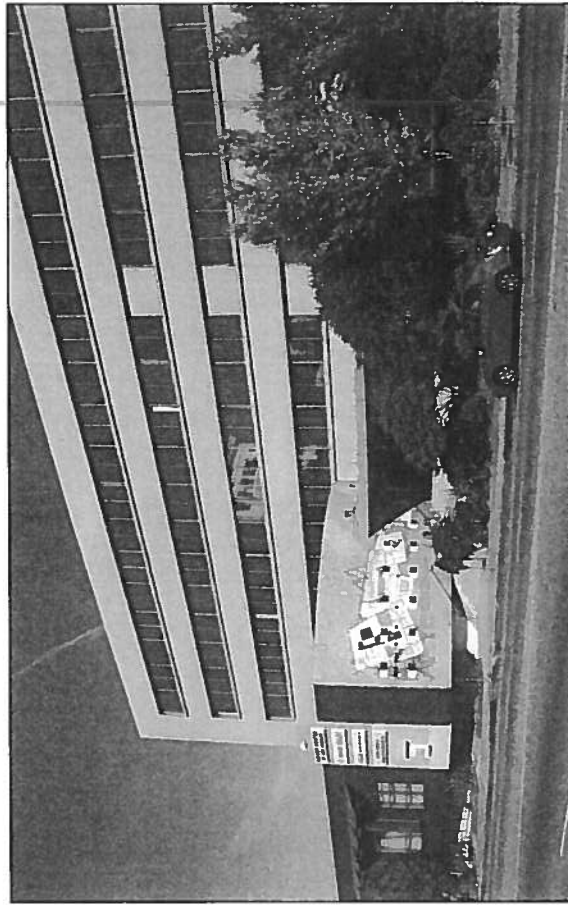
### **Suicide Prevention Center Hotline**

24 hours per day, 7 days per week.  
Los Angeles County Only/Toll Free: (877) 727-4747  
[www.suicidepreventioncenter.org](http://www.suicidepreventioncenter.org)

## **UAI - Los Angeles American Indian Health Project**

UAI's Health Project was designed and implemented in 1996 to enhance the well-being of the AI/AN community in metropolitan Los Angeles by providing public health services and access to quality health care. The primary services are: comprehensive case-management, public health nursing and access to medical, dental, vision and specialty care services. The scope of public health nursing services includes the following: home visits for the purpose of health and safety assessments; office health screening and risk assessments for hypertension, diabetes and obesity; screening for substance abuse; screening and access for child immunizations; providing tuberculosis skin tests and flu shots for adults/high risk clients; health education for disease management and disease prevention; injury prevention education, provision of car seats, bicycle helmets and smoke detectors; crisis intervention and referral to mental health services. The program has established agreements (MOU's) with medical care facilities, dental clinics, and vision and pharmacy services located strategically in areas where AI/AN clients need access.

- COMPREHENSIVE CASE MANAGEMENT
- PUBLIC HEALTH NURSING
- HEALTH EDUCATION
- ACCESS TO MEDICAL, DENTAL AND VISION SERVICES



## UAI - Robert Sundance Family Wellness Center

The Wellness Center provides direct access to residential treatment, medical detoxification and sober living facilities for American Indians/Alaska Natives. Programs are designed to assist and support American Indians during and after successful completion of residential or outpatient treatment. The components include outreach, assessment, case management, substance abuse and mental health counseling, public health nursing assessments, youth and adult medical detoxification and residential treatment, recovery support services, cultural and spiritual activities and one-on-one support through the rehabilitation of a client. The project has established MOU's with several residential treatment centers to facilitate access, treatment and sober living aftercare. The Wellness Center also provides social services; including some nutritional commodities, housing assistance, and access to public assistance. The Senior program provides social services; including some nutritional commodities, housing assistance, and access to public assistance. The Senior program provides recreational and social activities for seniors including a meal program, a weekly sewing circle, monthly gatherings, and talking circles.

- OUTPATIENT SUBSTANCE ABUSE and MENTAL HEALTH TREATMENT
- ACCESS to MEDICAL DETOXIFICATION
- ACCESS to RESIDENTIAL TREATMENT PROGRAMS
- ACCESS to SOBER LIVING
- RECOVERY SUPPORT SERVICES
- SOCIAL SERVICES • ELDERS SERVICES
- CULTURAL and SPIRITUAL ACTIVITIES

## Annual Robert Sundance Summer Youth Camps

Started in 1991 in the Eastern Sierra Nevada Mountains, UAI has two one-week summer camps based at Big Pine, CA. Each camp has recreational, cultural and educational activities for youth, ages 5-17 years.

## The Robert Sundance Workforce Development Program

Provides services to American Indian/Alaska Native men and women to assist them to achieve self-sufficiency through sustainable employment. Through a case management model, access is provided to vocational assessment, academic evaluation, pre-employment skills training, classroom training, job club, career counseling and career development.

- CAREER COUNSELING/ DEVELOPMENT
- JOB SEARCH TRAINING and SUPPORT

## XII. CRISIS HOTLINE CONTACTS

### Angel's Flight/Outreach Hotline

Provides shelter for runaway and homeless youth, 10-17 years old. 24 hours per day, 7 days per week, services are free.

357 S. Westlake Avenue  
Los Angeles, CA 90057  
Toll Free: (800) 833-2499  
Tel: (213) 413-2311  
Fax: (213) 413-5690  
[www.catholiccharitiesLA.org](http://www.catholiccharitiesLA.org)

### California AIDS Hotline

Friday: 9:00 am – 5:00 pm Tuesday: 9:00 am – 9:00 pm  
San Francisco AIDS Foundation  
PO Box 426182  
San Francisco, CA 94142  
Toll Free:  
(800) 367-2437  
(800) 367-AIDS  
[www.sfaf.org](http://www.sfaf.org) • [www.lacityaids.org/links](http://www.lacityaids.org/links)

### Child Abuse Reporting Hotline

24 hours per day, 7 days per week.  
Toll Free:  
(800) 540-4000  
[www.lacountydcfs.org](http://www.lacountydcfs.org)

## **Christian Food Bank**

1101 E. Washington Blvd.  
Los Angeles, CA 90021  
Phone: (213) 741-0213 • Alt Phone: (213) 741-0348  
Fax- (213) 741-2109

Website: [www.christianfood.org](http://www.christianfood.org)

Email: [karimealmanza@yahoo.com](mailto:karimealmanza@yahoo.com)

Hours: Monday and Saturday 9am-1pm, Tuesday and Friday 9am-3pm

Christian food is a non-profit organization that provides basic food staples to disadvantaged families living in Los Angeles County. No Registration fee and \$25 for 200lbs of food.

## **Los Angeles Regional Food Bank: Fighting Hunger. Giving Hope**

1734 East 41st St.  
Los Angeles, CA 90058  
Phone: (323) 234-3030 • Fax: (323) 234-0943  
[www.lafightshunger.org](http://www.lafightshunger.org)

## **Westside Food Bank**

Phone (310) 828-6016 • Fax: (310) 828-2646  
[www.westsidefoodbankca.org](http://www.westsidefoodbankca.org)

Westside Food Bank supplies food to the food assistance programs of social service agencies in Santa Monica, Venice, Culver City, West Los Angeles, West Hollywood, Inglewood, and the LAX area. Through the services of our member agencies, our food reaches the most vulnerable members of these communities, including:

- Children in preschool, after-school, and day-care programs who don't get enough to eat at home and whose health, academic performance, and general well-being are threatened by hunger.
- Unemployed, under-employed, and working poor people who need help making ends meet.
  - Seniors on fixed incomes and the frail elderly.
  - Women and children living in domestic violence shelters.
  - Homeless individuals who are without the basic necessities.
  - The mentally ill, the disabled, and those with chronic illnesses who need assistance.
- Veterans who may face the challenges of readjustment, ill-health, or poverty.

## **UAI - Seven Generations Child and Family Services**

Seven Generations Child and Family Services were added to UAI's programs in 2001. Seven Generations was developed to meet the growing mental health needs of AI/AN children and their families in Los Angeles County. The program provides an array of services including: individual, family and group therapy, child mental health, adult mental health, crisis intervention, access to medication support, parent education and training, case management, referral and linkage to services or agencies, outreach services, prevention and education, and traditional healing. All services provided are culturally sensitive to American Indians. The name, Seven Generations, refers to a core philosophical value of many AI/AN tribes. The belief that the responsibility for the well being of future generations rests on every generation that comes before them. If we act and make decisions that have the best interest of the Seventh Generation of our future children, we will engage in behaviors that ensure healthy future generations of American Indians and Alaska Natives.

## **UAI - Seven Generations - Innovations**

Innovations Integrated Services Management program funded by the Los Angeles County Department of Mental Health and is a culturally competent integrated service plan that is designed to increase the quality of services for the Los Angeles American Indian/Alaskan Native community. This program builds on the strengths of the AI/AN community and strengthens partnerships that foster the integration of mental health, physical health and substance abuse services. The target population for these services are American Indian/Alaskan Natives (tribal enrollment not necessary) and family members with a mental health need, a physical health and/or substance abuse services need. These services are available to all ages, no insurance necessary.

- **Outreach, Engagement and Education Services**  
These services inform individual and the community, help establish trusting relationships, and increases awareness/decreases stigma of mental health care.
- **Integrated Care and Support**  
Help screen for mental health needs, physical health needs and substance abuse needs. Initial screening helps determine eligibility and helps assess which integrated services are needed.
- **Peer-Based Enhanced Services, Linkages, and Advocacy**  
Support includes benefits establishment, advocacy, life skills building, referrals linkages for housing, childcare, education, vocational training and cultural services.
- **Integrated Care Network**  
This may include therapy/counseling, substance abuse counseling, mediation support, crisis intervention, targeted case management, family supportive services, collateral support, team meetings, group counseling, preventative health education/screenings, and cultural services.

### • **Cultural Services**

Included cultural support services include: Talking Circles, therapy with horses, Sweat Lodge, Traditional Healers, storytelling, language classes, traditional sports/games, cultural arts and crafts that include beading, drumming, regalia making, weaving, pottery and basketry.

### **UAII - Seven Generations Family Preservation and Family Support Programs**

Programs that provide caregivers (parents, relatives, non-relative extended family members, legal guardians, foster parents, or adoptive parents) with adequate parenting skills to successfully nurture their child(ren).

The goals of the program include: promoting the safety of AI/AN children and families and increasing the strength and stability of AI/AN families; increasing parents' confidence and competence in parenting abilities to enhance child development; and strengthening AI/AN parental relationships. Services include:

#### **Family Preservation**

- REFERRAL AND ASSESSMENT • EMERGENCY RESPONSE SERVICES
- VOLUNTARY FAMILY MAINTENANCE SERVICES
- SUPPLEMENTAL SERVICES SUCH AS COUNSELING, CHILD FOCUSED ACTIVITIES, AND TRANSPORTATION
- LINKAGE SERVICES SUCH AS CHILD CARE, EMPLOYMENT, HOUSING, AND HEALTHCARE
- EMERGENCY BASIC SUPPORT SERVICES
- PARENT-CHILD AND/OR FAMILY CENTERED CULTURAL ACTIVITIES
- HEALTH, PARENTING AND/OR EDUCATION PROGRAMS
- CASE MANAGEMENT SERVICES • LINKAGE SERVICES

### **UAII - Seven Generations Native Pathways to Healing**

Domestic Violence/Sexual Assault Program funded by the Office of Emergency Services and the Child Abuse Treatment (CHAT) Program. The programs provide services for AI/AN women and families who have been victims of domestic violence and/or sexual assault as well as children who are or have been victims of child abuse. Services that are provided include: therapy, case management, advocacy, emergency shelter referrals, and other referrals.

#### **Domestic Violence/Sexual Assault Services (DV/SA)**

- COMMUNITY OUTREACH & TRAINING • INDIVIDUAL COUNSELING
- SUPPORT GROUPS • EMERGENCY TRANSPORTATION
- ADVOCACY AND LINKAGE SERVICES

#### **Child Abuse Treatment Program (CHAT) • THERAPY**

- CASE MANAGEMENT • ADVOCACY, VICTIM WITNESS ASSISTANCE

### **The Foley House**

Phone: (562) 944-7953

This shelter treats both substance abuse issues and domestic violence.

## **FOOD BANKS**

### **World Harvest Food Bank**

1014 Venice Blvd., Los Angeles, CA 90015

Phone: (213) 746-2227

Hours: Monday- Friday 8am- 6pm Saturday 8am-3pm

World Harvest Food Bank (WHFB) receives many forms of help and support with their mission to provide food to needy individuals and families in times of need. You and your family are the final recipients of this chain of help. Every time a crate of produce is donated from a chain supermarket, or a shipment of fruits or vegetables arrives to WHFB from a farmer, this is done with the knowledge and understanding that families and individuals in need will benefit from them. In times of hardship, when your determination and forbearance are tested, it is good to know that a portion of America's harvest is destined to relieve you in your time of need. World Harvest Food Bank is one facilitator of this constant flow of aid, and we're here because they care about your well being and your family's.

### **God Provides**

2453 Troy Ave., South El Monte, CA 91733

Phone: (626) 442-4273

Hours: Monday -Friday 8am-4pm Saturday 8am-2pm

God Provides Ministry Native American Food Bank (GPNAFB) has continued its positive growth with hard work and dedication to basic fundamentals. (GPNAFB) is a leader in the food bank industry with Food Rescue and giving quality food and services. (GPNAFB) does their best to teach respect for our donations, and building the family packages with care. (GPNAFB) 100 Family Pack Program of dry goods, breads, fresh fruits and vegetables alongside our frozen dairy and meats is amazing due to the quantity and quality. (GPNAFB) is looking to build our packages as a blessing and to be a week's worth of food for a family of four.

God Provides NAFB works directly with many family centers, outreach programs, veteran stand downs, and providing emergency foods for homeless feedings or event feedings. Donations for operational expenses are greatly needed to offset our expense of transportation, refrigeration, and warehouse. (GPNAFB) operate on faith, and promote humanity for one another to receive the Creators blessing.



## **XI. SHELTER, FOOD, AND CLOTHING RESOURCES**

### **The People's Guide to Welfare, Health, and Other Services**

#### **The People's Guide:**

- Gives practical information about how to get food, money, housing, health care, and other help from government programs and community services if you live in Los Angeles County and need the help in hard times.
- Gives advice on what to do if treated unfairly or do not receive what you are entitled by law.
- Is dedicated to helping all people overcome barriers when they try to get help. Every person had the right to enough food, housing, and health care.

Information available online at:

[http://d3n8a8pro7vhm.cloudfront.net/hungeractionla/pages/28/attachments/original/1394058513/English\\_People's\\_Guide-2013.pdf?1394058513](http://d3n8a8pro7vhm.cloudfront.net/hungeractionla/pages/28/attachments/original/1394058513/English_People's_Guide-2013.pdf?1394058513)

## **SHELTER RESOURCES**

### **Homeless.org**

Homeless.org provides information and resources to help homeless individuals regardless of their circumstances. They can help connect you to shelters throughout the United States and in your area. Every Month, Homeless.org are adding new links to assistance programs and resources to assist homeless individuals get back on their feet.

Information available at: [www.homeless.org](http://www.homeless.org)

### **Beyond Shelter**

Provides housing relocation assistance for homeless families.

Monday – Friday: 9:00 am - 5:00 pm

1200 Wilshire Blvd., Suite 600, Los Angeles, CA 90017

Tel: (213) 252-0772 • Fax: (213) 480-0846 • [www.beyondshelter.org](http://www.beyondshelter.org)

### **Haven Hills**

Phone: (818) 887-6589

This is the hub for all DV shelters, call in by 8am and a list of all available beds throughout Los Angeles County will be given.

### **Haven House**

Phone: (323) 681 2626

### **House of Ruth**

P.O. Box 459, Claremont, CA 91711

Phone: (877) 998-5559

## **SOUTHERN CALIFORNIA INDIAN CENTER, INC.**



### **ORANGE COUNTY - Corporate Office**

10175 Slater Ave., Suite 150

Fountain Valley, CA 92708

Tel: (714) 962-6673 • Fax: (714) 962-6343

[www.indiancenter.org](http://www.indiancenter.org)

Email: [indiancenter@indiancenter.org](mailto:indiancenter@indiancenter.org)

### **LOS ANGELES**

3440 Wilshire Blvd., Suite 904

Los Angeles, CA 90010

Tel: (213) 387-5772 • Fax: (213) 387-9061

Email: [receptionist@indiancenter.org](mailto:receptionist@indiancenter.org)

### **HIGHLAND PARK**

American Indian Families Partnership

5809 N. Figueroa St.

Los Angeles, CA 90042

Phone: (323) 274-1070 • Fax: (323) 982-1575

Serving the AI/AN community of Southern California since 1969, Southern California Indian Center (SCIC) is a non-profit multi-service agency whose mission is to promote social and economic self-sufficiency of AI/AN and Native Hawaiians. Their goal is to foster and promote programs for general welfare, education, culture, and eliminate barriers of discrimination through the education of the general public on AI/AN issues and culture. SCIC has offices in four Southern California counties including Los Angeles County. A brief description of the different programs that comprise SCIC's system of services is offered:

### **SCIC - Employment and Training Program**

The Employment and Training program provides individual vocational training and employment assistance for AI/AN and Native Hawaiians that are unemployed, underemployed or economically disadvantaged.

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Services offered include direct employment, GED program, adult work program, on-the-job training, pre-employment skills training, special work experience, vocational skill development, and a continuation high school.

- EMPLOYMENT ASSISTANCE • VOCATIONAL TRAINING
- PRE-EMPLOYMENT/ on the JOB TRAINING
- YOUTH EMPLOYMENT • MULTI MEDIA TRAINING

### **SCIC - Education Component**

The Southern California Indian Center's Education Component is a program dedicated to improving the academic achievement, self-esteem, social interaction, and cultural pride of AI/AN students in Los Angeles and Orange counties and is funded by the California State Department of Education and the Johnson O'Malley Program. The Education Component works in cooperation with public and private schools, colleges and universities, and community agencies to provide the following services: Tutoring, Reading Club, Intertribal Cultural Arts Workshop, Intertribal Dance Workshop, Students Run LA, Youth Programs, Intertribal Student Council, Parent Development Programs, and Resource Library.

- TUTORING
- CULTURAL DANCE/ARTS WORKSHOPS
- YOUTH/ STUDENT PROGRAMS
- PARENT DEVELOPMENT PROGRAMS

### **American Indian Family Program**

The American Indian Family Program is a collaborative of American Indian organizations whose resources prevent and/or curtail American Indian child abuse, neglect or maltreatment. In Los Angeles County, program assistance is made to at-risk, pregnant American Indian women (and to fathers of the unborn children) and to American Indian families referred by Los Angeles County Department of Child & Family Services. Referrals for assistance can be made to the project director or manager; Fax: (323) 982-1575. Southern California Indian Center, Inc. is the lead fiscal agent for AIFP.

- POSITIVE INDIAN PARENTING • FINANCIAL LITERACY
- FAMILY AND CHILD ADVOCACY • LEADERSHIP
- EMERGENCY SHELTER REFERRALS • CASE MANAGEMENT
- FAMILY AND CULTURAL ACTIVITIES • SCHOOL READINESS

### **Learning Rights Law Center**

205 S. Broadway, Suite 808, Los Angeles, CA 90012

Phone: (213) 489-4030

Contact Person: Ines Kuperschmidt or Janeen Steel

Email: [ines@learningrights.org](mailto:ines@learningrights.org) or [janeen@learningrights.org](mailto:janeen@learningrights.org)

Website: [www.learningrights.org](http://www.learningrights.org)

Learning Rights Law Center seeks to ensure that all students are provided with equitable access to the public education system, with a focus on low-income children that have disabilities, face discrimination or are involved in dependency or juvenile justice systems.

### **Office of Client's Rights Advocacy California**

Phone: (866) 833-6712

Contact Person: Katie Hornberger

Email: [Katie.Hornberger@disabilityrightsca.org](mailto:Katie.Hornberger@disabilityrightsca.org)

Website: [www.disabilityrightsca.org/about/ocra.htm](http://www.disabilityrightsca.org/about/ocra.htm)

The Office of Client's Rights Advocacy (OCRA) is part of Disability Rights California. OCRA is funded through a contract with the California Department of Developmental Services. OCRA has been providing advocacy services to regional center consumers, their families, and interested community members since 1999. OCRA provides legal services to consumers of all 21 regional centers throughout California. This is done by having a Clients' Rights Advocate (CRA) designated for each regional center catchment area. The CRA can help with legal problems, conduct trainings, and investigate denial of rights.

### **Mental Health Advocacy Services**

3255 Wilshire Blvd, #902, Los Angeles, CA 90010

Phone: (213) 389-2077 Contact: Pam Marx

Email: [pmarx@mhasla.org](mailto:pmarx@mhasla.org) • Website: [www.mhasla.org/default.htm](http://www.mhasla.org/default.htm)

Mental Health Advocacy Services, Inc. (MHAS) is a private, non-profit organization whose mission is to protect and advance the legal rights of children and adults with mental disabilities. Since 1977 MHAS has provided free legal services to low-income individuals and families, with an emphasis on obtaining government benefits and fighting discrimination. MHAS also serves as a resource to the community by providing training and technical assistance to attorneys, mental health professionals, consumer and family member groups, and other advocates. In addition, MHAS participates in impact litigation in an effort to improve the lives of people with mental disabilities.

## Alliance for Children's Rights

3333 Wilshire Blvd., Suite 550, Los Angeles, CA 90010

Phone (213) 368-0506

Fax (213) 368-6016

Contact Person: Laura Streimer

Email: [l.streimer@kids-alliance.org](mailto:l.streimer@kids-alliance.org)

[www.kids-alliance.org](http://www.kids-alliance.org)

The Alliance for Children's Rights protects the rights of impoverished abused and neglected children and youth. By providing free legal services and advocacy, the Alliance ensures children have safe, stable homes, healthcare and the education they need to thrive. Areas of advocacy include: Education, Benefits, SSI, Health Care, Adoption, Guardianship, NextStep (transition age youth services) and System Wide Reform.

### Bet Tzedek

3250 Wilshire Blvd., 13th Floor, Los Angeles, CA 90010

Phone: (323) 939-0506

Fax: (213) 471-4568

Contact Person: Tiffany Tsao

Email: [tsao@bettzedek.org](mailto:tsao@bettzedek.org) • Website: [www.bettzedek.org](http://www.bettzedek.org)

Provides free comprehensive legal services for low-income individuals and families in Los Angeles. Areas of practice include Elder Law, Consumer Rights, Housing Law, Government Benefits, Employment Rights, Holocaust Survivor's Services, Guardianships and Conservatorship.

### Disability Rights Legal Center

Loyola Law School Public Interest Law Center

800 S. Figueroa St. Suite 1120, Los Angeles, CA 90017

Phone: (213) 736-1334

Contact Person Paula Pearlman

Email: [Paula.Pearlman@lls.edu](mailto:Paula.Pearlman@lls.edu)

Website: <https://disabilityrightslegalcenter.org>

DRLC serves people with disabilities, with an emphasis on low-income individuals, residing throughout California. Although our work is local our impact is national. We maintain specialized programs that focus on areas of pressing concern to the disability community. Our client base includes people with all types of disabilities; people affected by cancer and HIV; children and students with disabilities; medically fragile children and wounded veterans.

## TORRES-MARTINEZ TRIBAL ASSISTANCE FOR NEEDY FAMILIES (T.A.N.F.)



### TORRES MARTINEZ TRIBAL TANF

OUR PEOPLE HELPING OUR PEOPLE

Torres-Martinez Tribal TANF (TMTT) is a federally funded program administered by the Torres-Martinez Desert Cahuilla Indian Tribe. They operate four area offices in Los Angeles County and three in Riverside County. The TANF headquarters office is located on the Torres-Martinez Reservation in Thermal, CA. Their area office locations for Los Angeles County are as follows:

#### COMMERCE

5771 Rickenbacker Road, Commerce, CA 90040

Tel: (323) 313-1300 • Fax (323) 201-4675 • Toll Free: (800) 665-7292

#### LONG BEACH

4500 E. Pacific Coast Highway, Suite 500

Tel: (310) 878-1600 • Fax (562) 446-4498 • Toll Free: (800) 665-7649

#### PALMDALE

460 West Palmdale Blvd., Palmdale CA 93551

Tel: (661) 466-1100 • Fax (661) 625-1870 • Toll Free: (800) 665-6781

#### LOS ANGELES

3450 Wilshire Blvd., Suite 950, Los Angeles, CA 90010

Tel: (213) 816-2000 • Fax (213) 739-2578 • Toll Free: (800) 665-7228

[www.TANF.org](http://www.TANF.org) and (888) 787- TANF(8263)

The mission of Torres Martinez Tribal TANF(TMTT) is to help tribal families achieve self-sufficiency and independence. The TMTT program provides parents with job preparation and independence. The TMTT program provides to leave the program and become self-sufficient. The program may also provide funds and/or services to families in the child welfare system or at risk of welfare dependency, through diversionary funds. The following is a brief description of the different programs that comprise TMTT:

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## **TANF - Temporary Assistance For Needy Families**

The purpose of the Temporary Assistance Department is to provide assistance to needy families so that children may be cared for in their own home or in the homes of relatives. The Temporary Assistance program provides support for needy families with dependent children including: monthly grant checks, clothing allowances for children, assistance with childcare, mileage reimbursement, car repair funds, parenting classes, bus tokens, expenses, emergency utilities assistance, education incentive for completing High School and/or higher education, and transitional services just to name a few.

- CASH AID ASSISTANCE
- EMERGENCY FOOD, UTILITIES, and HOUSING ASSISTANCE
- CLOTHING ALLOWANCE for CHILDREN
- EDUCATION INCENTIVES • CAREER GUIDANCE

## **TANF - Career Guidance Department**

The purpose of this department is to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This program provides training for job enhancement and career development, educational counseling and monitoring, referrals for school, funding for tuition including supplies and clothing allowances, mileage reimbursement, assistance in obtaining drivers license, job preparation workshops, job bank and resource listings, and usage of a computer lab.

- TRAINING for JOB ENHANCEMENT / CAREER DEVELOPMENT
- TUITION ALLOWANCE • CAREER WORKSHOPS
- ONE-ON-ONE CONSULTING • VOCATIONAL ASSESSMENT
- COMPUTER LAB • BUDGET MANAGEMENT WORKSHOP
- FAMILY PERSERVANCE SERVICES

## **TANF - Family Perserverance Services**

The purpose of this department is to encourage the formation and maintenance of two-parent families. This program provides research for AI/AN traditional weddings as well as some funding for weddings and cash incentive programs to promote marriage.

- CULTURAL RESEARCH SERVICES for TRADITIONAL WEDDINGS
- WEDDING PLANNING ASSISTANCE
- MARRIAGE LICENSE ASSISTANCE
- CASH INCENTIVE PROGRAMS
- PARENTING CLASSES
- COUPLE COUNSELING

## **Para Los Ninos**

500 Lucas Ave., Los Angeles, CA 90017-2002  
Tel: (213) 250-4800 • Fax: (213) 250-4900  
[www.paralosninos.org](http://www.paralosninos.org)

## **Prototypes**

1000 N. Alameda St, Suite 390, Los Angeles, CA 90012  
Email: [information@prototypes.org](mailto:information@prototypes.org)  
[www.prototypes.org](http://www.prototypes.org)

Prototypes helps women and their families deal with substance abuse, mental illness, HIV/AIDS, homelessness, domestic violence and other trauma.

## **Student Health and Human Services**

333 S. Beaudry Ave., 29th Floor, Los Angeles, CA 90017  
Tel: (213) 241-3840 • Fax: (213) 241-3305

Email: [ask-shhs@lausd.net](mailto:ask-shhs@lausd.net)

School Mental Health professionals support positive student connections with peers, family, school and community, by facilitating student development and the ability to successfully deal with problems, crises, or traumatic experiences. Furthermore, School Mental Health professionals foster resiliency - the ability to bounce back from challenges with a stronger sense of self-confidence and coping capacity - by promoting healthy relationships, self-reflection and problem-solving skills to optimize school success. School Mental Health staff provides a range of comprehensive services including prevention, early intervention, and treatment services.

## **UCLA Center for Health Policy Research**

10960 Wilshire Blvd., Suite 1515, Los Angeles, CA 90016  
Tel: (310) 794-0909 • Fax: (310) 794-2686  
[www.healthpolicy.ucla.edu](http://www.healthpolicy.ucla.edu)

## **XACT**

Water Restoration Technician / Applied Microbial Remediation Technician  
Water Damage / Mold / Sewage

Contact Person: RaeMarie Martinez, Colville

Certification #IICRC171229

Tel: (626) 723-9842 • 24/7 Emergency Response  
*Work with all Home Owner's Insurance*

## Community College Foundation

3530 Wilshire Blvd., Suite 610, Los Angeles, CA 90010  
Tel: (213) 427-6910 • Fax: (213) 383-7913  
[www.communitycollege.org](http://www.communitycollege.org)

## County of Los Angeles Probation Department

9150 E. Imperial Highway, Downey, CA 90242  
Tel: (562) 940-2501 • Fax: (562) 803-1855  
[www.probation.lacounty.gov](http://www.probation.lacounty.gov)

## First 5 LA

750 N. Alameda St., Suite 300, Los Angeles, CA 90012  
Tel: (213) 482-5902 • Fax: (213) 482-5903  
[www.first5la.org](http://www.first5la.org)

## Los Angeles Caregiver Resource Center

732 Mott St., Suite 150, San Fernando, CA 91340  
Tel: Toll Free (800) 540-4442 • Fax: (818) 847-9149  
[www.lacrc@usc.edu](http://www.lacrc@usc.edu)

The Los Angeles Caregiver Resource Center serves family caregivers of a brain impaired or frail, older adult in LA County. This nonprofit organization is housed in the University of Southern California at the Andrus Gerontology Center. LACRC offers resources, information, support groups, counseling, family consultations, respite, workshops, classes, web based resources, retreats, and legal financial consultations. All services and programs are free or low cost.

## My Friends Place

**Mailing Address:** P.O. Box 3867, Hollywood, CA 90078  
**Location:** 5850 Hollywood Blvd., Hollywood, CA 90028  
Tel: (323) 908-0011 • Fax: (323) 468-1243  
Toll Free: (888) YOUTH-50 (968-8450)  
Monday - Friday: 9:00am-5:30pm

The mission of My Friend's Place is to assist and inspire homeless youth to build self-sufficient lives. Founded in 1988, My Friend's Place is a nonprofit resource center offering a comprehensive continuum of care that includes free emergency resources such as food and clothing in combination with health, educational, and therapeutic services to over 1,000 homeless youth and their children each year.

## TANF - Family Preservation Services

The purpose of this department is to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies. The Youth and Education Department serves TANF recipients of the following services: parent advocacy in the school, tutoring programs; academic counseling; youth education & workshops; cultural preservation activities; good grade incentives; youth employment program; field trips and many more activities for children.

- PARENT ADVOCACY PROGRAMS
- TUTORING PROGRAMS
- CULTURAL PRESERVATION ACTIVITIES
- GOOD GRADE INCENTIVES • "BABY THINK IT OVER"
- NATIVE KIDS CLUB • READ WITH ME/LEA CONMIGO™

## American Indian Health Council Community Partners

1000 N. Alameda St., Suite 240  
Los Angeles, CA 90012  
Tel: (213) 346-3200 • Fax: (213) 808-1009  
[www.communitypartners.org](http://www.communitypartners.org)

The American Indian Health Council is a group dedicated to providing health information, referral, and outreach services to the American Indian community of Southern California. They regularly attend health fairs and powwows to distribute health related information and to provide referral services. The council also collects health education data using health surveys and disseminates HIV, alcohol, and drug data.

- HEALTH INFORMATION • REFERRALS • OUTREACH SERVICES

## American Indian Healing Center

7630 Painter Ave., Whittier, CA 90602  
Tel: (562) 693-HEAL • Fax: (562) 693-1115

The American Indian Healing Center is a state licensed, community clinic providing primary care, general medical care to American Indians living in L.A. County. AIHC's mission is to provide high quality, culturally appropriate and competent medical care to American Indians and to empower our patients to attain the highest level of health possible through annual physical examinations, extensive health education and regular health re-assessments. The clinic is open

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for patient care Monday thru Friday, 9 am to 5 pm. Our clinic is open to everyone regardless of their ability to pay.

We accept all major commercial health insurances, Medi-Cal, Medicare, Healthy Way Program. We provide health services on an appointment basis to individuals of all ages from infancy to the elderly.

- HEALTH MAINTENANCE and MANAGEMENT
- IMMUNIZATIONS
- REFERRALS
- MINOR PROCEDURES
- BREAST and CERVICAL CANCER SCREENING and DETECTION

### **Changing Spirits**

Alcohol and Drug Residential Recovery Program  
2120 W. Williams St., Bldg #1, Long Beach, CA 90810

Tel: (562) 388-8118 • Fax: (562) 388-8117  
[www.americanindianchangingspirits.org](http://www.americanindianchangingspirits.org)

Changing Spirits is a community based 180-day residential recovery program targeting AI/AN men who suffer from alcohol and/or drug addiction. The services include alcohol and drug education, one on one counseling, relapse prevention groups, 12 step groups, residential council, recreational and social activities; anger management, and cultural activities. Changing Spirits is a non-profit program funded by the County of Los Angeles Department of Health Services Alcohol and Drug Administration.

- 12 STEP PROGRAMS
- ALCOHOL and DRUG EDUCATION
- ANGER MANAGEMENT
- CULTURAL ACTIVITIES

## **X. NON-AMERICAN INDIAN/ALASKA NATIVE ALLIED ORGANIZATIONS**

### **Alcohol and Drug Program Administration Department of Mental Health, Los Angeles County**

1000 South Fremont Ave.

Building A-9 East, 3rd Floor

Alhambra, CA 91803

Tel: (626) 299-4193 • Fax: (626) 458-7637

[www.lapublichealth.org](http://www.lapublichealth.org)

Email: [adpa@ph.lacounty.gov](mailto:adpa@ph.lacounty.gov)

### **Children's Health Access & Medical Program (CHAMP)**

515 S. Figueroa St., Suite 1300

Los Angeles, CA 90071

Tel: (213) 538-0778 • Fax: (213) 538-0983

[www.nhfca.org](http://www.nhfca.org)

Children Health Access & Medical Program (CHAMP) is a signature training program of the National Health Foundation which develops and provides free training and education opportunities for community health advocates who come into contact with or assist families in obtaining and retaining health benefits.

- Face-to-Face Training
- Curriculum Development
- Web-based Resource Development
- Technical Assistance

### **Children's Institute Inc. - Child Trauma Center**

711 South New Hampshire Ave., Los Angeles, CA 90005

Tel: (213) 385-5100 • Fax: (213) 383-1820

[www.childrensinstitute.org](http://www.childrensinstitute.org)

### **The Children's Clinic**

455 E. Columbia St., Suite 201

Long Beach, CA 90806

Tel: (562) 933-0483 • Fax: (562) 933-0487

[www.thechildrensclinic.org](http://www.thechildrensclinic.org)

## X. LEGAL ORGANIZATIONS

### California Indian Legal Services

609 S. Escondido Blvd., Escondido, CA 92025

Tel: (760) 746-8941 • Toll Free: (800) 743-8941 • Fax: (760) 746-1815

Website: [www.calindian.org](http://www.calindian.org)

California Indian Legal Services (CILS) is an AI/AN, not-for-profit law firm devoted to the cause of Native American rights. California Indian Legal Services was founded in the mid-1960's by California Indian leaders and public interest attorneys. It continues today as a valuable resource for California Indian communities including Los Angeles County. Services include free legal assistance and advocacy on issues such as Federal Indian Law, child welfare, Indian land issues, student's rights, discrimination, housing, public benefits eligibility, probate, and more.

### Native Nations Law and Policy Center UCLA School of Law

385 Charles E. Young Drive East  
Los Angeles, CA 90095

Tel: (310) 825-4429 • Fax: (310) 825-6023

The mission of Native Nations Law and Policy Center at UCLA Law is to support Native nations throughout the United States. The Center focuses on California tribes, in developing their systems of governance and in addressing critical public policy issues. The Center applies the resources of state-supported education together with tribal expertise to address contemporary educational needs for southern California tribes.

### Tribal Law and Policy Institute

8235 Santa Monica Blvd., Suite 211  
West Hollywood, CA 90046

Tel: (323) 650-5467 • Fax: (323) 650-8149

[www.tlpi.org](http://www.tlpi.org) • Email: [conference@tlpi.org](mailto:conference@tlpi.org)

The Tribal Law and Policy Institute is a Native American-owned and operated non-profit corporation (not a legal service provider) that is organized to design and deliver education, research, training, and technical assistance programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples. The Institute utilizes an approach to training and technical assistance which is incorporated into all the programs and services.

## II. STATE AND COUNTY AGENCIES

### Bureau of Indian Affairs Southern California Agency

1451 Research Park Drive

Suite 100

Riverside, CA 92507

Tel: (951) 276-6624

Fax: (951) 276-6641

The Bureau of Indian Affairs (BIA) has the responsibility for administration and management of 55.7 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. There are 561 federal recognized tribal governments in the United States. Developing forestlands, leasing assets on these lands, directing agricultural programs, protecting water and land rights, developing and maintaining infrastructure and economic development are all part of the agency's responsibilities. In addition, the Bureau of Indian Affairs provides education services to approximately 48,000 AI/AN.

### California Area Indian Health Service

650 Capitol Mall

Suite 7-100

Sacramento, CA 95814

Tel: (916) 930-3927

Fax: (916) 930-3952

[www.ihs.gov](http://www.ihs.gov)

The primary goal of the California Area Indian Health Service is to raise the health status of American Indians to the highest possible level. To achieve this goal, the California Area Indian Health Service supports tribal governments and urban Indian communities in the development and administration of comprehensive health care delivery systems that meet the needs of AI/AN people.

## Department of Children and Family Services (DCFS) Indian Child Welfare Program

Covina Annex  
1373 E. Center Court Drive, Covina, CA 91724  
Tel: (626) 938-1846 or (626) 938-1838

The Indian Child Welfare Program provides culturally responsive social services to AI/AN families who come to the attention of the DCFS due to allegations of child abuse and/or neglect. In addition to following State and Federal Child Welfare Service regulations, the program meets the mandates of the Indian Child Welfare Act, engaging and collaborating with Tribes throughout the Country. The Program provides emergency response, dependency investigation, family maintenance, family reunification services, and permanency planning to AI/AN children and their families. The program provides voluntary services to AI/AN families whose children are at risk of removal and/or court supervision, and also to families involved in the dependency court system. The program provides youth transitioning out of foster care with aftercare and emancipation services for successful independent living.

- VOLUNTARY FAMILY MAINTENANCE and REUNIFICATION SERVICES
- SERVICES for COURT DEPENDENT CHILDREN and THEIR FAMILIES
- TEMPORARY FOSTER CARE • PERMANENCY PLANNING SERVICES
- EMANCIPATION PLANNING for FOSTER YOUTH



## Department of Mental Health American Indian Counseling Center/ Child and Youth Counseling Center

17707 Studebaker Road, Cerritos, CA 90703  
Tel: (562) 402-0677 • Fax: (562) 467-7478

The American Indian Counseling Center is a directly operated program of the Los Angeles County Department of Mental Health that provides culturally

*Continued on next page*

## Pukuu Cultural Community Services One Stop Emergency Service Center

1010 2nd St., #2  
San Fernando, CA 91340  
Tel: (818) 336-6105  
Fax: (818) 837-0796  
www.pukuu.org  
Email: admin@pukuu.org

The One Stop Emergency Center goal is to offer temporary aid to low-income Native Americans who encounter a financial emergency. The center strives to aid the individual through the emergency and prevent them from becoming homeless, going hungry or losing necessary utilities. We also strive to be a cultural resource for Native Americans living in Los Angeles County and provide cultural celebrations in which individuals can participate and reconnect with their traditions. Services available include: food assistance and transportation assistance, shelter, utility assistance, counseling and referral services, cultural and recreational services, and cultural circles.

## Haramoknga American Indian Cultural Center

State Highway 2 (Angeles Crest Highway) and Mt. Wilson - Red Box Road  
La Canada- Flintridge, CA 91011  
(14 mi. N of the 210 and 2)  
Tel: (626) 449-8975  
www.haramoknga.org

Weekly programs, events workshops, and educational opportunities to the Native American community and the general public.

*“Our place to ‘come to gather’ and touch the Earth.”*

## The Southwest Museum of the American Indian

234 Museum Drive, Los Angeles, CA 90065  
Tel: (323) 221-2164  
Fax: (323) 224-8223  
www.theautry.org

Free Admission: Saturday 10am-4pm



## VIII. CULTURAL ENTITIES

### **America's Veterans**

2554 Lincoln Blvd., Suite 706  
Marina Del Rey, CA 90291

Tel: (310) 663-0083

**Peggy Fontenot**, President

[www.americasveterans.org](http://www.americasveterans.org) • [www.thelivingwall.com](http://www.thelivingwall.com)

This Native-owned 501 (c) (3) is a partner with the Library of Congress' Veteran History project. Our main purpose is to interview and photograph veterans in an effort to bring awareness to who veterans are and in what conditions they exist today.

We utilize their images and stories in art exhibitions across the country, and now have an exhibit which includes 15 different Native Veteran's art.

### **Autry National Center**

4700 Western Heritage Way  
Los Angeles, CA 90027-1462

Tel: (323) 667-2000 • Fax: (323) 660-5721

[www.theautry.org](http://www.theautry.org)

### **California Muscogee (Creek) Association**

**Eli Grayson, Jr.**

34220 Linda Way  
Cathedral City CA 92234

Tel: (760) 534-1632

### **Gabrieleno/Tongva Native American Services**

**Office:** 214 El Monte Street

San Gabriel, CA 91776

**Mailing Address:** P.O. Box 693

San Gabriel, CA 91778

Tel: (626) 286-1632 • Fax: (626) 286-1262

[www.tongvatribes.net](http://www.tongvatribes.net)

#### **Native American Low Income Emergency Services:**

Offers bus tokens, food distribution/vouchers, shut-off assistance, etc.

Chairman: **Anthony Morales**

Project Supervisor: Dee Roybal • Office Assistance: Arlene Morales

sensitive mental health services to American Indian elders, adults, families, youth and children. Services include assessment, individual and group mental health treatment, dual diagnosis treatment, crisis intervention, case management and community outreach. We offer services in our offices and at off-site locations such as homes and schools. Wellness and Field Capable treatment services are offered to some of our adult clients while others are seen through our prevention and Early Intervention (PEI) and Full Service Partnership (FSP) components. We offer specialized mental health treatment services for foster children as well as other youth and child specialized treatment through our PEI and FSP programs. The specific component depends on the needs of the individual. Please call for further information.

- INDIVIDUAL THERAPY
- CHILD/ADOLESCENT THERAPY
- CRISIS INTERVENTION
- FULL SERVICE PARTNERSHIP
- FOSTER CARE MENTAL HEALTH
- PREVENTION AND EARLY INTERVENTION

### **Department of Public Health**

#### **County of Los Angeles**

#### **Substance Abuse Prevention and Control**

1000 South Freemont Ave.

Building A-9 East, 3rd Floor

Alhambra, CA 91803

Tel: (626) 299-4193

Fax: (626) 458-7637

[www.publichealth.lacounty.gov/sapc](http://www.publichealth.lacounty.gov/sapc)

The Substance Abuse Prevention and Control (SAPC) program, a division of the Los Angeles County Department of Public Health, has the primary responsibility of administering the County's alcohol and drug programs. With an annual budget of more than \$200 million and nearly 200 employees, SAPC provides a wide array of alcohol and other drug prevention, treatment, and recovery programs and services for individuals through contracts with over 150 community-based organizations. The primary recipients of County-funded alcohol and drug treatment, recovery, and intervention services are Los Angeles County residents, particularly those who are uninsured and/or underinsured.

### **Indian Alcoholism Commission of Los Angeles County**

1125 W. 6th St., Suite 103  
Los Angeles, CA 90017  
Tel: (213) 202-3970

Indian Alcoholism Commission of Los Angeles County provides education about alcohol and drug abuse through community awareness events. These include holiday programs, alcohol, drug, and HIV awareness education programs, recovery discussions, information and referrals, self-help discussions, and activities, volunteer recruiting, brief counseling, community outreach, and Alcoholics Anonymous meetings.

### **Los Angeles City/County Native American Indian Commission**

3175 West 6th St.  
Room 308  
Los Angeles, CA 90020  
Tel: (213) 351-5308 • Fax: (213) 368-6811  
Email: randrade@css.lacounty.gov

The Los Angeles Native American Indian Commission promotes the development of programs and funding resources to serve urban AI/AN and AI/AN organizations; to advocate legislation and policy favorable to the urban American Indian community on issues and problems; and to further participation of urban AI/AN in the mainstream of social and economic activities.

## **III. AMERICAN INDIAN/ALASKA NATIVE BUSINESSES**

### **AD PRO**

5842 McFadden Ave., Suite E  
Huntington Beach, CA 92649  
Phone: (714) 898-6364  
Contact: Tracy Stanhoff, Carol Garcia

Graphic Design, Advertising, Marketing Firm  
In-House Production: Creative; digital color printing; larger format graphic printing for trade show booth displays; signage; advertising specialties; embrodering and screen printing

### **First American Indian Church**

2218 Hancock St.  
Los Angeles, CA 90031  
Tel: (323) 225-8376

### **Indian Revival Church**

5602 E. Gage Ave.  
P.O. Box 2188  
Bell Gardens, CA 90201  
Tel: (323) 773-4883  
Fax: (323) 773-4888

**Robert Stewart, Pastor**

### **National United Methodist Native American Center (NUMNAC)**

1325 North College Ave.  
Claremont, CA 91711  
Tel: (909) 447-2550  
Fax: (909) 624-8384  
[www.cst.edu](http://www.cst.edu)

### **Polished Arrow**

P.O. Box 1868  
Monrovia, CA 91017  
Tel: (626) 483-4907  
[polishedarrow@polishedarrow.com](mailto:polishedarrow@polishedarrow.com)

## VII. SPIRITUAL/RELIGIOUS ORGANIZATIONS

### American Indian All-Tribes Church

4009 South Halldale Ave.  
Los Angeles, CA 90062  
Tel: (323) 299-1810  
www.indiancrusader.org

### American Indian Bible Institute

AIBI Main Office  
P.O. Box 511  
Norwalk, CA 90651-0511  
Tel: (562) 863-5022

www.aibi.org • letters@aibi.org

### City of the Angels Kateri Circle at St. Marcellinus Church

Mailing: P.O. Box 235, South Pasadena, CA 91031  
2349 Strong Avenue, Los Angeles CA 90040

Eva Walters (626) 334-1140

Email: eva\_walters@charter.net

Native American Mass first Sunday of the month, at 11am followed by a pot-luck lunch open to all. Location 2319 Strong Ave., Los Angeles, CA 90040.  
Mini Powwow, Community Outreach and members of many A/I organizations.

A spiritual, cultural, social organization.

All are welcome.

### Episcopal Diocese of Los Angeles

Cathedral Center of St. Paul  
840 Echo Park Ave.  
Los Angeles, CA 90026  
Tel: (213) 482-2040 Ext. 213 • Fax: (213) 482-5304  
www.ladiocese.org

### American Indian Chamber of Commerce of California

555 West Fifth St., 31st Floor  
Los Angeles, CA 90013  
Tel: (213) 440-3232  
Fax: (714) 898-9808  
www.aicccal.org  
Email: stateadmin@aicccal.org

The primary goals of the American Indian Chamber of Commerce of California are to provide opportunities for networking, education and support of Native American business people in California and throughout the United States. The Chamber provides a mentor's environment for those individuals beginning new endeavors an established vehicle for educational experiences and a forum for networking and growth opportunities.

### Against The Wind Productions

Film/Video Production

Tim Ramos, Owner

26500 West Agoura Road, #737, Calabasas, CA 91302  
Tel: (818) 263-5187 • Email: timramos007@yahoo.com

### Barcid Productions

1801 N. Kingsley Drive, #102, Los Angeles, CA 90027  
Tel: (323) 466-7400

www.barcid.com • Email: contact@barcid.com

### Harold Freeland

Graphic Design / Illustration / Fine Art  
Email: winterdove23@hotmail.com

### MHS Realty Investment

Lou Skinas, DRE #00527001

2224 W. Whittier Blvd., La Habra, CA 90631-3403  
Phone: (562) 691-2693 • Cell: (562) 545-2192

MHS Realty Investments dealing in Single Family Residents, Certified HABA Agent, Short Sales and Foreclosures, Property Management.

## IV. AMERICAN INDIAN/ALASKA NATIVE COMMUNITY ORGANIZATIONS

### American Indian Airwaves

Larry Smith, Lumbee Nation  
2187 E. 21st. St., Apt. H  
Signal Hill, CA 90755  
562-434-4892

Website: <http://www.kpfb.org/index.php/programs/43-american-indian-air-waves#.VBCNasIdXqo>

American Indian Airwaves is produced in Coyote Radio and Burntswamp Studios and was established in 1988 in order to give Indigenous peoples and their respective First Nations a voice about the continuous struggles against Colonialism and Imperialism by the occupying and settler societies often referred to as the United States, Canada, Mexico, and Latin and South America countries located therein.

### American Indian Cable Network

Chuck Marshall  
[www.timeriver.net/aicn](http://www.timeriver.net/aicn)  
Email: [chasaicn\\_1995@yahoo.com](mailto:chasaicn_1995@yahoo.com)  
Internet station: [www.pasadenacommunitynetwork.com](http://www.pasadenacommunitynetwork.com)  
Mondays: 3:00am & 3:00pm, Saturdays: 10am & 10:00pm

### American Indian Community Council (AICC)

5809 North Figueroa St., Highland Park, CA 90042  
Web Site: <http://aiccla.org/>  
Eric Sanchez, Board President  
Contact: Community Liaison  
Connie Begay [cbgay66@gmail.com](mailto:cbgay66@gmail.com)  
Avril Cordova [avrilcordova@gmail.com](mailto:avrilcordova@gmail.com)

American Indian Community Council was established in 1998 as a public – private community council under the Los Angeles County Children's Planning Council. Formerly known as the Los Angeles American Indian Children's Council, The AICC is known as an independent non-profit organization. Since its inception, the AICC has served as a central hub and is a resource for the Los Angeles American Indian/Alaska Native Community.

Mission: The mission of the AICC is to strengthen the overall wellness of LA's American Indian children, families, and community through leadership development, community organizing, self determination, and cultural values.

*continued on next page*

## VI. YOUTH SERVICES

### American Indian Clubhouse United American Indian Involvement, Inc.

1125 W. 6th St., Suite 103  
Los Angeles, CA 90017  
Tel: (213) 202-3976 • Fax: (213) 975-9545

### Education Component Southern California Indian Center

10175 Slater Ave., Suite 150  
Fountain Valley, CA 92708  
Tel: (714) 962.6673 • Fax: (714) 962.6343  
[www.indiancenter.org](http://www.indiancenter.org)

### Teen Pregnancy Prevention Program Torres Martinez Tribal TANF

#### Commerce

5771 Rickenbacker Road, Commerce, CA 90040  
Tel: (323) 313-1300 • Fax: (323) 201-4675  
Toll Free: (800) 665-7292

#### Long Beach

4500 E. Pacific Coast Highway, Suite 500, Long Beach CA 90804  
Tel: (310) 878-1600 • Fax: (310) 878-1699  
Toll Free: (800) 665-7649

#### Palmdale

43460 Sahuago St., Lancaster, CA 93535  
Tel: (661) 466-1100 • Fax: (661) 466-1199  
Toll Free: (800) 665-6781

#### Los Angeles

3450 Wilshire Blvd., Suite 950, Los Angeles, CA 90010  
Tel: (213) 816-2000 • Fax: (213) 739-2578  
Toll Free: (800) 665-7228

[www.TANF.org](http://www.TANF.org) and (888) 787-TANF(8263)

## **TAMIT - Teaching and Mentoring Indian Tarahat Fernandeño Tataviam Band of Mission Indians**

1019 Second St.  
# 4 San Fernando, CA 91340  
Tel: (877) 480-7707  
Fax: (818) 837-0796  
Tamat.tataviam-nsn.us  
**On Facebook:** TAMITprogram  
**On Twitter:** @tamit\_education

TAMIT provides education, leadership and cultural programming aimed at gearing American Indian/Alaska Native high school students for college. Program elements include summer camp, reservation trips, family activities, graduation celebrations, the use of electronic tablets & more.

**Eligibility:** American Indian or Alaska Native enrolled 9th-12th grade student, resident of Los Angeles County. Application on TAMIT website

**Academics:** TAMIT offers educational services to help students make the most out of their high school experience. Students complete University 100, a CSU course to improve academic performance. Other services include mentoring, tutoring, and academic guidance.

**Culture:** TAMIT gives students the opportunity to learn about various American Indian/Alaska Native tribal cultures through cultural exchanges at Indian reservations, arts events with youth programs, and activities through our community partners.

**College prep:** TAMIT focuses on helping students enroll in SAT/ACT testing, navigate the college application process, and explore financial aid options. **Leadership:** TAMIT believes our future is defined by our investment in our youth. Students learn how to present themselves to others, respectful protocols, public speaking, and self-esteem training.

The AICC currently has 4 areas of interest, that we call workgroups:  
Elder's Group • First Women, First Tuesday, Come to the Fire  
• Indian Children Welfare Act (ICWA) Taskforce  
• United Native Youth of LA (UNYLA)

## **American Indian Resource Center Huntington Park Library**

6518 Miles Ave., Huntington Park, CA 90255  
Tel: (323) 583-2794 • Fax: (323) 587-2061  
[www.colapublib.org](http://www.colapublib.org)

American Indian Resource Center is an adult-level library collection of the County of Los Angeles Public Library. AIRC is the largest public library collection in the U.S. to focus on American Indian experience in the continental U.S. and Alaska from pre-Columbian times to the present. AIRC has archival level reference materials such as the complete set of the Indian Census Rolls 1885-1940, academic level books, as well as popular culture materials pertaining to American Indians - newspapers, magazines, and music and films on DVD. Throughout the year we also have adult-level programs on a variety of subjects pertaining to American Indian current affairs, art, history, and genealogy.

AIRC is open Tuesday – Thursday 10am to 8pm, and Saturday 8am to 6pm.

## **Native American Veterans Association (NAVA)**

**Mailing Address:** P.O. Box 2075, Downey, CA 90242  
**Office Location:** Bob Hope- Patriotic Hall 18165  
Figueroa St. 4th Floor (Rm 4-26) Los Angeles, CA 90015  
**Meeting Address:** 1125 West 6th St., Suite 103, Los Angeles, CA 90017  
**Tel:** (213) 742-9554 • **Email:** [info@navavets.org](mailto:info@navavets.org)

The Native American Veterans Association is a non-profit organization that assists tribal and non-tribal veterans and their families. This service includes assisting veterans and dependents when applying for Federal, State, and County benefits and all other rights to which they are entitled in the most expedient manner possible. NAVA also has a yearly Veteran's Powwow, which honors native veterans, men and women veterans. This event is held during Veteran's Day weekend, and serves to continue to promote Native heritage and also to honor those who have served our Nation. Meets every second Saturday of every month for breakfast and veteran information, along with a guest speaker at UAII from 9am-12pm. Offers employment & training for veterans.

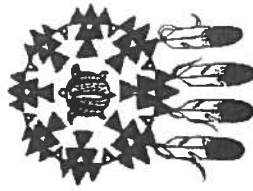
## SEIU 721 - Native American Caucus

1545 Wilshire Blvd., Los Angeles, CA 90017

Tel: (213) 386-6880

Contact: Lisa Pompa or Roberta Javier

Our Circle meets on the second Thursday each month at 1545 Wilshire Blvd. in Los Angeles. With a union foundation, we share community information, resources, and enjoy an education piece each time we convene. Our mission is to educate everyone by sharing the experience, culture and practices of Indigenous people. Everyone is welcome!



# SEIU 721

## SEIU 721-ICWA Task Force of Los Angeles

1545 Wilshire Blvd., Los Angeles, CA 90017

Message: (323) 605-2503 Contact: Roberta Javier

The Indian Child Welfare Act Task Force is an organization founded in 1989, a collaboration between the Department of Children and Family Services and the Southern California Indian Center. At the onset of 2006, the role of convener and organizer for the ICWA TF was assumed by the American Indian Community Council (AICC). The AICC and the ICWA TF work to meet the cultural and community needs of American Indian children in the foster care system. The ICWA TF meets the last Tuesday of each month, community stakeholders are encouraged to attend and support the work on Indian Child Welfare issues promoting policy changes as identified and needed, as well as continued American Indian foster home recruitment.



## Native American Student Center California State Polytechnic University, Pomona

Office of Student Life and Cultural Centers

3801 West Temple Ave., Pomona, CA 91768

Tel: (909) 869-3967 • Fax: (909) 869-3951

<http://www.dsa.csupomona.edu/nasc/>

## Native American Student Program University of California, Riverside

229 Costco Hall, Riverside, CA 92521

Tel: (951) 827-4143 • Fax: (951) 827-4342

[www.nasp.ucr.edu](http://www.nasp.ucr.edu)

## Sherman Indian High School

9010 Magnolia Ave., Riverside, CA 92503

Tel: (951) 276-6325 • Fax: (951) 275-6336

[www.sihhs.bie.edu](http://www.sihhs.bie.edu)

**Philosophy Statement:** Through shared decision-making the students, staff, parents, school board, and community of Sherman Indian High School will provide a safe, caring, environment in which a balanced program will foster the academic, social, cultural, physical, and spiritual growth of a diverse population of American Indians in an off-reservation boarding school for post-secondary education success. **Vision Statement:** To this end, we will cultivate and sustain a learning community (to include all faculty, staff, students, parents, guardians, tribal leaders, educational coordinators, and board members) dedicated to continuous learning and renewal through self-improvement and assessment, recommitment and collegial support.

## Tribal Learning and Community Educational Exchange

### UCLA School of Law

Office: Law Room 1470

Mail Box 951476, Los Angeles, CA 90095-1476

Tel: (310) 794-5216 • Fax: (310) 825-3180 • [www.tlcee.ucla.edu](http://www.tlcee.ucla.edu)

The Tribal Learning and Community Educational Exchange draws upon resources of UCLA, Native communities, and other educational institutions to create and deliver innovative courses and curricula designed to develop human resources necessary for strong Native nations, to assist Native nations in addressing key cultural and policy initiatives, and to enhance the discipline of American Indian Studies.

## **Central High School - UAI Branch Los Angeles Unified School District**

1125 W. 6th Street, Suite 103, Los Angeles, CA 90017  
Tel: (213) 202-3970 ext. 7213

Central High School is a 4-hour voluntary instructional program. This program provides course work and academic testing required by LAUSD to earn a high school diploma. Regular hours of instruction are from 8:00 AM to 12:30 PM, Monday through Friday. Students should be at least 15 years of age and may be older than 18 to be considered for enrollment. LAUSD requires 230 credits for graduation. The goal is to make up credits to gain a high school diploma. Students may then return to their home school at grade level or continue in the program to gain their diploma. The school also encourages all students to attend after school and Saturday classes at nearby academic and career training institutions. The school provides information and placement assistance.

## **Department of Native American Studies - UC Davis**

Judith La Deaux, Student Affairs Officer  
2401 Hart Hall

One Shields Ave., Davis CA 95616

Tel: (530) 752-6656 • Fax: (530) 752-7092

We have a hemisphere major in Native American Studies.

You can get your B.A., M.A. or Ph.D. in Native American Studies.

## **Indian Education Program**

333 S. Beaudry St., 25th Floor, Los Angeles, CA 90015

Tel: (213) 241-7067 • Fax: (213) 241-8035

In 1972 the Indian Education Act was passed by Congress. The act funds activities for eligible American Indian and Alaskan Native students enrolled in public or tribally controlled schools. Within the LAUSD there are 736,000 students about 2,000 are American Indian/Alaskan Native. The program supports student achievement through the Culturally Authentic Literature Project, Media collection, and Springtime Annual Student Recognition Day at The Autry Center. The Parent Committee for Indian Education at LAUSD is composed of parents and teachers of Indian students, and student representatives. The committee promotes student achievement and is required by Indian Education legislation for program funding. Committee meetings are open to the public and community members are invited to attend.

## **California Rural Indian Health Board, Inc. (CRIHB)**

4400 Auburn Blvd., 2nd Floor, Sacramento, CA 95841  
Tel: (916) 929-9761 • Fax: (916) 929-7246

[www.crihb.org](http://www.crihb.org)

CRIHB develops and delivers policies, plans, programs and services that elevate the health status and social conditions of our People; that develop capabilities within local programs; that communicate, educate, and advocate on our shared interests; and that organizes support for our common goals.

## **The Red Circle Project APLA Health & Wellness Center**

3717 South La Brea Ave., Suite 102, Los Angeles, CA 90016  
Tel: (323) 329-9906 • Fax: (323) 294-5364

Email: [Menfield@apla.org](mailto:Menfield@apla.org)

Websites:

[www.apla.org](http://www.apla.org)

[www.redcircleproject.org](http://www.redcircleproject.org)

[www.facebook.com/redcircleproject](http://www.facebook.com/redcircleproject)

[www.youtube.com/redcircleprojectapla](http://www.youtube.com/redcircleprojectapla)

The Red Circle Project (RCP) at APLA Health & Wellness Center is the only HIV prevention program in Los Angeles County that specifically provides education and prevention services to the Native American/Alaska Native urban communities. Currently, the program is contracted to deliver services to Native Gay/Two Spirit Men and Native Transgender Individuals, with the objectives of adapting the community-level intervention, "Community PROMISE" (Peers Reaching Out and Modeling Intervention Strategies) for HIV/AIDS risk reduction in their community. RCP cultural/social groups are held on a monthly basis. RCP also offers group level education with the "Strengthening the Circle" (STC) curriculum. STC was developed as four (4) workshops to address issues such as, decision making; skills building; healthy mind/body image; HIV/AIDS and STD information; risk reduction information; and behavior change. The workshops were designed with the concept of Native American/Alaska Native's understanding of the "Medicine Wheel." The workshops will also encourage participants to make informed decisions that will guide their subsequent behavior. Established in 2003, RCP continues to provide culturally competent HIV/AIDS resources, referrals, and programming for Los Angeles County Native Americans/Alaska Natives.

## **Walking Shield, Inc.**

22541 Aspan St., Suite E, Lake Forest, CA 92630

Tel: (949) 639-0472 • Fax: (949) 639-0474

[www.walkingshield.org](http://www.walkingshield.org) • Email: [info@walkingshield.org](mailto:info@walkingshield.org)

*'Serving Native American Families Since 1986'*

Working closely with tribal leaders, Walking Shield provides a variety of services to American Indian families. Walking Shield's mission is to improve the quality of life for American Indian Families by coordinating programs that provide shelter, healthcare, community development support, educational assistance, and humanitarian aid. Scholarships are available for undergraduate students.

## **V. EDUCATION**

### **UCLA Center for Health Policy Research American Indian Research Program**

10960 Wilshire Blvd., Suite 1550

Box 957143, Los Angeles, CA 90024

Tel: (310) 794-0909 • Fax: (310)-794-2686

[www.healthpolicy.ucla.edu/AIAN](http://www.healthpolicy.ucla.edu/AIAN)

The American Indian and Alaska Native Research Program (AIANRP) was established at the UCLA Center for Health Policy Research in the Fall of 1998. Its goal is to apply the Center's expertise, often in collaboration with other researchers, to improve the health of the American Indian and Alaska Native (AIAN) population. The program staff conducts research and provides public service and educational opportunities relevant to American Indians and Alaska Natives in California and across the nation through the use of native-grounded approaches.

### **American Indian Education Program Title VII**

**Mailing Address:** Ocean View School District

17200 Pinehurst Lane, Huntington Beach, CA 92647

**Contact:** Monica Ortez, Program Coordinator

**Indian Education Office Location:** Westmont School-Room 14

8251 Heil Avenue, Westminster, CA 92683

**Contact:** Monica Ortez (714) 841-1522

K-8 School District-American Indian Education Program Title VII

**Services Offered:** After School Tutoring Program: Grades 2-8 on Tuesdays

2:45-4:30 p.m at Mesa View Middle School-Room A8

and 3:30-5:30 p.m. at Westmont School-Room 14

**Parent/Student Workshops:** Each month March-June

Cultural School Assemblies Grades 3-5

### **American Indian Studies Center University of California, Los Angeles**

3220 Campbell Hall

P.O. Box 951548, Los Angeles, CA 90095-1548

Tel: (310) 825-7315 • Fax: (310) 206-7060

[www.aisc.ucla.edu](http://www.aisc.ucla.edu) • Email: [aisc@ucla.edu](mailto:aisc@ucla.edu)

### **American Indian Studies,**

### **California State University, Long Beach**

1250 Bellflower Blvd. USU-215, Long Beach, CA 90840

Tel: (562) 985-8528 • Fax: (562) 985-5683

[www.csulb.edu/aiss](http://www.csulb.edu/aiss)

CSULB actively assists American Indian students in achieving their academic goals and enhancing their personal, intellectual and social development. We are committed to supporting American Indian/Alaskan Native students in attaining their higher education.

### **American Indian Higher Education Project**

### **California State University, Los Angeles**

18151 State University Drive, Los Angeles, CA 90032

Tel: (323) 343-4367 • Fax: (323) 343-6426

Email: [bbaker@cslanet.calstatela.edu](mailto:bbaker@cslanet.calstatela.edu)

[calstatela\\_aisc@yahoo.com](http://calstatela_aisc@yahoo.com)

### **American Indian Studies,**

### **California State University, Northridge**

18111 Nordhoff St., Northridge, CA 91330-8250

Tel: (818) 677-3920 ext. 5442 • Fax: (818) 677-3614

[www.csun.edu](http://www.csun.edu)

### **California State University, Fullerton**

Inter-Tribal Student Council, Office Room MH-104 C

800 N. State College, Fullerton, CA 92834

Tel: (714) 278-3603

*Continued on next page*



# Session 7: National Level News and Programs



## National Level News and Programs- Highlights

### Tribal Court-State Court Forums

- [Walking on Common Ground](#) is an on-going initiative to promote and facilitate tribal, state, and federal collaboration. The initial effort focused upon tribal, state, and federal court or justice system collaborations, but it now also includes tribal, state, and federal collaborations on a broader range of issues. These resources are collected online by Tribal Law and Policy Institute.

### Domestic Violence

- [Violence Against Women Reauthorization Act of 2013](#) recognizes tribes' inherent power to exercise "special domestic violence criminal jurisdiction" (SDVCJ) over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally took effect on March 7, 2015, but also authorized a voluntary "Pilot Project" to allow certain tribes to begin exercising SDVCJ sooner. The first tribes including the Pascua Yaqui Tribe of Arizona, the Tulalip Tribes of Washington, the Umatilla Tribes of Oregon, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation and the Sisseton Wahpeton Oyate of the Lake Traverse Reservation were selected for this Pilot Project.
- [National Institute of Justice Report: Violence Against American Indian & Alaska Native Women & Men, U.S. Department of Justice – May 2016](#)
- [United States Department of Justice, asking the United States Supreme Court to reverse the Ninth Circuit Court of Appeals' decision in United States v. Bryant. The National Indigenous Women's Resource Center is joined by thirty-four additional organizations that work to end domestic violence nationwide in filing an Amici urging the Supreme Court to uphold the application of the Habitual Offender Provision \(§ 117\(a\) of the Violence Against Women Act \("VAWA"\)\)](#)

### Children and Youth

- [Generation Indigenous](#) (Gen-I), an initiative to help improve the lives of Native youth and to cultivate the next generation of Native leaders. Gen-I includes new investments and policies to expand educational, employment, and health and social services for Native youth and also strengthens the Administration's engagement with Native communities to improve outcomes for all youth. With a substantial proportion of the American Indian and Alaska Native (AI/AN) population under 24 years old—42 percent compared to 34 percent of the total population—and a significant percentage in the 15-19 age group,[1] we have a critical opportunity to create a brighter future not only for youth in Indian Country, but for youth across the entire nation. See [2014 Native Youth Report](#).
- [White House Tribal Youth Gathering](#) brought together over 1,000 youth from approximately 230 tribes from 42 states to interact directly with senior Administration officials and officials from the White House Council on Native American Affairs. In a

fireside chat on public safety and strong communities, Attorney General Lynch outlined the Justice Department's efforts on behalf of native youth and their communities, which include establishing a task force to study and recommend solutions to American Indian and Alaska Native children's exposure to violence. This gathering was part of President Obama's Generation Indigenous (Gen-I) initiative, an effort to improve the lives of Native youth by seeking out their voices and making more youth-driven investments in their communities.

- [Defending Childhood Initiative](#) leverages existing resources across DOJ to focus on preventing, addressing, reducing, and more fully understanding childhood exposure to violence.
- [Attorney General's Task Force on American Indian/Alaska Native Children Exposed to Violence](#) was created, as part of the Defending Childhood Initiative, in response to a recommendation in the Attorney General's National Task Force on Children Exposed to Violence December 2012 final report, which noted that American Indian and Alaska Native children have an exceptional degree of unmet needs for services and support to prevent and respond to the extreme levels of violence they experience.
- [Interagency Partnership to Strengthen ICWA Implementation and Compliance](#) Departments of Interior (DOI), Justice (DOJ), and Health and Human Services (HHS) have entered into a collaborative agreement to ensure more robust compliance with and implementation of the Indian Child Welfare Act (ICWA) of 1978 (Public Law 95-608). The agreement, in the form of a Memorandum of Understanding (MOU), brings three federal agencies together in partnership to strengthen federal oversight of the Act. The MOU's effective date is April 1, 2016.

## Legal Education

### [American Bar Association Resolution](#)

ABA urges bar admission authorities to consider the impact on minority applicants in deciding whether to adopt the Uniform Bar Examination (UBE) in their jurisdiction and to consider including subjects not included on the UBE, particularly Indian Law in each state or territory with sizable American Indian populations or trust land.

## **INDIAN COUNTRY ACCOMPLISHMENTS OF THE JUSTICE DEPARTMENT, 2009-PRESENT**

*“Our obligations to our tribal partners run deep, and our commitment is strong. Over the last six years, the Department of Justice has made significant strides in advancing and expanding the promise of equal rights, equal opportunity, and equal justice for American Indian and Alaska Native communities. From creating the Tribal Nations Leadership Council to promoting the Tribal Law and Order Act and from fighting for historic protections in the Violence Against Women Reauthorization Act to establishing a Task Force on American Indian and Alaska Native Children Exposed to Violence, we have taken concrete steps to improve collaboration and understanding between the federal government and sovereign tribes. One of my first acts as Attorney General was to call on Congress to remove barriers to voting faced by American Indians and Alaska Natives and in the days ahead, I look forward to working with our friends and partners in Indian Country to continue advancing our common mission and deepening our relationship of support and trust.”*

-- Attorney General Loretta Lynch

In June 2009, Attorney General Eric Holder launched a Department-wide initiative to enhance public safety in Indian Country. Significant progress has been made since then. This document offers highlights of the department’s progress in the following areas: enhanced prosecution and training efforts; implementation of the Tribal Law and Order Act of 2010 (TLOA); grant opportunities; general litigation; civil rights; and outreach and consultation.

### **ENHANCING PROSECUTION, TRAINING AND OUTREACH EFFORTS TO KEEP TRIBAL COMMUNITIES SAFE**

#### **Passage of Landmark Legislation to Combat Violence Against Native Women**

- On March 7, 2013, President Obama signed into the law the reauthorization of the Violence Against Women Act (VAWA 2013). This law contains provisions that significantly improve the safety of Native women and which, importantly, allow federal and tribal law enforcement agencies to hold more perpetrators of domestic violence accountable for their crimes. Many of these critical provisions were drawn from the Department of Justice’s July 2011 proposal for new federal legislation to combat violence against native women. The tribal provisions in VAWA 2013 address three significant legal gaps by: (1) recognizing certain tribes’ power to exercise concurrent criminal jurisdiction over domestic violence cases, regardless of whether the defendant is Indian or non-Indian; (2) clarifying that tribal courts have full civil jurisdiction to issue and enforce protection orders involving any person, Indian or non-Indian; and (3) creating new federal statutes to address crimes of violence, such as strangulation, committed against a spouse or intimate partner and providing more robust federal sentences for certain acts of domestic violence in Indian Country. The Senate-passed version of VAWA Reauthorization, S. 47, including these tribal provisions, passed both Houses of Congress with significant bipartisan support.
  
- By the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013’s enhanced federal assault statutes and obtained 164 convictions. These

numbers include more than 60 cases involving charges of strangulation or suffocation, which are often precursor offenses to domestic homicide.

### **Pilot Project for Tribal Jurisdiction Over Crimes of Domestic Violence**

- VAWA 2013 recognizes tribes' inherent power to exercise special domestic violence criminal jurisdiction over certain defendants, regardless of their Indian or non-Indian status, who commit acts of domestic violence or dating violence or violate certain protection orders in Indian country. This new law generally takes effect on March 7, 2015, but also authorized a voluntary "Pilot Project" to allow certain tribes to begin exercising special jurisdiction sooner. On Feb. 6, 2014 the Pascua Yaqui Tribe of Arizona, the Tulalip Tribes of Washington and the Umatilla Tribes of Oregon were selected for this Pilot Project. Prior to the law generally taking effect, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana and the Confederated Tribes of the Umatilla Indian Reservation in Oregon were also selected to participate in the Pilot Project. Since the Pilot Project began, more than 20 criminal cases have been charged by tribal prosecutors against non-Indian domestic violence offenders and several have been convicted of domestic violence crimes. Information related to the Pilot Project, related consultations, and other resources, may be found on the [VAWA Reauthorization 2013 page](#).

### **Native American Issues Subcommittee**

- Currently, U.S. Attorneys from 25 districts with Indian Country or one or more federally recognized tribes serve on the Native American Issues Subcommittee (NAIS) of the Attorney General's Advisory Committee (AGAC). The NAIS focuses exclusively on Indian Country issues, both criminal and civil and is responsible for making policy recommendations to the Attorney General regarding public safety and legal issues. The NAIS met on several occasions in 2014 including in August on the Navajo Nation in Arizona in conjunction with the Four Corners Conference, which is hosted by the U.S. Attorneys in Utah, Arizona, Colorado and New Mexico. The NAIS meeting focused on the issues of juvenile justice and offender reentry. During this meeting, the NAIS and senior Department of Justice and Interior officials consulted with tribal leaders from across the Southwest.
- In 2011, 2012 and 2013 the NAIS convened on numerous occasions. During that time, the NAIS has met and consulted with tribes in Rapid City and Pine Ridge, South Dakota; Missoula, Montana; Bismarck, North Dakota; and Hood River, Oregon. In July 2011 the NAIS joined Attorney General Eric Holder in Rapid City, South Dakota, and on the Pine Ridge Indian Reservation, to hear from tribal leaders, law enforcement officials, and community members about public safety issues, including violence against Native American women.
- NAIS Chair Tim Purdon testified before the Senate Committee on Indian Affairs regarding the Indian and Law and Order Act Commission's report, *A Roadmap for Making Native America Safer*

- NAIS has provided support to USAOs bringing domestic violence charges in Indian Country, following the enactment of VAWA 2013. As of the end of February 2015, federal prosecutors had charged 210 defendants under VAWA 2013's enhanced federal statutes and obtained 164 convictions.
- In October 2014, U.S. Attorneys Carter Stewart and Tim Purdon sent a letter to Chief Judge Patti B. Saris, Chair of the U.S. Sentencing Commission, reiterating the department's support for formation of a Tribal Issues Advisory Group to investigate potential unwarranted sentencing disparities in sentences received by American Indians and Alaskan Natives prosecuted in the federal courts. The letter also contained recommendations regarding the scope duration, and membership of the proposed Advisory Group. The group was formed in February 2015. U.S. Attorney Michael W. Cotter, one of two co-chairs of the NAIS, represents the NAIS on the Tribal Issues Advisory Group.
- Tribal Liaisons in many districts have helped develop Multi-Disciplinary Teams comprised of prosecutors (Assistant U.S. Attorneys and tribal prosecutors); tribal, local and federal law enforcement; physicians; counselors; child protective services personnel; and child advocates to foster collaboration and coordination.

#### **U.S. Attorney's Office Tribal Liaisons**

- Every U.S. Attorney with Indian Country jurisdiction has appointed at least one tribal liaison to serve as the U.S. Attorney's Office's (USAO) primary point of contact with tribes in the district.

#### **Supporting Implementation of the Sex Offender Registration and Notification Act (SORNA)**

- Through the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking (SMART), the department continues to provide support to tribal jurisdictions that have opted to implement SORNA. Of the 161 eligible tribes, 74 have been found to have substantially implemented SORNA and the rest are continuing to work towards substantial implementation of the Act.
- In order to support substantial implementation of SORNA, the department developed a number of innovative projects through the SMART Office, including: (1) funding the development of a new Tribal Access Project which will assist tribes submitting and searching information in federal databases such as the National Crime Information Center (NCIC) and will allow access to the NCIC subfolder dedicated to sex offender information.; (2) developing the Native American Sex Offender Management program (NASOM) in four sites, to design culturally-specific reentry tools and programs to address offenders who are being released back into tribal communities; and (3) beginning a pilot project in the Pueblo of Santo Domingo (Kewa) to explore culturally-appropriate application of the community-driven supervision model "Circles of Support and Accountability" to prevent reoffending, improve victim safety, and access of victims and offenders to important tribal events and programs.

- The SMART Office maintains the Tribal and Territory Sex Offender Registry System (TTSORS), which allows tribes to set up a SORNA--compliant public website and public notification system at no cost. Over 110 tribes have utilized TTSORS to set up public sex offender websites linked to the National Sex Offender Public Website. The SMART Office also continues to provide onsite technical assistance and training to SORNA tribes, including four regional trainings for law enforcement and SORNA staff, a training with the U.S. Marshal Service to enhance registration programs in the Dakotas, four onsite meetings with NASOM participants, and numerous other conferences and events to assist tribes in developing sex offender registration and management programs.

### **Enhanced Training for Prosecutors and Law Enforcement Working in Indian Country**

- In July 2010, EOUSA launched the National Indian Country Training Initiative (NICTI) to ensure that Department prosecutors, as well as state and tribal criminal justice personnel, receive the training and support needed to address the particular challenges relevant to Indian country prosecutions. This training effort is led by the Department's National Indian Country Training Coordinator and is based at the National Advocacy Center (NAC) in Columbia, SC. Since its inception, the NICTI has delivered dozens of training opportunities at the NAC or in the field, including well over 100 lectures for other federal agencies, tribes, and tribal organizations held around the country. The NICTI had reached the 48 United States Attorneys' Offices with Indian country responsibility and over 200 tribes, federal, and state agencies.
- FY 2015 training designed to support Department priorities and initiatives included, in part, the following: Sexual Assault Nurse Examiner Expert Witness Training, the National Institute on the Prosecution of Domestic Violence in Indian Country, Domestic Violence Fatality Review Team Training, Indian Country Strangulation and Suffocation Seminar, Federal-Tribal-State Reentry Team Training, and Human Trafficking in Indian Country.
- In addition to live training, the NICTI issues written publications and serves as faculty for other federal agency trainings, webinars, tribally hosted conferences, and technical assistance providers serving Indian country. Importantly, DOJ's Office of Legal Education covers the costs of travel and lodging for tribal attendees at classes sponsored by the NICTI. This allows many tribal criminal justice and social service professional to receive cutting-edge training from national experts at no cost to the student or tribe.
- The NICTI received funding from OVC and OVW to develop new training DVDs and resource materials on the issues of alcohol-facilitated sexual assault in Indian country and the investigation and prosecution of domestic violence, sexual assault, and human trafficking crimes committed against Alaska Natives. Both DVDs will be available in 2016.

### **Traditional Justice Practices as Alternatives to Incarceration:**

- ATJ and the Department of the Interior's BIA, Office of Justice Services, Division of Tribal Justice Support co-sponsored an expert group meeting in April 2013 on the use of traditional Native American justice practices to respond to criminal and delinquent

behavior. The one-day roundtable meeting brought together leaders and experts on the use of traditional justice practices to discuss the benefits and challenges of these programs and processes and developed recommendations to the federal government on how to support these practices. In September 2014, ATJ issued a report summarizing the expert group's discussions and recommendations, which was disseminated to tribal criminal justice stakeholders in furtherance of the Tribal Law and Order Act's mandate that both departments help tribes develop alternatives to incarceration: <http://www.justice.gov/sites/default/files/atj/legacy/2014/10/09/expert-working-group-report--native-american-traditional-justice-practices.pdf>. The Department of Justice Bureau of Justice Assistance's FY 2015 Tribal Civil and Criminal Legal Assistance Program's solicitation authorizes training and technical assistance to support these practices.

### **Information Sharing with Tribal Governments**

- Since 2009, the FBI's Uniform Crime Reporting (UCR) Program Office has coordinated with BIA and the Justice Department's Office of Justice Programs to increase the number of tribes that qualify for Justice Assistance Grants (JAG) eligibility. This has been accomplished primarily through liaison efforts and presentations to increase awareness at tribal law enforcement conferences.
- In May 2015, a five tribe law enforcement consortium in Arizona successfully used BJA (Bureau of Justice Assistance) funding and RISS (Regional Information Sharing Systems) technology support to establish a tribal specific multi-agency criminal intelligence database entitled "Tribal RISS7." The five tribes: Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, Tohono O'odham Nation, Fort McDowell Yavapai Nation, and the Ak-Chin Indian Community are all located within Maricopa County, Arizona. They are the first multi-tribe partnership to successfully envision, coordinate, approve, and activate a multi-tribe shared, secure, 28 CFR Part 23 criminal intelligence database using standardized forms, internal controls, intelligence oversight training, and common inquiry/submission procedures used by all participating tribes.

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## **SAFEGUARDING INDIAN CHILDREN**

### **Department of Justice Initiative to Promote Compliance with ICWA**

On Dec. 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced the department's initiative to promote compliance with the Indian Child Welfare Act of 1978 (ICWA). The department's ICWA initiative has three primary components: (1) participating as *amicus curiae* in state-court and federal-court litigation regarding interpretation of ICWA; (2) partnering with the Departments of the Interior and of Health and Human Services to make sure that all the tools available to the federal government are used to promote compliance with ICWA; and (3) engaging in other targeted actions to increase awareness of ICWA's requirements and promote compliance with the statute, including training and outreach.



The department has made progress in each of these areas, including:

- The department filed a successful *amicus curiae* brief in South Dakota district court supporting the Oglala Sioux Tribe's argument that the emergency-removal policies and practices of one of the South Dakota circuit courts and certain state officials in cases involving Indian children violate ICWA and the due process clause of the Constitution. The United States argued that ICWA imposes a specific obligation on state officials to actively investigate and oversee emergency removals of Indian children to insure that the removal ends as soon as possible and that Indian children are expeditiously returned to their parents or their tribe, or that the state commences a child custody proceeding subject to all of ICWA's protections. The United States also argued that due process requires that, when the state takes emergency custody of a child, the parents must be provided with notice and a prompt and meaningful opportunity to be heard. The district court agreed, and granted partial summary judgment for the tribe on March 30, 2015.
- On Nov. 26, 2014, the United States filed a *amicus curiae* brief supporting the tribe's request for rehearing in *Native Village of Tununak v. Alaska* in the Alaska Supreme Court. The Alaska Supreme Court held that an Indian child's grandmother did not formally seek to adopt the child in court, and thus did not qualify for consideration under ICWA's placement preferences. On April 15, 2015, the state of Alaska issued an emergency regulation clarifying that a request to adopt an Indian child may be made in a number of ways and that a formal court petition is not required, thus removing a significant barrier to adoption of tribal children by their family or tribal members.
- The department, along with the Departments of the Interior and Health and Human Services, participated in a listening session on ICWA compliance in April 2015. The listening session included tribal representatives, child welfare workers, and adoptive parents.

#### **American Indian and Alaska Native Children Exposed to Violence Task Force**

- Attorney General Holder created the task force in 2013 as part of his Defending Childhood initiative to prevent and reduce children's exposure to violence as victims and witnesses. The task force was also a component of the Justice Department's ongoing collaboration with leaders in American Indian and Alaska Native communities to improve public safety. The task force was comprised of a federal working group that includes U.S. Attorneys and officials from the Departments of the Interior, Justice and Health and Human Services and an advisory committee of experts on American Indian studies, child health and trauma and child welfare.
- On Nov. 18, 2014, the Advisory Committee of the Attorney General's Task Force on American Indian and Alaska Native Children Exposed to Violence released a report entitled "Ending Violence so Children Can Thrive" which outlines significant policy recommendations to the Justice Department. The report recommends a rebuilding of the current services provided to Indian Country, through increased partnering and coordination with tribes and increased funding for programs to support American Indian and Alaska Native children. The report provides the advisory committee's vision for the development of effective, trauma informed and culturally appropriate programs and

services to protect American Indian and Alaska Native children exposed to violence.

- The report was the outcome of a year of public hearings of the advisory committee held in Alaska, Arizona, Florida and North Dakota. The advisory committee hearings included tribal researchers, child advocates, domestic violence and sexual assault advocates and local community members, tribal leaders, juvenile court judges and juvenile justice system experts.

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### **TRIBAL LAW & ORDER ACT (TLOA) IMPLEMENTATION**

On May 30, 2013, and Aug. 26, 2014, the department released the first two reports to congress entitled *Indian Country Investigations and Prosecutions* which provide a range of enforcement statistics required under the Tribal Law and Order Act of 2010. The reports, based on data compiled from the FBI and the case management system used by USAO with Indian Country jurisdiction shows among other things a substantial increase in Indian Country criminal prosecutions since fiscal year (FY) 2009.

Among other facts and information, the reports showed the following:

- Federal prosecutors continue to bring a substantial number of cases to federal court. Cases filed against defendants in Indian Country have increased by 34 percent from FY 2009 to FY 2013, from 1,091 cases filed in fiscal year (FY) 2009 to 1,138 in FY 2010 to 1,547 in FY 2011 to 1,677 in FY 2012 and to 1,462 in FY 2013.
- USAO data for calendar year (CY) 2013 show that 34 percent (853) of all Indian country submissions for prosecution (2,542) were declined for prosecution. In CY 2012, USAOs declined approximately 31 percent (965) of all (3145) Indian country submissions for prosecution. USAO data for CY 2011 indicate that just under 37 percent (1,041) of all Indian country submissions for prosecution (2,840) were declined. Overall, a substantial majority of Indian Country criminal cases opened by USAOs were prosecuted.
- Of the cases that were declined for federal prosecution, most were declined for insufficient evidence or because they were referred to another prosecuting authority, such as the tribe, for potential prosecution.
- Although declination rates are an imperfect means of evaluating the effectiveness of criminal justice in Indian country or elsewhere, the second report shows that with few exceptions, areas where the largest populations of American Indian people live and suffer from the most serious crime rates, such as the Southwest and the Northern Plains states (which together handled approximately 70 percent of the 2,542 cases resolved in 2013), federal declination rates were the lowest in the nation. For instance, South Dakota had the second to highest number of cases resolved in the country last year, 470 cases and one of the lowest declination rates of 26 percent. Arizona resolved the highest number of cases, 733 cases and had a declination rate of 28 percent.

Read the reports at [www.justice.gov/tribal/tribal-law-and-order-act](http://www.justice.gov/tribal/tribal-law-and-order-act)

### **Access to National Crime Information Databases**

- On August 29, 2015 The U.S. Department of Justice launched the initial phase of the Tribal Access Program for National Crime Information (TAP) to provide federally-recognized tribes access to national crime information databases for both civil and criminal purposes.
- TAP will support tribes in analyzing their needs for national crime information and help provide appropriate solutions, including a-state-of-the-art biometric/biographic computer workstation with capabilities to process finger and palm prints, take mugshots, and submit records to national databases, as well as the ability to access CJIS systems for criminal and civil purposes through the Department of Justice. TAP will also provide specialized training and assistance for participating tribes.
- In the initial phase of the TAP program, the biometric/biographic workstations will be deployed to up to 10 federally-recognized tribes who will provide user feedback. This phase will focus on assisting tribes that have law enforcement agencies, while in the future the Department will seek to address needs of the remaining tribes and establish a long-term funding solution.

### **Establishment of the Office of Tribal Justice as Separate Component within the Justice Department**

- On Nov. 17, 2010, Attorney General Holder announced the establishment of the Office of Tribal Justice (OTJ) as a separate component within the organizational structure of the department. OTJ has a key role in the Department's ongoing initiative to improve public safety in Indian Country and serves as an important resource on matters of Indian law. In 2012, Tracy Toulou, who had served on detail as OTJ Director since 2000, was selected as the first permanent director of the office.

### **Bureau of Prisons Pilot Project to House Tribal Offenders Sentenced in Tribal Courts**

- In November 2010, the Bureau of Prisons (BOP) launched a four-year pilot program to accept certain tribal offenders sentenced in tribal courts for placement in BOP institutions. The pilot program allowed any federally recognized tribe to request that BOP incarcerate a person convicted of a violent crime under the terms of the TLOA. Since the first inmate was accepted on Nov. 20, 2012, an additional five inmates were admitted under the program before its conclusion in November 2014.

### **Memorandum of Agreement on Alcohol and Substance Abuse**

- The Departments of Justice, Interior and Health and Human Services entered into a Memorandum of Agreement that the agencies would collectively, among other things: determine the scope of the alcohol and substance abuse problems faced by American Indians and Alaska Natives, identify the resources each agency can bring to bear on the problem and set minimum standards for applying those resources. This multi-agency collaboration has produced quarterly "Prevention and Recovery" newsletters with information about grant programs, tribal programs and policy initiatives designed to

address alcohol and substance abuse in American Indian and Alaska Native communities. The newsletters and more information about this evolving collaboration are available at [www.samhsa.gov/tloa/](http://www.samhsa.gov/tloa/).

### **Building and Sustaining Tribal Justice Systems**

- The Departments of Justice and the Interior, working in close coordination with other federal agency partners, developed a long term plan to build and sustain tribal justice systems. Both agencies continue to coordinate on efforts to address the tribal justice plan recommendations. Efforts include working with tribes to implement alternatives to incarceration and improving the coordination of resources to assist tribes with addressing tribal justice infrastructure needs. Read more about the plan here: [www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf](http://www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf)  
Resources can be found at the Department's Tribal Justice and Safety website [www.justice.gov/tribal](http://www.justice.gov/tribal).
- On July 13-14, 2015, the Bureau of Justice Assistance (BJA) hosted *A Dialogue on the Tribal Law and Order Act (TLOA) Implementation of the Enhanced Sentencing Authority (ESA)* with over 75 attendees from 24 Indian tribes, 6 legal services offices, 5 federal agencies, and others. Through peer-to-peer training, Indian tribes learned about various implementation strategies employed by five Indian tribes (Salt River Pima Maricopa Indian Community, Gila River Indian Community, Pascua Yaqui, Eastern Band of Cherokee Indians, and Hopi Tribe) who are actively prosecuting under the enhanced felony authority. BJA identified federal resources to help support implementation of enhanced sentencing authority and released a publications entitled, [\*Tribal Law and Order Act: Enhanced Sentencing Authority – Tribal Code Development Considerations Quick-Reference Overview & Checklist\*](#). The information gathered at the Dialogue Session informed a Fiscal Year 2015 BJA award for additional training and technical assistance resources to support Indian tribes who will implement the enhanced sentencing authority. Resources can be found at the BJA TLOA website: [www.bja.gov/ProgramDetails.aspx?Program\\_ID=88#horizontalTab6](http://www.bja.gov/ProgramDetails.aspx?Program_ID=88#horizontalTab6).
- BJA continues to fund the Tribal Law and Order Resource Center website hosted by the National Congress of American Indians and the National Criminal Justice Association. The website is a one-stop website for information on the implementation of TLOA activities. The site can be found at: [tloa.ncai.org/](http://tloa.ncai.org/).
- In response to requests of tribal justice practitioners who reported that they often have difficulty finding practical information about how other tribes are addressing common challenges, BJA funded the creation of the Tribal Access to Justice Innovation website to help tribal justice practitioners learn about emerging and promising justice-related programs in Indian Country. This resource highlights successful programs and connects tribal justice practitioners. Created and maintained by the Tribal Justice Exchange at the Center for Court Innovation this site will continue to catalog and highlight additional emerging and promising tribal justice programs on an ongoing basis. For more information, visit: <http://tribaljustice.org>

On October 6-7, 2014, BJA sponsored *Traditional Peacemaking: Exploring the Intersections between Tribal Courts and Peacemaking*, the second of three events focused on traditional justice and holistic justice. The goal of this training was to explore the ways in which tribal courts integrate traditional justice and community values into the tribal civil and criminal justice process, to provide experiential training and tips for accessing tribal judicial systems that utilize cultural forms of justice, and to demonstrate how traditional peacemaking can unlock new approaches to provide effective representation of civil and criminal legal services clients. The training brought together more than 60 tribal justice practitioners from across the country and introduced them to the various peacemaking models utilized in tribal courts, including those that are being used as alternatives to detention. Information gathered from the three training events will be compiled into a single publication scheduled for release in the Spring of 2016.

### **Rule on Assumption of Concurrent Federal Criminal Jurisdiction**

- The department published its final rule in December 2011 to implement Section 221 of the TLOA, which authorizes the Attorney General to assume concurrent federal criminal jurisdiction over certain crimes committed on tribal lands. Through this rule, an Indian tribe that is subject to Public Law 280 may request that the federal government accept concurrent federal criminal jurisdiction within the tribe's Indian Country and, if the Attorney General consents, federal authorities can investigate and prosecute criminal offenses. Public Law 280 is the 1953 law that mandated the transfer of federal law enforcement jurisdiction for certain tribes to six states. Several tribes have submitted requests for assumption by the Attorney General of concurrent federal criminal jurisdiction, which the department currently is reviewing.
- On March 15, 2013, the Department of Justice granted a request by the White Earth Nation for the United States to assume concurrent criminal jurisdiction on the 1,300 square mile White Earth reservation in northern Minnesota. The decision was the first action of its kind under TLOA. The decision, relayed in March 2013 in a letter to the tribe signed by Deputy Attorney General James M. Cole, took effect on June 1, 2013. Tribal, state and county prosecutors and law enforcement agencies will also continue to have criminal jurisdiction on the reservation.

### **Native American Issues Coordinator Designated in EOUSA**

- The department's Native American Issues Coordinator, designated in EOUSA, provides advice and assistance to USAOs on legal and policy issues pertaining to Native Americans and Indian Country and serves as a liaison between the USAOs, the NAIS and other department components and law enforcement agencies. The coordinator's work involves several issues affecting Indian Country, including, among many others, the implementation of the Tribal Justice Plan, which focuses on reentry, alternatives to incarceration and detention; jurisdictional issues for criminal and civil matters; outreach efforts between the department, other federal agencies and local jurisdictions; requests for assumption of concurrent federal jurisdiction under the TLOA; and issues involving federal, state and tribal law enforcement authority, cooperation and emergency response in Indian Country.

## **Additional Resources to Combat Sexual Assault in Indian Country**

- In accordance with Section 265 of the TLOA, the Office for Victims of Crime (OVC), in partnership with the FBI's Office of Victim Assistance (OVA) and the Indian Health Service, is leading an effort to enhance the response to tribal victims of sexual violence. The American Indian / Alaska Native (AI/AN) Sexual Assault Nurse Examiner-Sexual Assault Response Team (SANE-SART) Initiative addresses the comprehensive needs of tribal victims of sexual violence. From the outset of the project in 2010, OVC and its federal and tribal partners have focused on the challenge of building the capacity of tribal communities to provide coordinated, community-based, victim-centered responses to sexual violence. The 5-year project encompasses three demonstration sites, coordinators at the Indian Health Service and the FBI, training and technical assistance and support from the Attorney General's federal advisory committee and multidisciplinary working groups—all committed to institutionalizing sustainable, culturally relevant, evidence-based practices to meet the needs of tribal victims of sexual assault. More information about the initiative and its multiple components is available at [www.ovc.gov/AIANSane-Sart/](http://www.ovc.gov/AIANSane-Sart/)

Highlights from the initiative's efforts in the past 12 months include the following:

- Three tribal demonstration sites are now operating functional SANE-SART programs and are poised to provide services to both child and adult victims of sexual assault.
- OVC established a multi-disciplinary working group of Indian country professionals who have significant experience in developing a coordinated community response to sexual violence to aid in the creation of a national strategy to enhance the ability of tribal governments and their partners to respond to sexual violence. The first draft of the national strategy was completed in early 2014 based on the recommendations of the working group members.
- In June 2014, OVC's National Coordination Committee on the AI/AN SANE-SART Initiative finalized and submitted its *Report to the U.S. Attorney General on Improving Federal Agency Response to Sexual Violence in Tribal Nations: Issues and Recommendations*.
- In November 2014, representatives of the Committee briefed the Attorney General on the report. As a follow-up to the briefing, OVC developed a memorandum detailing action steps that could be taken by the Attorney General to begin implementation of the Committee's recommendations.
- In October 2015, the Attorney General approved the recommendations detailed in the memorandum, and has begun the implementation process.

## **Tribal Crime Data Collection Activities, 2015**

- In July 2015, the Bureau of Justice Statistics (BJS) released the report *Tribal Crime Data Collection Activities 2015*, pursuant to TLOA which requires annual reporting on Indian country crime data. The report summarizes BJS's efforts in 2015 to field a survey on the

capabilities and caseloads of tribal court systems; develop a survey of all state and local law enforcement agencies and prosecutors' offices serving Indian country; study the handling of American Indian and Alaska Native juvenile and adult criminal cases in the federal justice system; and enhance current funding programs to support tribal participation in regional and national criminal justice databases. It summarizes tribal eligibility for Edward Byrne Memorial Justice Assistance Grant awards from 2008 to 2015, and presents Uniform Crime Reporting Program statistics on offenses reported by tribal law enforcement agencies from 2008 to 2013:

<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5323>

### **Intergovernmental Collaboration**

- The TLOA directs the Attorney General to provide technical assistance on strategies to promote intergovernmental collaboration and relationships among state, tribal and local partners that effectively combat crime and fill jurisdictional and service gaps to enhance public safety and access to justice for all citizens. BJA continues to promote and support tribal-state-federal collaborations, including the Walking on Common Ground website ([www.WalkingOnCommonGround.org](http://www.WalkingOnCommonGround.org)), which highlights tribal/state courts collaboration, promising strategies, and provides toolkits to assist others.

Some of these outcomes and promising strategies of joint collaborative efforts are highlighted in BJA's 2014-2015 Intergovernmental Collaboration on Criminal Justice Webinar Series. For more information, visit the webinar series at:

[www.ncja.org/webinars-events/state-tribal-collaboration-webinar-series](http://www.ncja.org/webinars-events/state-tribal-collaboration-webinar-series).

- On June 4, 2015, BJA hosted a Listening Session on enhancing tribal and state collaborations to build sustainable partnerships with Alaska Native Tribes and tribal organizations, the State of Alaska, and local entities. An Alaska-specific curriculum will be developed. BJA and its partners are planning to convene a curriculum development workgroup and to pilot the curriculum through a training session.
- The Leech Lake Band of Ojibwe Tribal Court and the Cass and Itasca County District Courts in Minnesota have successfully operated joint-jurisdiction Wellness Courts for nearly a decade. Not only have the courts reduced recidivism by chronic alcohol and drug offenders, they have helped improve relationships between the tribe and local governments. The tribal court and the State district courts have agreed to expand joint hearings, focusing on juvenile delinquency and child welfare cases subject to the Indian Child Welfare Act (ICWA). States' non-compliance with ICWA has come to the attention of DOJ which identifies state-court cases where the United States can file briefs opposing the unnecessary and illegal removal of Indian children from their families and tribal communities. The joint jurisdictional court makes Indian child welfare a priority, promotes system accountability and compliance with ICWA, and ensures that all available resources (tribal and state) can be tapped to ensure better outcomes.
- In FY 2015, BJA, in partnership with the Executive Office for U.S. Attorneys' National Indian Country Training Initiative, hosted three 2½ day Intergovernmental Reentry

Workshops (IRW). The purpose of the meetings was to provide tribes interested in developing reentry initiatives with guidance based on evidence-based practices; an opportunity to learn from two tribes that had effective programs; and an opportunity to work with state and federal counterparts to begin discussing how their tribe could become more involved in reentry planning and service provision for tribal members planning to return to their communities.

- These workshops were delivered regionally in collaboration with U.S. Attorneys' Offices with Indian country responsibility. The workshops included regional representatives from the Bureau of Prisons and U.S. Probation. Eleven tribes participated in the workshops. Currently, BJA is following up with these tribes to provide additional training and technical assistance.

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### **GRANT OPPORTUNITIES**

#### **Streamlined Grant Solicitation Process for Tribal Communities**

- In February 2010, the department announced a streamlined approach for AI/AN tribes to apply for funding opportunities. The Coordinated Tribal Assistance Solicitation (CTAS) serves as a single application for existing tribal government-specific grant programs administered by the Office of Justice Programs (OJP), Community Oriented Policing Services (COPS) and the Office on Violence Against Women (OVW). The creation of this streamlined process comes in response to tribes' concerns that the department's grants were not flexible enough and that a single application would significantly improve the ability to apply for and receive funding. In September 2015, the department announced the award of 209 grants totaling over \$97 million to American Indian tribes and Alaska Native villages, tribal consortia and tribal designees. Over the past six years, the department has awarded over 1400 grants totaling more than \$620 million.
- The FY 16 CTAS solicitation is scheduled to open in mid-November, 2015 and close in mid-February 2016. Information about the consolidated solicitation is available at [www.justice.gov/tribal/](http://www.justice.gov/tribal/). A fact sheet on CTAS is available at <http://www.justice.gov/tribal/file/771781/download>.

#### **Vision 21**

- In October 2015 OVC awarded a Vision 21 cooperative agreement in the amount of \$1,999,727 to the *National Center for Victims of Crime* (NCVC), who will work in partnership with the *Tribal Law and Policy Institute* (TLPI), the *National Congress of American Indians* (NCAI), and *Kauffman and Associates, Inc.* (KAI) to collaborate with the field to plan, develop, and begin to implement a *Tribal Victim Services Resource Mapping Project*, a national scope project that envisions that tribal victims have access to information about comprehensive services wherever and whenever they seek assistance. The grantees will work to collect and categorize information about available services for AI/AN victims at all levels, including tribal, state, regional, national, and federal;



developing this data into a state-of-the-art resource mapping and referral tool; and publishing the tool to the public in a user-friendly format.

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## **PROTECTING TRIBAL RESOURCES AND SOVEREIGNTY**

### **Historic Settlements of Trust Litigation**

- In 2010, the Departments of Justice and Interior reached a historic \$3.4 billion settlement resolving the litigation in *Cobell v. Salazar*, an Indian trust class-action lawsuit that had been pending for 15 years. The settlement, approved by the court and congress, provides for payments to over 400,000 individual Indians who had Individual Indian Money accounts or an interest in trust or restricted land managed by the Department of the Interior.
- Since January 2009, the United States has settled the trust accounting and trust mismanagement claims of more than 80 federally recognized tribes and paid more than \$2.5 billion in compensation to those tribes, resolving decades-long and costly litigation. For instance, in September 2014, Attorney General Holder and U.S. Secretary of the Interior Sally Jewell announced the settlement of a lawsuit filed by the Navajo Nation regarding the U.S. government's management of funds and natural resources that it holds in trust for the Navajo Nation. The settlement resolves a long-standing dispute, with some of the claims dating back more than 50 years and brings to an end protracted litigation that has burdened both the Navajo Nation and the United States.
- All of the tribal trust case settlements provide for measures that will lead to strengthened management of tribal trust assets and non-monetary resources and to improved communications between the Department of the Interior and the tribes. The department, along with the Interior and Treasury Departments, are continuing settlement negotiations with other tribes that still have pending trust accounting and trust mismanagement claims against the United States.

### **Securing Tribal Lands**

- ENRD litigates in support of tribal lands. The department helped the Saginaw Chippewa Indian Tribe establish the existence and boundaries of its reservation through a 2010 settlement between the tribe, the United States, the state of Michigan and local governments, which included a series of landmark intergovernmental agreements that provide much-needed clarity regarding authority over law enforcement, child welfare, taxation and land use matters. In addition, the department successfully supported the existence of the Yankton Sioux Reservation in South Dakota by defeating claims that the reservation had been disestablished.
- The department also successfully defended the Secretary of the Interior's decisions to take land into trust for various tribes. These decisions expand tribes' land bases and enhance their ability to provide housing and economic development opportunities for their communities.

- The department has worked closely with the Department of the Interior to address the Supreme Court’s 2009 decision in *Carciere v. Salazar* holding that Interior could not take land into trust for tribes that had not been “under federal jurisdiction” when the Indian Reorganization Act was enacted in 1934. The department helped Interior develop a framework to determine whether a tribe was “under federal jurisdiction” at that time, thus addressing the uncertainty created by the *Carciere* decision and allowing Interior to address the backlog of trust applications that developed in the wake of that decision.
- Since then, the department has defended Interior’s decisions to take land into trust under the new post-*Carciere* framework and it continues to do so. In the first major district court decision regarding tribal land acquisition after the *Carciere* decision, on Dec. 12, 2014, the district court upheld the Department of the Interior’s decision to acquire land into trust for the Cowlitz Indian Tribe based on a determination that the Tribe was “under federal jurisdiction” in 1934. The court also upheld the National Indian Gaming Commission’s approval of gaming on that land. Also, in January 2013, the department secured favorable decisions in two cases where plaintiffs sought, based in part on *Carciere*, a preliminary injunction or restraining order precluding Interior from taking land into trust on behalf of two Indian tribes in California.
- The department also filed a precedent-setting amicus brief on behalf of the United States in a tribal court defending tribal reservation boundaries. In *Smith v. Parker*, the department supported the Omaha Tribe’s argument that an act of Congress did not alter or diminish the tribe’s reservation boundary. In February 2013, the tribal court held that the reservation boundaries remain intact. On return of the case to the federal district court in Nebraska, the department intervened in the case and filed a successful motion for summary judgment, resulting in a federal district court determination that the reservation boundary was not changed by congress. This determination was upheld by the Eighth Circuit Court of Appeals in December 2014.
- In a case of first impression, the department secured dismissal of a case that concerned the assertion of local authority over Indian trust lands. The department argued in *Oneida Nation of Wisconsin v. Village of Hobart* that state or local regulation of tribal lands was improper under the facts of that case. The court ultimately provided the relief that the Oneida Nation sought.

### **Preserving Tribal Culture through Access to Eagle Feathers**

- On Oct. 12, 2012, the department announced a policy addressing the ability of members of federally recognized Indian tribes to use the feathers and other parts of eagles and other federally protected birds, an issue of great cultural and religious significance to many tribes and their members. Attorney General Holder signed the new policy after extensive department consultation with tribal leaders and tribal groups. The Attorney General's memorandum is the first formal policy statement adopted by the Justice Department on this issue. It clarifies and expands on longstanding department practice, consistent with the Department of the Interior's 35-year old Morton Policy, of not prosecuting tribal members for possessing or using eagle feathers and other protected bird

parts while continuing to prosecute tribal members and nonmembers alike for killing protected birds without a permit or for commercializing federally protected birds or bird parts. The policy is located at [www.justice.gov/ag/ef-policy.pdf](http://www.justice.gov/ag/ef-policy.pdf)

- In an important victory, the Tenth Circuit held in *United States v. Wilgus* that the government could provide tribal members with exclusive access to eagle feathers for religious purposes, under exceptions to federal laws prohibiting possession of these wildlife resources.

### **Supporting Tribal Courts and Tribal Sovereignty**

- The department successfully argued as *amicus curiae* in the Supreme Court that the Bay Mills Indian Community's sovereign immunity barred the state of Michigan's action against the tribe for operating an off-reservation gaming facility. The Supreme Court's decision in *Michigan v. Bay Mills Indian Community* affirmed the Supreme Court's prior case law that absent an unequivocal expression by congress abrogating tribal sovereign immunity, tribes enjoy immunity from suit for off-reservation activities, whether commercial in nature or not.
- ENRD also regularly litigates in support of tribal sovereignty. For example, in *Water Wheel Camp Recreation Area, Inc. v. Gary LaRance*, the department successfully supported tribal court jurisdiction to exclude non-Indians from tribal land. The Ninth Circuit's ruling will help address long-standing problems with non-Indians encroaching on tribal lands and provides strong precedent in support of tribal courts.
- In the Supreme Court case *Hogan v. Kaltag Tribal Council* and the Ninth Circuit case *Parks v. Native Village of Minto*, the department helped successfully support the inherent sovereignty of Alaska Native village tribal courts to adjudicate child custody matters.
- The department defended the validity of tribe-specific employment preferences in leases relating to a particular tribe's trust resources. The department successfully argued that such preferences are based on political classifications, grounded in the government-to-government relationship between the United States and tribal nations and are therefore permissible under Title VII of the Civil Rights Act.

### **Protecting Tribal Rights and Natural Resources**

- ENRD's Indian Resources Section continues to assert water rights claims for the benefit of tribes in order to secure safe and reliable drinking water for tribes, as well as water for sanitation, economic development and other purposes. Most recently, the department successfully argued that the Agua Caliente Band of Cahuilla Indians' federal reserved water rights include groundwater. Further, the department contributed to six landmark Indian water rights settlements and corresponding statutes which, when fully implemented, will resolve complex and contentious water rights issues in New Mexico, Arizona, Montana and Nevada. The department also successfully defended claims for the benefit of the Klamath Tribes in the Klamath Basin Adjudication in Oregon, for the Confederated Tribes of the Yakama Nation in the Yakima River Basin in Washington

and the Pyramid Lake Paiute Tribe in Nevada. The department remains involved in 29 complex water rights adjudications in nearly every western state.

- The department is engaged in litigation to protect treaty fishing rights of tribes in the Pacific Northwest. In *United States v. Washington*, the United States sought to address decline in the quality and quantity of fish habitat caused by development pressures in western Washington and in particular, the question of habitat loss caused by poorly constructed and maintained culverts beneath state roads, which impede the passage of fish to spawning grounds and block the access of juvenile fish to the ocean. In March 2013, the court issued a permanent injunction requiring the state to inventory remaining fish-blocking culverts within six months and provide for fish passage at culverts with specified upstream habitat within 17 years.

### **Protecting the Environment in Indian Country**

- As part of a settlement agreement with the Navajo Nation negotiated by ENRD, the federal government will place \$13.2 million into an environmental response trust to pay for the evaluations of 16 priority abandoned uranium mines located across Navajo lands. The evaluations focus on the mines that pose the most significant hazards and will form a foundation for their final cleanup.
- The department is committed to the principles of environmental justice, including for tribal communities and has incorporated environmental justice principles into its cases by working with tribal members to address pollution on their lands. For example, ENRD worked closely with members of the Ute Indian Tribe in reaching a consent decree that resolved Clean Air Act violations at five natural gas compressor stations on the Uintah and Ouray Reservation in Utah. Under the settlement, defendant QEP Field Services, formerly Questar Gas Management Company, will fund a Tribal Clean Air Trust Fund that will fund beneficial environmental projects on the Reservation. In addition, the defendant will pay a \$3.6 million penalty and install pollution controls that will reduce emissions.
- The department also successfully sought recovery for cleanup of environmental contamination in Indian country. In *Tronox, Inc. v. Anadarko Petroleum Corp.*, the United States obtained a \$5.15 billion settlement related to the environmental liabilities of the historic Kerr-McGee Corporation, including \$985 million to be paid to the Environmental Protection Agency to fund the cleanup of approximately 50 abandoned uranium mines in and around the Navajo Nation.
- ENRD also successfully defended the Indian Health Service's efforts to supply modern sewer and water supply systems on the Santa Ysabel reservation in San Diego County for homes whose occupants had previously hauled water from a communal tank on a daily basis.

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**PROTECTING THE CIVIL RIGHTS OF AMERICAN INDIANS AND ALASKA NATIVES**

## **American Indian and Alaska Native Voting Rights**

- On June 9, 2014, Attorney General Holder criticized election practices that adversely affect the ability of American Indian and Alaska Native populations to exercise their right to vote, including inaccessible polling places in tribal areas, English-only ballots for areas with limited English proficiency and "precinct realignment" practices that attempt to combine geographically isolated Native communities. Attorney General Holder announced that the Justice Department would officially enter formal consultations with sovereign tribes to consider a legislative proposal that would require any state or local election administrator whose territory includes part or all of an Indian reservation, an Alaskan native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. The department has completed consultations and remains firmly committed to seeking a legislative solution to this problem.
- On May 21, 2015, the department formally proposed legislation that would require states or localities whose territory includes part or all of an Indian reservation, an Alaska Native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government. This proposal followed formal consultation with Indian tribes and recognizes that AI/AN communities have faced significant obstacles that have prevented them from enjoying equal access to polling places and equal opportunities to cast a ballot. In addition to suffering from a long history of discrimination, the distance many AI/AN citizens must travel to reach a polling place presents a substantial and ongoing barrier to full voter participation.
- The department's Civil Rights Division has been active in enforcing the voting rights of Native Americans, including the right to vote without discrimination and the right, in some jurisdictions, to have voter information available in certain Native languages. Since 2009, the division has enforced Native American voting rights in Alaska, Arizona, Mississippi, New Mexico and South Dakota.
- In 2013 and 2014, the Civil Rights Division has filed amicus briefs/statement of interest briefs in *Toyukak, et al. v. Treadwell, et al.* and *Wandering Medicine, et al. v. McCulloch, et al.* two cases brought by AI/AN private plaintiffs under the Voting Rights Act. *Toyukak* involves a challenge under the language minority provisions of Section 203 of the Act regarding the translation of election information into the Alaska Native languages in the Dillingham, Wade Hampton and Yukon-Koyukuk Census Areas in Alaska. The *Wandering Medicine* plaintiffs allege that the lack of early voting and late registration opportunities for Native American voters in Big Horn, Blaine and Rosebud Counties in Montana is a violation of Section 2 of the Act.
- For the November 2014 general election, the division monitored elections in three counties under the Voting Rights Act where there are significant populations of Native American voters: Cibola County, New Mexico, Charles Mix County, South Dakota and Shannon County, South Dakota.

On July 15, 2013, the Civil Rights Division's Indian Working Group (IWG) signed a Memorandum of Understanding (MOU) between the Navajo Nation Human Rights Commission. The commission was established by the Navajo Nation to operate as a clearinghouse entity to address discriminatory actions against citizens of the Navajo Nation. The commission is authorized to receive reports of discriminatory and racially motivated acts perpetrated against citizens of the Navajo Nation and refer such incidents to the proper authorities.

The MOU:

- Establishes a communication process that will ensure that civil rights violations are brought to the IWG when the civil rights of a member of the Navajo Nation is violated.
- Outlines procedures and provides guidance to the commission and IWG in sharing information about civil rights
- Provides for a series of discussions, including face-to-face meetings and teleconferences. There have been several teleconferences between the IWG and the commission and two in-person meetings between the commission and the IWG including representatives from other department components, the USAO's in New Mexico and Arizona and the FBI.

Almost every Civil Rights Division Section has some involvement in American Indian and Alaska Native civil rights enforcement.

In 2014 alone:

- The Educational Opportunities Section reached a settlement (February 2014) with the Ganado School District to make sure its Navajo students and parents who are English language learners have equal access to school programs (under the Equal Educational Opportunities Act of 1974). The school will work to identify English language learners, provide language access instruction and materials, train teachers, tell students and parents about ELL programs and other essential information in accessible language and monitor its success.
- The division participated as amicus in support of plaintiffs-appellees in the Eighth Circuit case *Native American Council of Tribes, et al. v. Weber, et al.* under the Religious Land Use and Institutionalized Persons Act. Prison officials banned tobacco use in the prison, including the ritual use of tobacco in plaintiffs' Native American worship, claiming that tobacco use was "not traditional" in plaintiffs' faith. The district court ruled in plaintiffs' favor and entered a remedial decree providing for limited ritual tobacco use in the prison. The division argued that prison officials improperly relied on their own interpretation of plaintiffs' religious tenets in banning tobacco and that the district court appropriately called on them to show they considered less restrictive alternatives before they imposed the tobacco ban. The division also argued that the district court correctly relied on other prisons' policies permitting ritual tobacco when it concluded that a total tobacco ban was not the least restrictive means available for controlling contraband and ensuring prison security. The Eighth Circuit agreed with the department's brief and affirmed the district court's decision.

## **Landmark Settlement Reached with Native American Farmers Claiming Discrimination by USDA**

- On Oct. 19, 2010, Attorney General Holder and Secretary of Agriculture Tom Vilsack announced a landmark settlement of the *Keepseagle* class-action lawsuit filed against the Department of Agriculture by Native American farmers and ranchers. The settlement ends more than a decade of litigation concerning discrimination complaints from Native Americans generally covering the period from 1981 to 1999.

## **Prosecution of Hate Crimes and Human Trafficking**

Since January 2009, the department's Civil Rights Division, working with the U.S. Attorneys' Offices, has prosecuted civil rights crimes victimizing Native Americans through sex trafficking, hate crimes and police brutality, including prosecuting:

- Defendants for sex trafficking Native American children and adults in South Dakota;
- Police officers for beating Native American victims in Arizona and Montana;
- Corrections officers for beating a Native American detainee in North Carolina;
- Defendants who committed hate crimes against Native Americans, including three defendants in New Mexico for using force to cause bodily injury to a Native American man under the Shepard Byrd Hate Crimes Prevention Act of 2009 and two defendants who assaulted and threatened an Alaska Native in Anchorage.

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## **OUTREACH AND CONSULTATION WITH TRIBAL PARTNERS**

### **Publication of the Department's Consultation Policy and Statement of Principles for Working with Federally-Recognized Tribes**

- In accordance with Executive Order 13175 and President Obama's memorandum on Tribal Consultation, the Department of Justice published the policy statement on Tribal Consultation on Aug. 29, 2013. This consultation policy, which applies to all components of the Department of Justice, reflects this agency's commitment to engaging in a meaningful, transparent way with tribal governments. Read the consultation policy here: <http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>
- On December 3, 2014, at the White House Tribal Nations Conference, Attorney General Holder announced that the Department of Justice has adopted a Statement of Principles to guide and inform all of the department's interactions with federally recognized Indian tribes. Developed in consultation with tribal leaders, this statement of principles will memorialize the department's determination to serve as a partner in fighting crime and enforcing the law in Indian country. As Attorney General Holder said in his remarks to tribal leaders, the statement of principles, "was meant to codify our intention to serve not as a patron, but as a partner, in Indian country – and to institutionalize our efforts to reinforce relationships, reform the criminal justice system and aggressively protect civil

rights and treaty rights. And it will serve as a guide for this Administration – and every Administration – as we seek to build the more perfect Union, and the more just society, that every individual deserves.” Read the Statement here:

<http://www.gpo.gov/fdsys/pkg/FR-2014-12-12/pdf/2014-28903.pdf>

### **Increased Cooperation and Consultation with Tribes**

- In October 2009, the Attorney General convened the department’s Tribal Nations Listening Session on Public Safety and Law Enforcement in St. Paul, Minnesota. Nearly 300 tribal leaders representing approximately 100 tribes attended the session. In addition to representatives from nearly all of the department’s components, representatives of the Departments of the Interior, Health and Human Services, Housing and Urban Development, Education and Homeland Security also participated.
- Since this time, department leaders have made dozens of trips to Indian country to consult and meet with tribal leaders and members, including a July 2011 trip by Attorney General Holder to Rapid City, South Dakota, and the Pine Ridge Reservation. In June 2014, Attorney General Holder spoke at the Fourth Annual Tribal Consultation Conference at United Tribes Technical College in Bismarck, North Dakota, meeting with a group of American Indian teenage boys to discuss their experiences and interactions with the criminal justice system.
- Most recently, in August 2015, Deputy Attorney General Sally Quillian Yates and Acting Associate Attorney General Stuart F. Delery attended the Four Corners Indian Country Conference, and met with tribal leaders and tribal youth during a visit to the Southern Ute Reservation in Colorado.
- During the conference, Attorney General Holder also.
- The department has engaged in dozens of consultations with tribes on issues important to public safety, justice and law enforcement, including violence against American Indian and Alaska Native women, implementation of the Sex Offender Registration and Notification Act, the Prevent All Cigarette Trafficking Act, enforcement of federal bird protection laws in a manner sensitive to tribal concerns and the TLOA.
- The department through the Community Relations Service (CRS) has engaged with tribal communities to assist in reducing tension and improving area communications and partnerships. For example, in November 2013, CRS, at the request of the Oneida Nation of Wisconsin, assisted in addressing racial tensions and law enforcement concerns stemming from increased acts of violence in and around the reservation following a series of shootings involving American Indian, Latino and African American youth. In another instance, in 2014, CRS services were requested by the Muhu Tasen practicing American Indian groups around tensions over civil penalties imposed on non-reservation land around the use of temporary structures, water containment, sweat lodges and food service related to the groups’ cultural practices. CRS held multiple mediation sessions with Muhu Tasen leaders and officials of Ventura County, California, which resulted in an



agreement between the parties respecting long standing American Indian tradition and cultural practices in line with existing county code regulations.

- The department has also engaged in significant outreach on environmental and natural resource issues. In particular, ENRD has teamed up with U.S. Attorneys' Offices in Wisconsin, New Mexico, Montana and North Dakota to conduct listening sessions and follow-up meetings on critical issues relating to protection of the environment and tribal resources. In conjunction with EPA, the National Oceanic and Atmospheric Administration and the Natural Resources Conservation Service, ENRD has also conducted outreach meetings with consortia of Puget Sound tribes related to protection of treaty fishing rights. In order to further enhance its tribal outreach and consultation efforts, ENRD has designated a new position, Senior Counsel for Indian Affairs, in its front office.

### **Tribal Nations Leadership Council**

- The department established a Tribal Nations Leadership Council (TNLC), composed of tribal leaders selected by the tribes themselves and charged with advising the Attorney General on issues critical to tribal governments and communities. The TNLC has met regularly since late 2010 with the Attorney General, most recently in October 2015.

### **National Indian Nations Conference**

- OVC continues to support the National Indian Nations Conference, held every two years. Conferences were held in December of 2010, 2012, and 2014, each drawing more than 1,000 participants, including tribal leaders, victim advocates, victims, victim service providers, community volunteers, prosecutors, judicial and law enforcement personnel, family violence and sexual assault specialists, medical providers, social services and mental health personnel, probation/corrections, criminal justice and juvenile justice personnel, as well as federal and state agency representatives. The purpose of the Indian Nations Conferences is to share knowledge, experiences and ideas for developing programs that serve the unique needs of crime victims in Indian country. The 14<sup>th</sup> National Indian Nations Conference was held in December 2014 at the reservation of the Aqua Caliente Band of Cahuilla Indians. Last year's theme, Generational Voices Uniting for Safety, Justice, and Healing, underscores the intergenerational impact that violence and victimization have on American Indian and Alaska Native communities. For additional information on that conference and prior conferences, please visit the conference website at [www.ovcinc.org](http://www.ovcinc.org).

### **National Intertribal Youth Summit**

- More than 300 Native American youth from tribes across the country attended week-long National Intertribal Youth Summits in Santa Fe, New Mexico (July 2011) and in Washington, D.C. (August 2012), featuring Administration officials from the White House and the Departments of Justice, Interior, Health and Human Services and Education. The summits were coordinated by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and provided an opportunity for Administration officials to hear directly from youth in Indian Country on critical issues such as healthy relationships and lifestyles, education, substance and alcohol abuse, cultural

preservation, community development and protecting the environment. In July of 2015, the first White House Tribal Youth Gathering was held in Washington, D.C. in tandem with the OJJDP Youth Summit. Over 1,000 Native American youth from 170 tribes attended this event, which was highlighted by remarks from the First Lady and cabinet officials, including Attorney General Loretta Lynch.

#### **National Intertribal Youth Leadership Development Initiative**

- Beginning with a grant award in 2013, the department launched the National Intertribal Youth Leadership Development Initiative, known as Today's Native Leaders, which offers youth gatherings, opportunities and services to develop leadership skills among cohorts of tribal youth. The initiative spans a project period of four years and supports eight regional trainings and two national gatherings of tribal youth and their adult advisors. During 2014, regional trainings were held in Portland, Oregon, and Fort Lauderdale, Florida. The initiative also offerings trainings via webinar for youth and adults seeking to start their own tribal youth council.

#### **White House Council on Native American Affairs**

- Since the formation of this council in June of 2013, the department has been an active participant at the staff and principal levels.

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### **REPORT ON PRESCRIPTION DRUG MONITORING IN INDIAN COUNTRY**

In October 2011, in accordance with the Indian Health Care Improvement Act, the Attorney General submitted a report on the issue of prescription drug monitoring to the Senate Committee on Indian Affairs and the House Committee on Natural Resources. The report describes the capacity of federal and tribal agencies to carry out data collection and analysis and information exchanges as described in the Act; training conducted for Indian health care providers, tribal leaders, law enforcement officers and school officials regarding awareness and prevention of prescription drug abuse and strategies for improving agency resources for addressing prescription drug abuse in Indian communities; infrastructure enhancements required to carry out the activities described in the Act; and statutory or administrative barriers to carrying out the activities required by the Act. Read the full report at [www.justice.gov/tribal/publications.html](http://www.justice.gov/tribal/publications.html)

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### **RESEARCH AND STATISTICS**

#### **National Institute of Justice's Tribal Crime and Justice Research & Evaluation Studies**

#### **NIJ's Program of Research Examining Violence Against AI/AN Women living in Indian Country and Alaska Native villages**

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), calls for the National Institute of Justice (NIJ), in consultation with OVW, to conduct

analyses and research on violence against Indian women living in Indian Country and in Alaska Native villages. In conducting its analyses and research, NIJ is asked to focus on dating violence, domestic violence, sexual assault, sex trafficking, stalking, and murder, and to evaluate the effectiveness of responses to those crimes.

As a direct result of this legislation, NIJ has developed a comprehensive research program consisting of multiple research studies that will be accomplished over an extended period of time. The capstone of this program is the National Baseline Study (NBS)—the first national study conducted in Indian Country and Alaska Native Villages. The NBS is being conducted in geographically dispersed tribal communities across the U.S. and its primary aim is to provide an accurate *national* victimization rate of violence committed against AI and AN women. The NBS is critical to quantifying the magnitude of violence and victimization in tribal communities and understanding service needs.

NIJ's Violence Against Indian Women (VAIW) research program also supports other extramural and intramural research and evaluation studies that will: produce a deeper understanding of the issues faced by Native American women; expand the body of criminal justice policy-relevant research; and help formulate public policies and prevention strategies to decrease the incidence of violent crimes committed against AI and AN women. Results from all of these studies are anticipated to help establish and enhance justice systems that will successfully restore victim safety and promote healing. For more on NIJ's program, see <http://nij.gov/topics/tribal-justice/vaw-research/Pages/welcome.aspx>.

### **Federal Advisory Task Force on Research on Violence Against AI/AN Women living in Tribal Communities**

Prior to and during the development of the VAIW program of research, NIJ sought input and feedback from multiple sources including prominent researchers and experts in the field, federal stakeholders and partners, and the Federal Advisory Task Force. Title IX, Section 904(a)(3) of the VAWA 2005 required that the U.S. Attorney General establish a federal advisory committee to assist NIJ and OVW in the development of the research program to study violence against Native American women. *The Task Force on Research on Violence against American Indian and Alaska Native Women* (Task Force) was officially chartered on March 31, 2008 and includes representatives from tribal governments, national tribal domestic and sexual violence non-profit organizations, and other national tribal organizations.

Task Force members have provided feedback on NIJ's program of research priorities, research design strategies, research and evaluation protocol issues, findings from studies conducted to date; assisted with recommendations resulting from study findings; and assisted in developing new research questions to be addressed. Task Force input continues to be invaluable to ensuring the program's success. This forum has provided an important opportunity for tribal leaders, representatives, and stakeholders to work together with the U.S. Department of Justice to better understand the nature and scope of violence experienced by Native women and to bring about systemic change to address the needs of victims and their families and to hold offenders accountable. Moving forward the Task Force will continue to play an important role in shaping the program and will assist NIJ and OVW with disseminating results that will influence policy

and practice. More information on the Task Force can be found here:  
<http://www.justice.gov/ovw/section-904-task-force>.

**Lifetime prevalence of interpersonal and sexual violence of self-identified AI/AN men and women living in the U.S. (2012-2016)**

This study comprises a nationally representative sample of self-identified AI/AN men and women using the Centers for Disease Control and Prevention's National Intimate Partner and Sexual Violence survey and offers the most comprehensive overview on the prevalence of violence and includes both lifetime and past year measures. Most women (83%) and most men (79%) were affiliated or enrolled with a tribe or village. Over half of both women and men (54%) had lived within reservation boundaries or in an Alaska Native village in the past year. This forthcoming report provides estimates of sexual violence victimization, physical violence by intimate partners, stalking victimization, and psychological aggression by intimate partners. It also provides estimates of interracial and intra-racial victimizations and it briefly examines the impact of violence victimization. This study will provide the best representation of self-identified AI/AN people living in the U.S. than is currently available.

## [Casey Family Programs](#)

August 21, 2015

### Placement Patterns for American Indian Children Involved with Child Welfare

American Indian children are disproportionately more likely to be victims of maltreatment and to be in foster care than the general population of children, according to 2012 data. Despite Indian Child Welfare Act (ICWA) guidelines, only 17 percent of American [...]

July 29, 2015

### Our Work in Indian Child Welfare

We work with American Indian and Alaska Native communities to support their efforts to improve the safety and success of children and their families.

April 16, 2015

### Measuring Compliance with the Indian Child Welfare Act: A Research and Practice Brief

This research and practice brief is a useful resource for states that seek to document compliance with the Indian Child Welfare Act.

April 03, 2015

### Child Welfare Demonstration Project in California

Thanks to a Child Welfare Demonstration Project waiver, California is implementing innovative strategies to keep children safe.

April 02, 2015

### Investing in California

Casey Family Programs is investing in California to keep children safe, make families strong and build Communities of Hope.

# Session 8: Planning for ICWA Roundtables 2016-2017



JUDICIAL COUNCIL  
OF CALIFORNIA

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TRIBAL COURT-STATE COURT FORUM

**Session 8: Planning for ICWA Statewide Roundtables 2016-2017**

1. The first statewide roundtable will be at Morongo (Riverside County), what location(s) do you suggest for the northern one?

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2. Is there a statewide event in the Bay Area, Sacramento, or further north in California that we might consider for the northern roundtable so that we can increase our outreach and response rate?

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3. What format should we consider for these roundtables? Indicate which you think would be most inclusive. Indicate which would best enable California to advance the work in a meaningful and coordinated fashion. Consider the following ideas:

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Public Hearing (with scheduled times for each participant and block of times for those who may just show)

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Facilitated Discussion (with everyone altogether)

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Hear From Participants by Group/Role  
*(For example, tribal leaders, tribal advocates, social workers, judges, children's attorneys, parents' attorneys, county counsel, etc.)*

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Hear From Participants by ICWA Topic  
*(For example, data, education, sharing information, tribal participation/intervention, inquiry and notice; active efforts, jurisdiction and transfer, qualified expert witness, placement preferences, permanency etc.)*

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Other Format (please describe)



## 2015 Washington Tribal-State Indian Child Welfare Judicial Roundtable

### Agenda | Thursday, December 10, 2015

Location: Kiara Lodge, Polso, WA | Room: Dining Room

4:30 PM Networking Break

6:00 PM Welcome and Introduction  
Invocation

6:20PM Presentation by Judge Fairbanks: Indian Child Welfare and Peacemaking

7:00 PM Approximate Adjourn

### Agenda | Friday, December 11, 2015

Location: Kiara Lodge, Polso, WA | Room: Center Room

11:15 AM **LUNCH**  
**Introduction & Invocation**  
**Hon. Cheryl Fairbanks**, Judge, Intertribal Court of Appeals Nevada, NAICJA Board of Directors Executive Committee

11:30 AM **Roadmap for the Day**  
**Nikki Borchardt Campbell, Esq.** Executive Director, National American Indian Court Judges Association

11:45 AM **Introductory Remarks**  
**Hon. Cheryl Fairbanks**, Judge, Intertribal Court of Appeals Nevada, NAICJA Board of Directors Executive Committee

12:15PM **A Discussion about the Indian Child Welfare Act, the ICWA Guidelines, and Proposed Regulations**  
  
During this session, Judges will be presented with a brief background and review of the ICWA in order to develop the context related to the development of the new BIA Guidelines and the proposed regulations.

**PRESENTED AND FACILITATED BY**  
**Jack Trope**, Director, Indian Child Welfare Programs, Casey Family Programs

1:15 PM **National and WA Case Law and Policy Update**

**PRESENTED AND FACILITATED BY (proposed)**  
**Jack Trope**, Director, Indian Child Welfare Programs, Casey Family Programs  
**Tom Tremaine**



2:15 PM	Networking Break
	Facilitated Discussion from survey results or continue Q & A from previous sessions
2:30 PM	<p><b>Summarize Survey Results</b>  <b>FACILITATED BY</b>  <b>Hon. Cheryl Fairbanks</b>, Judge, Intertribal Court of Appeals Nevada, NAICJA Board of Directors Executive Committee  <b>Jack Trope</b>, Director, Indian Child Welfare Programs, Casey Family Programs</p>
3:45 PM	<p><b>Action Planning and Evaluations</b>  <b>FACILITATED BY</b>  <b>Hon. Cheryl Fairbanks</b>, Judge, Intertribal Court of Appeals Nevada, NAICJA Board of Directors Executive Committee  <b>A. Nikki Borchardt Campbell, Esq.</b> Executive Director, National American Indian Court Judges Association</p>
4:00 PM	Wrap-up



# 2015 Montana Tribal-State Indian Child Welfare Judicial Roundtable

*Building Better Indian Child Welfare Partnerships*

## Agenda | Thursday, September 10, 2015

**Location:** Kwa Tuk Nuk Resort, Polson, MT | **Room:** Chief Charlo Room

**8:00 AM** Registration & Continental Breakfast

**8:30 AM** **Welcome, Invocation & Introductions**  
**Winona Tanner**, Treasurer, NAICJA, Chief Judge CTSK.  
**Invocation:** TBA

### Roadmap for the Day

**Sheldon Spotted Elk, JD**, Senior Director, Indian Child Welfare Programs, Casey Family Programs [Co-Facilitator]  
**David P. Kelly, JD, MA**, Federal Project Officer, Child Welfare Program Specialist for Court Improvement, Children's Bureau, Administration for Children & Families, U.S. Department of Health and Human Services [Co-Facilitator]

**9:00 AM** **Highlights of the New ICWA Guidelines**  
**Judge William A. Thorne** (Ret.), Utah Court of Appeals  
**Professor Maylinn Smith**, University of Montana School of Law

**10:00 AM** Networking Break

**10:15 AM** **The Impact of the New BIA Guidelines & Regulations on Montana ICWA Caselaw**  
**Professor Maylinn Smith**, University of Montana School of Law

**11:15 AM** **Best Practices for Tribal-State Judicial Forums**  
**Judge William A. Thorne** (Ret.), Utah Court of Appeals

**12:00 PM** Lunch

**1:00 PM** **"Active Efforts" in 2015: Who, When & What?**  
**Facilitator:** Jack Trope, Casey Family Programs

**1:45 PM** **A Conversation about Montana Tribal-State Judicial ICWA Survey Results**  
**Facilitators:** Sheldon Spotted Elk and David Kelly

**2:45 PM** **Building Better Indian Child Welfare Partnerships in Montana: A Plan for Action**  
**Facilitator:** Sheldon Spotted Elk

**3:30 PM** Wrap-up, Evaluations & Adjournment

**4:00** **Joint Closing Remarks – Joining the ICWA Legal Summit**  
**Judge William A. Thorne** (Ret.), Utah Court of Appeals



## NEW MEXICO TRIBAL-STATE INDIAN CHILD WELFARE ROUNDTABLE

FRIDAY, NOVEMBER 7, 2014

ISLETA RESORT & CASINO ~ ALBUQUERQUE, NM

# AGENDA

- |          |  |
|----------|--|
| 8:00 AM  | <b>Registration &amp; Continental Breakfast</b>  |
| 8:50 AM  | <b>Invocation</b>  |
| 9:00 AM  | <b>Welcome &amp; Road Map for the Day</b><br>Hon. Richard Blake, Chief Justice, Hoopa Valley Tribal Court<br>Hon. William Bluehouse Johnson, Chief Justice, Pueblo of Isleta Appellate Court   |
| 9:15 AM  | <b>Ice Breaker: "The Impossible Can Happen"</b><br>Hon. Cheryl Fairbanks, Inter-Tribal Court of Appeals for Nevada   |
| 9:30 AM  | <b>Culture &amp; Collaboration: Strengthening ICWA</b><br>Regis Pecos (Invited)<br>Hon. Monica Zamora, New Mexico Court of Appeals   |
| 10:30 AM | <b>Stretch Break</b>   |
| 10:45 AM | <b>An Introduction to Historical Trauma</b><br>Tim Aldridge (Invited)  |
| 12:00 PM | <b>Lunch</b>   |
| 1:00 PM  | <b>Family Conferencing &amp; Peacemaking Models: Social Workers &amp; ICWA</b><br>Hon. Cheryl Fairbanks, Inter-Tribal Court of Appeals for Nevada<br>Jane Bear, Bureau of Indian Affairs (Invited)<br>Carolyn Daily, Isleta Pueblo (Invited) |
| 2:00 PM  | <b>New Mexico Notice Requirements</b><br>Hon. John Romero, Presiding Judge, Children's Court Division, New Mexico Second Judicial District   |
| 2:30 PM  | <b>Title IV-E Requirements</b><br>Nanette Bishop, Tribal Liaison, Administration for Children and Families (invited)   |
| 3:00 PM  | <b>Stretch Break</b>   |
| 3:15 PM  | <b>Baby Veronica: An Update and Implications</b><br>Moderator: Michelle Brown Yazzie<br>Jeannette Wolfly, Professor, University of New Mexico School of Law<br>Rosalie Chavez, Staff Attorney, New Mexico Legal Aid (invited)                |
| 4:15 PM  | <b>Wrap-up</b>   |
| 4:30 PM  | <b>Meeting Adjournment</b>   |

# Session 9: Forum Priorities 2016-2017



**Tribal Court–State Court Forum**  
**Annual Agenda—2016**  
**Approved by E&P: April 14, 2016**

**I. ADVISORY BODY INFORMATION**

<b>Chair:</b>	Judge Abby Abinanti and Justice Dennis M. Perluss
<b>Staff:</b>	Ms. Jennifer Walter, Supervising Attorney, Center for Families, Children & the Courts
<p><b>Advisory Body’s Charge:</b> The forum makes recommendations to the Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps.</p> <p>In addition to the general duties and responsibilities applicable to all advisory committees as described in rule 10.34, the forum must:</p> <ol style="list-style-type: none"><li>1. Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;</li><li>2. Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases, and the sharing of services among jurisdictions;</li><li>3. Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;</li><li>4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and</li><li>5. Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.</li></ol> <p>[Excerpted from California Rules of Court, Rule 10.60]</p>	

**Advisory Body's Membership:** Twenty-nine positions—29 members representing the following categories:

- 13 Tribal Court Judges (nominated by their tribal leadership, representing 13 of the 23 tribal courts currently operating in California; these courts serve approximately 39 tribes)
- Director of the California Attorney General's Office of Native American Affairs (ex officio)
- Tribal Advisor to the California Governor (ex officio)
- 1 Appellate Justice
- 7 Chairs or their Designees of the following California Judicial Council advisory committees:
  - Access and Fairness Advisory Committee
  - Center for Judicial Education and Research (CJER) Governing Committee
  - Civil and Small Claims Advisory Committee
  - Criminal Law Advisory Committee
  - Family and Juvenile Law Advisory Committee
  - Probate and Mental Health Advisory Committee
  - Traffic Advisory Committee
- 5 Trial Court Judicial Officers (selected from local courts in counties where tribal courts are situated and one from Los Angeles\*)
- 1 Retired Judge (advisory)

\* Judge D. Zeke Zeidler, who was originally appointed as a member of the Access and Fairness Advisory Committee, is finishing out his term, which expires on September 14, 2017.

**Subgroups/Working Groups:** None

**Advisory Body's Key Objectives for 2016:**

1. Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.
2. Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.
3. Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials to include content on federal Indian law and its impact on state courts, including interjurisdictional issues.

## II. ADVISORY BODY PROJECTS

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p><b>Policy Recommendations:</b>  <b>A. Legislative Study</b></p> <p><a href="#">SB 406</a>, Judicial Council-sponsored legislation, included both a “sunset” provision (Code of Civ. Proc. § 1742) providing that the legislation will expire on January 1, 2018 unless legislative action is taken to extend it, and a requirement that the California Law Revision Commission “conduct a study of the standards for recognition of a tribal court or a foreign court judgment under the Tribal Court Civil Money Judgment Act and the Uniform Foreign-Country Money Judgments Recognition Act, and submit a report of its findings and recommendations to the Legislature and the Governor</p>	2	<p>Judicial Council Direction:  Strategic Plan Goal II: Independence and Accountability.  Operational Plan Objective 3.</p> <p>Strategic Plan Goal III:  Modernization of Management and Administration.  Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence.  Operational Plan Objective 4.</p> <p>Origin of Project: Forum</p> <p>Resources: Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p>Judicial Council Staffing: Office of Governmental Affairs (OGA)</p> <p>Key Objective Supported: 1</p>	January 1, 2018	Study completed; findings and recommendations submitted to the Judicial Council for consideration by the Legislature and the Governor.

<sup>1</sup> All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

<sup>2</sup> For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or Judicial Council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>no later than January 1, 2017.” (Stats. 2014, ch. 243, § 1.)</p> <p>In light of the Judicial Council’s interest in the subject matter, the forum proposes researching the effects, if any, of SB 406—specifically, how it has been used, whether it has achieved its goal of simplifying the recognition and entry of tribal court civil money judgments, and whether there are any issues or concerns with lifting the sunset and expanding the legislation’s scope to non-money judgements.</p> <p>To undertake this research, the forum is collaborating with Professor Katherine Florey at the U.C. Davis School of Law.</p> <p><b>B. Promote Policy</b> The California Department of Public Health will not issue a birth certificate based on a tribal parentage order. Tribes retain inherent authority over domestic relations matters involving their members.</p>		<p>Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.</p>	<p>2016</p>	<p>Local agencies to recognize and enforce tribal parentage orders.</p>



#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>California law recognizes the authority of tribes and tribal courts to make child custody and support determinations, but not parentage determinations. The forum recommends exploring an executive agency directive that would recognize tribal parentage orders.</p>				
2.	<p><b>Policy Recommendation: C. Rules and Forms-Indian Child Welfare Act</b></p> <p><i>Major Tasks:</i></p> <p>(i) Monitor pending California Supreme Court case <i>In re Abbigail</i> (2014) 226 Cal.App.4th 1450 [173 Cal.Rptr.3d 191], review granted Sept. 10, 2014, S220187 for possible amendments to rules 5.482(c) and 5.484(c)(2) and</p> <p>(ii) Review pending <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on March 20, 2015 (Vol. 80 FR No. 54 14880) and approved Bureau of Indian Affairs Guidelines (as</p>	1(a)	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Operational Plan Objective 4.</p> <p>Origin of Project: California Department of Social Services and Statewide Workgroup on the Indian Child Welfare Act</p> <p>Resources: Appellate Advisory Committee, Family and Juvenile Law Advisory Committee, and Forum</p> <p>Judicial Council Staffing: LSO</p> <p>Key Objective Supported: 1</p>	2017	<p>Rule and form recommendations that comply with case law and federal rules and guidelines implementing the Indian Child Welfare Act.</p>

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>published in the Federal Register on February 25, 2015 (Vol. 80 FR No. 37 10146) for possible amendments to Title 5. Family and Juvenile Rules relating to the Indian Child Welfare Act.</p>				
3.	<p><b>Policy Recommendations: D. Technological Initiatives</b></p> <p><i>Major Tasks</i></p> <p>(i) Consult with the California Attorney General’s Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts.</p> <p>(ii) Recommend Judicial Council staff continue giving tribal courts access to the California Courts Protective Order (CCPOR) Registry.</p> <p>(iii) Consult with the Stanford Design Center regarding the development of an electronic application to</p>	2	<p>Judicial Council Direction: Strategic Plan Goal II: Operational Plan Objective 3</p> <p>Strategic Plan Goal III:</p> <p>Operational Plan Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Strategic Plan Goal VI:</p> <p>Operational Plan Objective 4: Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p>Origin of Project: Forum</p>	Ongoing	<p>(i) Tribal court judges will be able to enter their protective orders into CLETS and enforcement will be improved</p> <p>(ii) State and tribal courts will be able to see each other’s protective orders, to avoid conflicting orders, and to promote enforcement of these orders.</p> <p>(iii) Application will be developed and will improve inquiry and</p>

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	improve inquiry and notice under the Indian Child Welfare Act.		Resources: Forum Judicial Council Staffing: Information Technology  Collaborations: California Attorney General's Office  Key Objective Supported: 1		notice practices under the Indian Child Welfare Act.
4.	<b>Policy Recommendation:  F. Other</b> Prepare a request to the California Supreme Court's Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.	2	Judicial Council Direction: Strategic Plan Goal II Operational Plan Objective 3  Strategic Plan Goal III Operational Plan Objective 5  Strategic Plan Goal VI Operational Plan Objective 4  Origin of Project: Forum and legislative study by CLRC  Resources: Forum  Judicial Council Staffing:  Collaborations: CLRC  Key Objective supported: 1	2016/Conducting research	Request prepared and submitted.  Amended canon permitting judges who sit concurrently on tribal court and a state court to fundraise on behalf of a tribal court.

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
5.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <p><i>Major Tasks:</i></p> <p>(i) Identify Judicial Council and other resources that may be appropriate to share with tribal courts.</p> <p>(ii) Identify tribal justice resources that may be appropriate to share with state courts.</p> <p>(iii) Identify grants for tribal/state court collaboration</p> <p>(iv) Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter</p> <p>(v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</p>	2	<p>Judicial Council Direction: Strategic Plan Goal I: Access, Fairness, &amp; Diversity.</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</li> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul> <p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to</li> </ul>	Ongoing	Increased Tribal/State partnerships for sharing resources and communicating information.

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>educate court stakeholders and the public.</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p>Judicial Council Staffing: Court Operations Special Services Office, and Leadership Services Division</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2 Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.</p>		
6.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</b></p> <p><i>Major Tasks:</i></p>	2	<p>Judicial Council Direction: Strategic Plan Goal I Operational Plan Objectives 1, 2, 4</p> <p>Strategic Plan Goal IV Operational Plan Objectives 1, 3</p>	Ongoing	Increased Tribal/State partnerships for educational and technical assistance.

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian Country</p> <p>(ii) Make recommendation to Judicial Council staff to continue giving technical assistance to tribal and state courts interested in establishing a joint jurisdictional court.</p> <p>(iii) Make recommendation to the Judicial Council staff to develop civics learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts.</p> <p>(iv) Make recommendation for a voluntary tribal/state program that gives state and federal court judges the opportunity to serve as a tribal court judge.</p>		<p>Origin of Projects: Forum and California State-Federal Judicial Council</p> <p>Resources: Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p>Judicial Council Staffing: Court Operations Special Services Office, and Leadership Services Division</p> <p>Collaborations: Local tribal and state courts</p>		

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
7.	<p><b>C. Tribal/State collaborations that increase resources for courts</b> Develop and implement strategy to seek resources</p>	2	<p>Key Objective Supported: 2</p> <p>Judicial Council Direction: Strategic Plan Goal IV Operational Plan Objectives 1, 3</p> <p>Origin of Projects: Forum</p> <p>Resources: Forum</p> <p>Judicial Council Staffing:</p> <p>Collaborations: Local tribal and state courts</p> <p>Key Objective Supported: 2</p>	Ongoing	Tribal/State collaborations that increase resources for courts.
8.	<p><b>Education:</b> <b>A. Judicial Education</b> In collaboration with the CJER Curriculum Committees, consult on and participate in making recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum's online federal Indian law toolkit. Forum judges are working together with committee representatives from the following</p>	2	<p>Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1: Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p>	Ongoing, completion date depends on funding.	CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law.

#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	curriculum committees: (1) Access, Ethics, and Fairness; (2) Civil; (3) Criminal; (4) Family; (5) Juvenile Dependency and Delinquency; and (6) Probate.		Resources: Center for Judicial Education and Research (CJER) Governing Committee and forum  Judicial Council Staffing:  Key Objective Supported: 3		
9.	<b>Education:</b> <b>B. Education- Documentary</b> Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system in California.	2	Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1  Origin of Projects: Forum and California State-Federal Judicial Council Resolution (June 1, 2012).  Resources: Center for Judicial Education and Research (CJER) Governing Committee and forum  Judicial Council Staffing:  Key Objective Supported: 3	Ongoing, completion date depends on funding.	Educational documentary describing tribal justice systems and collaborations with state justice system in California.
10.	<b>Education:</b> <b>C. Education- Indian Child Welfare Act Roundtables</b> In collaboration with CASEY Family Programs and Native American Indian Judges Association (NAIJA), conduct two roundtables statewide on ICWA.	2	Judicial Council Direction: Strategic Plan Goal V Operational Plan Objective 1  Origin of Projects: CASEY and NAIJA  Resources: Forum  Judicial Council Staffing:	Ongoing, completion date depends on funding.	ICWA Roundtables are held.



#	Project <sup>1</sup>	Priority <sup>2</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			Key Objective Supported: 3		

### III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p><b>Policy Recommendation: Legislation</b>            A.1. Made recommendations to support amendment to Family Code to expressly authorize tribal court judges to solemnize marriages. <a href="#">AB 445</a> was identified as the vehicle for this policy recommendation; the Legislature made it a two-year bill.</p>	February 19, 2015
2.	<p><b>Policy Recommendation: Legislation</b>            A.2. Prepared <a href="#">Comment</a>, which was approved by the Judicial Council and submitted to the to the Federal Office of Child Support Enforcement on the <i>Notice of Proposed Rule Making (NPRM): Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs</i> (as published in the Federal Register on November, 17, 2014 (Vol. 79 FR No. 221 68548)</p>	January 15, 2015
3.	<p><b>Policy Recommendation: Rules and Forms- Indian Child Welfare Act and Inter-Court Transfer of Cases</b>            B. Prepared <a href="#">Rule and Form Proposal</a>, which was approved by the Judicial Council, concerning the transfer of court proceedings involving an Indian child from the jurisdiction of the state court to a tribal court. This proposal was in response to provisions of Senate Bill 1460 (Stats. 2014, ch. 772) (SB 1460) and the Court of Appeal decision in <i>In re. M.M. (2007) 154 Cal.App.4th 897</i>. SB 1460 requires the state juvenile court to give the tribal court specific information and documentation when a case governed by the Indian Child Welfare Act is transferred. The <i>In re M.M.</i> decision implicates an objecting party’s right to appeal a decision granting a transfer to a tribal court. (proposal amended Cal. Rules of Court, rules 5.483 and 5.590, and revised forms ICWA-060 and JV-800)</p>	October 27, 2015

4.	<p><b>Policy Recommendations: Technological Initiative</b></p> <p>C.3. Recommend a pilot project that would provide electronic notice to tribes in Indian Child Welfare Act (ICWA) cases.</p>	Completed/Recommendation made, but due to lack of funding, unable to implement
5.	<p><b>Policy Recommendations: Technological Initiative</b></p> <p>C.4. Recommend continuation of tribal Domestic Assistance Self Help (DASH) Tribal/State Program.</p>	Completed/Recommendation made, but due to lack of funding, unable to implement
6.	<p><b>Policy Recommendation: Other</b></p> <p>D.2. Work with the <u>California Law Review Commission (CLRC)</u> on its study of the enforcement of tribal civil money judgments (see <u>SB 406</u>, Stats. 2014, Ch. 243, effective January 1, 2015).</p>	Ongoing/Collaboration with U.C. Davis School of Law established, surveys for presiding judges, tribal court judges, and tribal practitioners drafted, approved by Civil and Small Claims Advisory Committee and TCPJ/CEAC, and two of the three surveys have been distributed.
7.	<p><b>Policy Recommendation: Other</b></p> <p>D. 3. Developed a proposal to promote the education of federal Indian law in California law schools. Made presentation to the deans of California law schools and wrote letter requesting that the California State Bar Examination (Bar) include American Indian law as either one of the topics on the essay and/or the multistate bar exam (MSBE), or as part of the civil procedure topic of the Bar.</p>	June 8, 2015
8.	<p><b>Increase Tribal/State Partnerships</b></p> <p><b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <p>1. Disseminated information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following:</p> <ul style="list-style-type: none"> <li>• Grant opportunities;</li> <li>• Publications;</li> <li>• News stories; and</li> <li>• Educational events.</li> </ul> <p>2. Fostered tribal court/state court partnerships, such as the Los Angeles Superior Court’s Indian Child Welfare Act</p>	Ongoing

	<p>Roundtable, a court-coordinated community response to Indian Child Welfare Act (ICWA) cases in Los Angeles County.</p> <p>3. Developed a Federal/State/Tribal Court Administrator Toolkit. This toolkit was endorsed by the California Court Clerks Association, the California Tribal Court Clerks Association, the California Federal/State Judicial Council, the Judicial Council’s Court Executives Advisory Committee, and the National Judicial College.</p>	
<p>9.</p>	<p><b>B. Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</b></p> <p>1. Launched the <a href="#">State/Tribal Education, Partnerships, and Services (S.T.E.P.S) to Justice—Domestic Violence</a> and <a href="#">Child Welfare</a> programs and provided local educational and technical assistance services.</p> <p>2. Established the first joint jurisdictional court in California. The El Dorado Superior Court, in partnership with the Shingle Springs Band of Miwok Indians, is operating a Family Wellness Court. The two judges hear cases together. (See links for press on this innovative court: <a href="http://www.marketwired.com/press-release/shingle-springs-tribal-court-superior-court-el-dorado-countycollaborate-on-tribal-juvenile-1879359.htm">http://www.marketwired.com/press-release/shingle-springs-tribal-court-superior-court-el-dorado-countycollaborate-on-tribal-juvenile-1879359.htm</a> and <a href="http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.9300709/k.2758/Article_8D_Kingsbury_Williams.htm">http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.9300709/k.2758/Article_8D_Kingsbury_Williams.htm</a>.)</p>	<p>Ongoing</p>
<p>10.</p>	<p><b>D. Tribal/State Collaborations that Increase Resources for Courts</b></p> <p>Obtained funding from the Office on Violence Against Women, U.S. Department of Justice that is administered through the California Office of Emergency Services (CalOES). This funding pays for the associated travel expenses for judges to participate in cross-court educational exchanges. These exchanges are judicially led and shaped by the host judges (one tribal court judge and one state court judge) and enable the judges to continue the dialogue on</p>	<p>Ongoing</p>

	<p>domestic violence and elder abuse in tribal communities, which began as part of a statewide needs assessment. At these exchanges, judges utilize a checklist of problems and solutions identified through the needs assessment to determine how they can work together to address these issues locally.</p> <p>Obtained funding from the California Department of Social Services. This funding pays for the associated travel expenses for forum members to improve compliance with the Indian Child Welfare Act.</p>	
<b>11.</b>	<p><b>Education</b>  <b>A. Judicial Education</b>  Made recommendations to the Judicial Council’s CJER Governing Committee to incorporate federal Indian law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law and the interjurisdictional issues that face tribal and state courts.</p>	Ongoing, completion date depends on resources to incorporate recommendations.
<b>12.</b>	<p><b>Education</b>  <b>B. Documentary</b>  Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system.</p>	Ongoing
<b>13.</b>	<p><b>Education</b>  <b>C. Education- Court Extranet Name Change</b>  Recommend to the judicial council staff that it change the name of the court extranet.</p>	Completed/Judicial Resources Network is the new name of the court extranet.

**IV. Subgroups/Working Groups – No subgroups/working groups**

**Subgroups/Working Groups:** None

# **Tribal Court-State Court Forum (Forum)**

## **PARTICIPANT WORKBOOK**

**June 9, 2016**

Participant's  
Name  
(optional)

Please submit one workbook at the end of the day.  
After the Forum meeting, a summary of the notes  
will be prepared and emailed to all participants.

## **ACKNOWLEDGMENTS**

The Judicial Council's Center for Families, Children & the Courts (CFCC) gratefully acknowledges the Tribal Court-State Court Forum (Forum) co-chairs, Judge Abby Abinanti and Justice Dennis Perluss, for co-hosting this Forum meeting, which also serves as an educational session for our Forum members and invited guests. The CFCC would also like to thank all of you who are taking the time to share your experiences, learn together, and problem-solve interjurisdictional issues.

This Forum meeting is financially assisted through a Grant Agreement through the California Department of Social Services.

## **USING THIS WORKBOOK**

This workbook is designed to elicit your thoughts on the educational sessions today, and will be used by the Forum members as they grapple with issues of mutual concern relating to access to justice for tribal communities and the recognition and enforcement of protective and other orders. The Forum made child welfare and domestic violence its top two priorities.

After you leave today's Forum meeting, we hope that we have provided you with:

- 1) An opportunity to meet with tribal and state court judges;
- 2) More information about the Forum and its work;
- 3) A deeper understanding of the steps taken nationally, statewide, and locally to improve compliance with and implementation of the Indian Child Welfare Act (ICWA) of 1978 (Public Law 95-608).
  1. National Focus- Policies (recently adopted guidelines, proposed regulations, and pending cases) and Partnerships (Departments of Interior, Department of Justice, and Health and Human Services)
  2. State Focus- Policies (SB 698 codifying ICWA, comments to federal ICWA policies, pending cases, continuum of care reform), Education, and Task Force Recommendations
  3. Local Focus- Partnerships
  4. An opportunity advance the Forum's work relating to ICWA
    - i. By planning two statewide ICWA Roundtables (with the assistance of Casey Family Programs and National American Indian Court Judges Association) and
    - ii. Through a Federal Court Improvement Program Grant
- 4) More information about national level news, cross-court cultural exchanges, and Forum programs relating to domestic violence and other case types.



This workbook leads you through the following sessions and assists you in making recommendations to the Forum:

<b>Time</b>	<b>Activity</b>	<b>Page</b>
8:45 – 10:00	Session 1: Forum Member Project Updates	4
10:15 – 11:30	Session 2: ICWA Updates (National and Statewide Focus)	4-5
10:00 – 10:15	Break	
11:30 – 12:00	Session 3: Funding	5-6
12:00 – 1:00	(Working Lunch) Session 4: State of Tribal Courts	6
1:00 – 1:30	Session 5: Continuum of Care Reform and ICWA	6
1:30 – 2:30	Session 6: Local ICWA Roundtables	7
2:30 – 3:15	Session 7: National Level News and Programs	7
3:15 – 3:30	Break	
3:30 – 4:30	Session 8: Planning for Statewide Roundtables	7-8
4:30 – 5:00	Session 9: Forum Priorities	8-10
5:00	Evaluations	11-12

**Session 1: Forum Member Project Updates**

Reflecting on local tribal-state-county collaborations which gave rise to these Forum projects, please take a moment to answer the following questions:

- 1. Describe collaborations locally, statewide, or nationally that the Forum should explore to either build on existing Forum projects or develop new ones?

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- 2. How do you think these collaborations might help the Forum:
  - a. Promote policies that address our common concerns in all proceedings in which the authority to exercise jurisdiction by state judicial branch and tribal justice systems overlap?

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- b. Institutionalize or help sustain tribal/state/county partnerships?

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- c. Improve education for judges and justice partners?

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**Session 2: ICWA Updates (National and Statewide Focus)**

- 1. What are California’s strengths and challenges in implementing ICWA?  
On a scale of 1, being more a strength, and 5 being more of a challenge:

Existing Tribal/State Partnerships	1	2	3	4	5	NA
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SB 678 (Cal-ICWA)	1	2	3	4	5	NA
Court Rules and Forms	1	2	3	4	5	NA
Policy Statements <i>(Forum's and other justice partner comments to federal guidelines and proposed regulations)</i>	1	2	3	4	5	NA
Statewide Recommendations <i>(ICWA California DOJ Taskforce Report)</i>	1	2	3	4	5	NA
Tribal Specific Data relating to ICWA	1	2	3	4	5	NA
Other: _____	1	2	3	4	5	NA

2. What resources, policy changes, materials or other actions, if any, would you recommend the Forum undertake regarding ICWA application and compliance in California?

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### Session 3: Funding

1. Should tribal courts in California apply for the BIA assessment grants? What are some of the objectives or activities that you believe should be pursued? What type of coordination would you like to see with other tribal courts? With state courts when asking for these funds?

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2. The Judicial Council of California (JCC), in partnership with the Tolowa Dee-Ni' Nation and the California Department of Social Services (CDSS), is applying for the Court Improvement Program funds. We are committed to convening an ICWA Implementation Partnership, which will build on the existing collaborations in California and will ensure that, at a minimum, designees from the California Tribal Court Judges Association, the Child Welfare Directors Association, the California Tribal Court-State Court Forum, the Statewide ICWA Working Group, are included in the ICWA Implementation Partnership. What are some of the objectives and activities you would like to see the ICWA Implementation Partnership do?
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**Session 4: State of Tribal Courts**

How will the outcome of the Dollar General case impact tribal courts and the work of the Forum?

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**Session 5: Continuum of Care and ICWA**

After learning about continuum of care reform as it relates to ICWA practice, do you think there is a role for the courts to play? Or the Forum in terms of recommending policies, fostering education, or promoting partnerships.

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**Session 6: Local ICWA Roundtables**

1. The Forum features these type of court/tribal/county partnerships on the California Judicial Council’s online Innovation Knowledge Center and the Tribal/State Programs’ website. Upon the request of a court, staff assist in establishing or supporting these types of partnerships. What other steps should the Forum take to promote and sustain these local partnerships?

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**Session 7: National Level News and Programs**

Given the national news and programs described, how should the Forum partner or continue partnering with national justice partners? If the presentations sparked Forum project ideas, please describe them.

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**Session 8: Planning for ICWA Statewide Roundtables 2016-2017**

1. The first statewide roundtable will be at Morongo (Riverside County), what location(s) do you suggest for the northern one?

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2. Is there a statewide event in the Bay Area, Sacramento, or further north in California that we might consider for the northern roundtable so that we can increase our outreach and response rate?

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3. What format should we consider for these roundtables? Indicate which you think would be most inclusive. Indicate which would best enable California to advance the work in a meaningful and coordinated fashion. Consider the following ideas:

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Public Hearing (with scheduled times for each participant and block of times for those who may just show)

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Facilitated Discussion (with everyone altogether)

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Hear From Participants by Group/Role

*(For example, tribal leaders, tribal advocates, social workers, judges, children's attorneys, parents' attorneys, county counsel, etc.)*

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Hear From Participants by ICWA Topic

*(For example, data, education, sharing information, tribal participation/intervention, inquiry and notice; active efforts, jurisdiction and transfer, qualified expert witness, placement preferences, permanency etc.)*

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Other Format (please describe)

## **Session 9: Forum Priorities 2016-2017**

Since its inception, the Forum has made child welfare and domestic violence its top priorities. Nevertheless, as you can see from the Forum's annual agenda (work plan) and some of the work highlighted today, the Forum does undertake projects and make recommendations for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlap.

The Forum cochairs would like to lead you in a group discussion, and ask you to jot down your thoughts on the Forum's work relating to policies, education, partnerships, and resources.

1. Rules/Forms/Legislation

The Forum makes policy recommendations that promote access to justice for tribal communities, and many of these recommendations take the form of court rules/forms or proposed legislation. Are there inter-jurisdictional issues relating to the recognition and enforcement of court orders that you would like the Forum to address? Please briefly describe these issues. If the Forum is already working on the issue you identify, staff will contact you to share the progress made and to explore what more the Forum can do.

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2. Judicial Education

The Forum makes recommendations on statewide educational publications and programming for judges and judicial support staff. Forum members present locally, statewide, and nationally at conferences. The Forum advises on the development of judicial toolkits and other distance learning materials. What topics would you like to see addressed at in-person trainings and through distance learning?

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3. Partnerships

The Forum recommends activities needed to support local tribal court-state court collaborations. Looking at the Forum's existing activities, identify any new ones relating to:

Sharing Resources and Communicating Information about Partnerships

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Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems

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Tribal/State Collaborations that Increase Resources for Courts

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**Tribal Court-State Court Forum  
June 9, 2016, 8:30 a.m. to 5:00 p.m.  
Second District Court of Appeals in Los Angeles**

**PARTICIPANT EVALUATION**

**Thank you for taking the time to complete this evaluation!**

**Please check the appropriate responses:**

**POSITION**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Judge/Justice   | <input type="checkbox"/> Court Administration | <input type="checkbox"/> Education       |
| <input type="checkbox"/> Social Services | <input type="checkbox"/> Attorney             | <input type="checkbox"/> Law Enforcement |
| <input type="checkbox"/> Probation       | <input type="checkbox"/> CASA                 | <input type="checkbox"/> Other: _____    |

**EXPERIENCE IN CURRENT ASSIGNMENT**

- |                                    |                                       |                                    |
|------------------------------------|---------------------------------------|------------------------------------|
| <input type="checkbox"/> 0–6 mos   | <input type="checkbox"/> 6 mos–1 year | <input type="checkbox"/> 1–3 years |
| <input type="checkbox"/> 3–5 years | <input type="checkbox"/> 5–10 years   | <input type="checkbox"/> 10+ years |

	Strongly Agree 5	Agree 4	Somewh at Agree 3	Disagree 2	Strongly Disagree 1
1. Overall, I am satisfied with today's educational sessions.					
2. Overall, the program met my educational objectives.					
3. I would recommend this type of program to my colleagues.					
4. The length of the training was:	Just about right		Too short	Too long	

**ADDITIONAL COMMENTS:**

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For Attorneys seeking MCLE credit, you must also complete this page of the evaluation form. (Cal State Bar Requirement)

<i>Please answer these questions.</i>	<u>Yes</u>	<u>No</u>	<u>N/A or Don't Know</u>
1. Were you provided with substantive written materials either online or on paper?			
2. Did the sessions contain significant, professional content?			
3. Did the sessions update or keep you informed of your legal responsibilities?			

From the lists below, please evaluate faculty for each of the sessions (on a scale of 1 to 5, with 1 being Poor and 5 being Excellent).

FACULTY	Knowledge of subject matter	Teaching Effectiveness	FACULTY	Knowledge of subject matter	Teaching Effectiveness
<b><u>Session 1</u></b>			<b><u>Session 2</u></b>		
Hon. Abinanti:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Edwards:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Wilson:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Gilmour:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Nelson:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Abinanti:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Wiseman:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Mr. Newman:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Lenzi:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Parr:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Mr. Hebert:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Risling:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Perluss:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Winston:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Radoff:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Wiseman:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Ms. Walter:	1 2 3 4 5 N/A	1 2 3 4 5 N/A			
<b><u>Session 3</u></b>			<b><u>Session 4</u></b>		
Ms. Anderson:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Goldberg:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Blake:	1 2 3 4 5 N/A	1 2 3 4 5 N/A			
<b><u>Session 5</u></b>			<b><u>Session 6</u></b>		
Ms. Deporto:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Dr. Johnson:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
<b><u>Session 7</u></b>			Hon. Pellman:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Mr. Gardner:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Ms. Trimble-Norris:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Spotted Elk:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Sykes:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Hon. Blake:	1 2 3 4 5 N/A	1 2 3 4 5 N/A			
<b><u>Session 8</u></b>			<b><u>Session 9</u></b>		
Ms. Campbell:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Abinanti:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
Spotted Elk:	1 2 3 4 5 N/A	1 2 3 4 5 N/A	Hon. Perluss:	1 2 3 4 5 N/A	1 2 3 4 5 N/A
			Ms. Walter:	1 2 3 4 5 N/A	1 2 3 4 5 N/A