

# Indian Child Welfare Manual

## 01.01 INTRODUCTION

1. The [Department](#) of Social and Health Services (DSHS) offers child welfare services to Indian Children through the Children's Administration (CA). This *CA Indian Child Welfare Manual* provides policy and procedural guidelines for staff of CA, CA-licensed or certified public and private child care and placing agencies, and CA-contracted agencies and providers that work with American Indian children and families. CA has consolidated Indian Child Welfare (ICW) procedures in this manual.
2. CA staff, CA-licensed or certified public and private child care and placing agencies, and CA-contracted providers must follow procedures in this manual when serving Indian children and families. In addition, these agencies and their employees must comply with the requirements for serving all children and families contained in the *CA Case Services Policy Manual* and the *CA Practices and Procedures Guide*. If a requirement in one of those manuals conflicts with a requirement contained in this manual, staff and providers must comply with the provisions of this manual, unless required by law to do otherwise.

## 01.05 PURPOSE AND OBJECTIVES

### 1. Purpose

1. Historically, state courts and child welfare agencies have made a disproportionate number of removals of Indian children from their families and Tribes, with placement of those children outside of their families, Tribes, and Indian culture. Significant social problems developed from these violations of laws and rights and the cultural disorientation associated with the unwarranted relocation of Indian children.
2. CA has designed the procedures in this manual to prevent the arbitrary removal of Indian children from their families and to promote the child remaining in the native community if such removal is necessary. The procedures include, but are not limited to:
  1. Immediate notice of commencement of Child Protective Services (CPS), Child in Need of Services (CHINS), At-Risk Youth (ARY), or other pre-judicial investigation or intervention to the child's identified Tribe(s);
  2. Notice of state court child custody proceedings to a child's Tribe as well as to the Indian child's parents or Indian custodians;
  3. Transfer of child custody cases from state court to Tribal Court;
  4. The right of a child's Tribe to intervene in state court child custody proceedings;
  5. Case planning and consultation with a child's Tribe;
  6. Placement of Indian children in Indian homes;
  7. Higher standards of evidence than those usually applicable in child custody cases regarding dependency and termination of parental rights;
  8. Procedures for court approval of consent to place, voluntary relinquishment, and adoption of Indian children; and
  9. Unique rights for Indian adoptive children.

### 2. Objectives

1. The Children's Administration, public and private licensed or certified child care or placing agencies, and other contractors must make every effort to provide and enhance culturally relevant and sensitive child welfare services to Indian children and their families.
2. The Children's Administration is committed to:
  - a. Preserving the cultural heritage of Indian children by ensuring that staff identify tribal children immediately and connect the children to their Tribes through early tribal

notification by DCFS staff, licensed or certified public and private child care and placing agencies, and CA contractors.

- b. Recognizing tribal rights and cooperating with Tribes' efforts toward enhanced self-determination relative to child welfare matters.
- c. Establishing policies and procedures that protect Indian children from unnecessary removal from their families and tribal communities.

## **01.10 SCOPE**

The rules and procedures set forth in this manual apply to all child welfare actions, taken by CA or licensed, certified, or contracted agencies, involving children and families of North American Indian descent.

## **01.15 LEGAL BASIS**

Children's Administration has based the procedures contained in this manual on applicable state law contained in the Revised Code of Washington (RCW), federal law contained in the United States Code (USC), treaties, agreements with the Tribes, and the Washington Administrative Code (WAC). These include:

- The United States Constitution
- 25 USC 1901, et seq. - Indian Child Welfare Act
- 42 USC 675 – the Social Security Act
- 42 USC 671a – Inter-Ethnic Placement Act
- RCW 13.32a - Family Reconciliation Services
- RCW 13.34 - Juvenile Court Act - Dependency
- RCW 26.33 – Adoption
- RCW 26.34 - Interstate Compact on the Placement of Children
- RCW 26.44 - Abuse of Children
- RCW 74.13 - Child Welfare Services
- RCW 74.14a – Children and Family Services
- RCW 74.14b – Children's Services
- RCW 74.14c – Family Preservation Services
- RCW 74.14d – Alternative Family-Centered Services
- RCW 74.15 – Care of Children, Expectant Mothers, and Developmentally Disabled
- The State-Tribal Centennial Accord
- Tribal-State Indian Child Welfare Agreement of 1987
- Chapter 388 WAC
- Treaties between Indian Tribes and the U. S. government
- Treaties between Indian Tribes and the state of Washington
- Other applicable federal and state laws
- Federal and state court decisions

## **01.20 GENERAL OVERVIEW**

### **01.201 The Indian Child Welfare Act – How and Why It was Enacted\***

The Indian Child Welfare Act (ICWA) was enacted in 1978 after an 11-year effort spearheaded by the Association on American Indian Affairs and after relentless political advocacy by national Indian and non-

Indian organizations, Tribes, members of Congress, and journalists. President Carter approved ICWA over the objection of the Departments of the Interior, Health, Education and Welfare, Justice, and the Office of Management and Budget. A number of states, however, supported enactment, including Arizona, Arkansas, California, Georgia, Massachusetts, New Mexico, North Dakota, Oklahoma, Oregon and Washington.

By the time ICWA was enacted, Indian Tribes had been subjected to several hundred years of non-Indian efforts to terminate tribal existence, and as a part of this effort, separated Indian children from their Tribes in order to “civilize” or assimilate them. In the 30 years immediately preceding ICWA’s enactment, these efforts included the removal of thousands of Indian children from their families and Tribes through state court child abuse and neglect proceedings that often targeted Indians, applied state laws in discriminatory ways and failed to adhere to due process norms. In addition, other thousands of Indian children were “voluntarily relinquished” for adoption by their Indian parents under circumstances that appeared lawful but where coercion or duress were the underlying factors. In some extreme cases, Indian children were even kidnapped from their Indian families. In almost every one of these situations, the Indian children were placed in white foster or adoptive homes. Rarely were these children returned to their families or tribal communities. By the 1970's, many Tribes experienced a 25 percent to 35 percent out-placement of their children. We know of at least one Tribe that had 100 percent of its children in foster or adoptive home.

Realizing that the destruction of so many of their families threatened the continued viability of the tribal community, Tribes and their supporters mobilized a national campaign to secure legislation that would protect the integrity of Indian families and Tribes, understanding that this protection also promoted the best interests of Indian children.

It was apparent that state courts had systematically applied state laws in ways that unnecessarily authorized Indian children to be placed away from their families and Tribes. ICWA's foremost goal, therefore, was to shift the decision-making authority from state to tribal government. Henceforth, tribal social service agencies and courts, applying tribal laws and customs, would be the primary (if not the only) decision-makers in determining the best interests of Indian children.

ICWA, however, did not entirely disable state courts from approving Indian child placements. After the enactment of ICWA, state courts continued to exercise at least initial jurisdiction over Indian children neither domiciled nor resident within a tribal community. But ICWA changed the ground rules of these state court proceedings. It mandated that Tribes be able to participate in the proceedings, including voluntary termination of parental rights and foster care placement proceedings, and by allowing, under certain conditions, for Tribes to permanently transfer the proceedings to tribal court.

When transfer to tribal court does not occur, ICWA imposes on state courts certain due process requirements that are often lacking under state law. For example, in involuntary proceedings, an Indian child cannot be removed from its parents’ custody unless there is substantial proof that the parents’ activities seriously injured the child. Before this requirement was enacted, Indian parents often lost custody of their children because the non-Indian authorities did not approve of the parents' lifestyle or the parents' culturally rooted, child-rearing practices. In addition, ICWA required that before a child is removed, services be provided to the family in an effort to avoid removal. This was a novel idea before ICWA. And uniquely significant, ICWA requires state courts and agencies to apply tribal law or custom in carrying out certain ICWA provisions.

Similarly, in voluntary proceedings, ICWA requires the court to assure that the consent to placement was truly voluntary, and to make sure that the parents understand their rights, including the right to revoke consent. Prior to ICWA, many states did not even require voluntarily consenting parents to appear in court and explanations of rights were left to caseworkers or others whose interests were not the same as the parents. This commonly led to misunderstandings about the nature of legal documents signed and the unexpected and undesired permanent loss of custody.

While ICWA's overriding aim is to prevent the placement of Indian children, there are obvious situations where placement is unavoidable, even after all efforts have been made to keep a child with his or her family. In these situations, ICWA generally mandates that the child be placed in an Indian home, with extended family having first preference. This requirement applies whether the child is placed as the result of a voluntary or involuntary proceeding.

In sum, ICWA prescribes that it is in the best interests of Indian children to remain in the custody of their Indian parents or, if necessary, with other members of their extended family or Tribe and connected to their tribal communities. Any discretion exercised by state judges in conflict with this definitional component of "best interests" violates ICWA.

ICWA fundamentally changed established federal and state policies and practices, and shifted a substantial element of power from states to Tribes. Therefore, it is not surprising that ICWA has been attacked. Early on, ICWA withstood several challenges to its constitutionality and has been continually whittled at on a case-by-case basis. Perhaps the most pernicious challenges come from courts that have deliberately misconstrued ICWA to find it inapplicable to Indian children who have not been sufficiently connected to an Indian family, or courts that have elevated to a rule the "good cause" exceptions in ICWA's jurisdiction transfer and placement preference provisions.

Despite the decisions by a minority of state and federal courts that are contrary to ICWA's express premises, ICWA has achieved its fundamental objectives. Tribes are able to make decisions involving their children in multitudes of tribal and state cases. This could not have happened before ICWA. As a consequence, many Indian children who before ICWA would have been raised in white families, have remained with their own families and Tribes. Tribes have also developed sophisticated social services systems spawned by ICWA. ICWA has caused a number of state and non-Indian local jurisdictions to develop positive and effective working relationships with tribal agencies and courts. The U.S. Supreme Court has recognized ICWA's beneficial purposes.

ICWA appears to be the only national Indian rights legislation brought about by grassroots Indian advocacy. ICWA's survival and thriving depends on constant vigilance by Tribes and their members. It also depends on appropriate action to defeat the venomous attacks still occasionally made against this beneficial law by persons who are committed to the termination of Indian Tribes by facilitating the placement of Indian children in white homes.

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## 01.202 Federal and State Law/Policy

1. The federal Indian Child Welfare Act (ICWA) of 1978 (25 U.S.C. 1901 et seq.) was the first federal legislation enacted to protect Indian children and families. This landmark law defines the rights of Tribes to assume jurisdiction over children who are members or eligible to be members in a Tribe. ICWA also requires that:
  1. State and federal governments give full faith and credit to the public acts, records, and judicial proceedings of Indian Tribes;
  2. States give preventive services to Indian families prior to placing children in out-of-home care;
  3. States facilitate family rehabilitation using **active efforts**;
  4. States return Indian children to their families whenever possible; and

5. States give preference to placing an Indian child with a member of the child's extended family, a foster home specified by the child's Tribe, or an Indian foster home or institution for children approved by the Tribe or operated by an Indian organization.
  6. States may enter into agreements with Indian Tribes respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements that may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements that provide for concurrent jurisdiction between states and Tribes.
  7. States provide a higher standard of protection and preservation of Indian families and Tribes through the establishment of standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes that will reflect the unique values of Indian culture.
2. State law, enacted in 1987 and codified in Chapters 13.34, 26.33, 74.13, and 74.15 RCW, brings state procedures regarding voluntary foster care placements, relinquishments, and adoptions into compliance with ICWA. State law also recognizes that Indian Tribes have the authority to license child care and placing agencies or facilities within their boundaries. State law also specifies that:
    1. CA must develop a plan for recruiting an adequate numbers of Indian foster homes;
    2. CA has authority to pay foster care and other services for Indian children in tribal custody or care (if funds are available); and
    3. CA and its licensed or certified child placing agencies may place Indian children in tribally licensed child care facilities.
  3. In addition to federal and state laws, the state of Washington entered into a Tribal-State Indian Child Welfare Agreement (referred to as the Tribal-State Agreement) with Washington Tribes that sets standards for notification, social work practice, equal access to services, and cooperative case planning in cases involving all Indian children.
  4. The WAC contains provisions recognizing the unique status of Indian Tribes and their children. The original provisions predate the federal and state acts. A unique coalition of Washington state Tribes, off-reservation Indian groups, individuals concerned with the welfare of Indian children, representatives from the Office of the Attorney General, and staff of Children's Administration came together to revise the WAC to reflect current law and the Tribal-State agreement.
  5. Local Indian Child Welfare Advisory Committees (LICWAC) have been active in this state since 1971. LICWAC serves in an advisory capacity to CA in determining case planning for Indian children when CA has not identified the children's Tribes or the children's Tribes have requested LICWAC participation in behalf of the Tribe. The LICWAC also serves as the Child Protection Team (CPT) for Indian children. LICWAC volunteers are active in every region in the state and provide a valuable service to CA and Indian families.
  6. DSHS created an Office of Indian Affairs office in 1972, which became the Office of Indian Policy and Support Services (IPSS) in 1990. Personnel of Indian ancestry who are familiar with Indian communities staff the IPSS. This office is advisory to all Administrations of DSHS. It provides an ear for the various tribal and off-reservation Indian communities and a voice for input into policy development.
  7. In 1987, the department adopted DSHS Administrative Policy 7.01 to demonstrate the department's commitment to planning and service delivery to Indian governments and communities. Through this policy, DSHS follows a government to government approach to establishing policies and procedures for working with Indian Tribes.

## **01.203 Historical Background**

1. Historically, the roots of the "unique" treatment of Indian people go back to before the United States was formed. When Europeans arrived on the shores of North America, they entered into wars, alliances, and treaties with the Indian nations that were already on the continent. The United States accepted some of those treaties, and the United States negotiated numerous other treaties subsequently.

2. The United States and Indian Tribes entered into treaties to cede land and make peace between the parties to the treaties, to prevent Tribes from entering into alliances with other European nations, and to regulate commerce between the United States and Indian Tribes. A treaty with an Indian Tribe is similar to a treaty between the United States and any other nation.
  1. Indian treaty law is very confusing and is not evenly interpreted.
  2. Treaties frequently cede certain lands and rights to the United States while reserving (hence "reservations") other lands and rights to the Tribes. In return, the U.S. government promised to give monetary compensation, goods, education, health care, and protection from its other citizens to Indian Tribes.
3. Although it is frequently argued that Indian treaty rights are historical and accusations are made about living in the past, treaties are legal contracts and the passage of time does not erode their validity. It is out of this unique relationship with the U.S. government that the Indian Child Welfare Act derives its authority to assert the rights of Indian Tribes to jurisdiction over their citizens.
4. Indian children have been the subjects of special interest by non-Indian groups since the mid-1800s when missionary groups were represented in force on Indian reservations. The original justification for interference with Indian families and removal of their children was to save their souls, educate their minds to white culture, and break the bonds to their Tribes and families.
5. Although adoptions of Indian children into non-Indian homes seldom occurred during the 1800s, the U. S. government removed the majority of Indian children to educational institutions such as boarding schools. The government made these residential programs mandatory for children of a certain height and age.
  1. Abusive practices were rampant. Soon after arrival, school authorities shaved the Indian children's heads and clothed the children in European fashion. The schools imposed harsh discipline and rigorously prohibited Indian language and customs.
  2. The government and the missionary societies located very few of the mission schools near Indian Tribes and children rarely returned home during vacations.
  3. Disease was epidemic, and the school cemeteries were filled with the small graves of children who would never go home.
6. The boarding school system weakened natural familial ties, separated the children by language from their traditional teachers, who were the grandparents and elders of their Tribe, and prevented generations of children from learning how to be parents in a normal fashion. Many Indian people, after experiencing the punishments for practicing their own culture and language, did not want their children to learn anything of their tribal ways.
7. The relocation policy also resulted in the movement of Indian families and individuals away from the reservation. The U.S. government designed the relocation policy to make Indian people move into cities for vocational training. The training frequently did not end in employment, but it did put children at risk by separating them from community sanctions against deviant behavior and from extended family supports.
8. The extreme poverty of many Indian people served as a reason to remove Indian children from their families. To this day, Indian people continue to be the poorest in the land. Many Indian parents were and are labeled as hopeless cases because they lack knowledge about state approved methods of child care. These parents received little or no aid to correct problems that often result from poverty and lack of knowledge about the system. Additionally, private, state, and federal child welfare agencies rarely considered the child's extended family as a placement option.
9. Indian parents who encountered social service systems often did not understand their rights or what the agencies expected of them. Many Indian people have a native tongue as their primary language despite the enormous pressure against retaining the native language. Even when the primary language is English, many Indian people have had limited education and are unable to take advantage of services when offered.

## **01.204 Indian Child Rearing Practices**

1. Indian cultures have high regard for their children. Many traditional cultures believe that if a child is not cared for by the child's relatives and loved, the spirit will return to the other side. Children are valued by Native American cultures, and most Tribes, by custom, prohibited abusive practices which were part of European North American culture. Writings from the 19th and the early 20th centuries criticized Indian parents for "sparing the rod and spoiling the child."
2. One aspect of Indian culture that has been a continuous source of misunderstanding in child welfare practice is that children were often not considered to be solely under parental care and authority. Extended family, especially grandparents, had a formal say in decisions affecting children.
  1. Many Tribes expected that children would be turned over to an aunt, an uncle, or the grandparents for rearing.
  2. These practices continued in traditional families, although sometimes in modified forms. Such children, when encountered by non-Indian systems, would be labeled as abandoned children and removed from the caretakers.
3. In 1960 one third of all Indian children were in some type of out of home placement in Washington State. The majority of those placements were in non-Indian homes or institutions. As the children grew older or became adults, Indian Tribes and organizations experienced the phenomenon of teenagers and young adults searching for their Indian identity as they left failed adoptions and institutions. Many such young people felt as if something was terribly wrong with their lives. Many of the children were deeply disturbed, some extremely depressed and suicidal.
4. As Tribes reasserted their intention to survive as governing entities and cultural groups, one of the pressing issues was to preserve what the Tribes called their greatest natural resource, their children. This was fully supported by off reservation Indian groups. These groups, which organized cultural and political activities, attracted large numbers of Indian adolescents and young adults who had been separated from their families and who were searching for their lost cultural identity.

## **01.205 Indian Child Welfare in Washington State Today**

1. In the early 1970s, Indian Tribes and groups began to address the issue of separation of Indian children from their communities. To correct the problem, Indian child welfare coalitions asked for changes in state policy, recognizing the harm caused by former state policy.
2. As a result of negotiations by tribal governments and off-reservation Indian organizations with DSHS in the 1970's, each CA region now has a local LICWAC composed of tribal and Indian organization representatives.
  1. The LICWACs review case plans of Indian children, help search for relative, tribal, or other Indian resources, and provide additional services to benefit the case plans and children.
  2. The LICWAC members give their time at no cost to the state.
3. With the passage of the ICWA and state laws regarding Indian Child Welfare (ICW), state and private agencies were put on notice that they would have to develop higher standards of service practice for Indian families and children. Unfortunately, the lack of consistent and adequate funding has hampered the efforts of Tribes and Indian organizations to assume complete charge of Indian child welfare.
4. The CA has a continuing commitment to principles contained in ICWA. Off reservation and tribal groups expect to see Indian representation throughout the ranks of state employees. LICWACs and parents have campaigned to recruit volunteers and foster parents. Many regions have hired Indian workers to handle Indian cases. Some regions have designated trained groups of social workers ("Indian units") that specialize in cases involving Indian children.
5. The Indian community is trying to develop tribal resources and off reservation Indian agencies that can provide culturally appropriate services to Indian families and placements for children. Many tribal centers and most urban areas have at least limited mental health services, drug/alcohol rehabilitation

programs, and other resources for individuals of Indian descent. These agencies do not always have state contracts and struggle frequently with limitations of available funding.

6. CA, to the extent it has the resources, must provide ICW training to state agency and licensed or certified private child placing agencies' social workers, supervisors, administrative, and policy making staff. CA must train its staff and private agency staff to screen their cases for early identification of Indian status and to staff these cases immediately with the Tribes or LICWAC. CA and private agencies must closely monitor cases involving Indian children to ensure compliance with the ICW WAC and state and federal laws applicable to Indian children, families, and Tribes.
7. Tribal social workers and advocates need training. The Tribal-State Agreement mandates that CA will make available training for tribal agencies at their request and when funds are available.
8. Special problems remain:
  1. Ensuring consistent departmental compliance with the ICWA and state ICW-related laws and the Tribal-State Agreement.
  2. Appropriate identification of experts who can provide culturally appropriate services or court testimony. Such experts should be knowledgeable about the specific culture of the tribal group of origin and about ICW practice. These experts should be identified and approved by tribal groups or Indian organizations.
9. In the chapters to come, this manual will identify mandatory practice in Indian child welfare and will provide guidelines for social workers to comply with federal and state laws, the Tribal-State Agreement, and the WAC.
  1. CA is committed to a future where tribal, off-reservation Indian, state, and private systems intermesh to provide the higher standards of protection, services, and social work outlined by the ICWA.
  2. CA looks forward to a time when disputed cases will not separate children from their Indian culture and children can count on receiving appropriate services and placement with smooth interaction between the state, private agencies, and Indian resources.

## **01.25 CA INDIAN AFFAIRS POLICY**

### **1. Indian Policy Statement**

1. The state of Washington recognizes the unique cultural and legal status of American Indians granted in U.S. Constitution's Supremacy and Indian Commerce Clauses. Other applicable standards include federal treaties, Executive Orders, the Indian Citizens' Act of 1924, ICWA, other statutes, and state and federal Court decisions.
2. Indian people retain the right to tribal self-government and hold dual status as citizens of the state and of tribal nations, as expressed in the Indian Self-Determination Act of 1964.
3. CA staff may consult with the IPSS Regional Indian Specialist, when available, the LICWAC liaison, or the ICW program manager when the CA staff need additional information or clarification on Indian affairs or issues pertaining to the delivery of services to Indian clients.

### **2. Local Indian Child Welfare Advisory Committees**

As one effort to improve the delivery of services to Indian citizens, CA has established Local ICW Advisory Committees (LICWAC). The LICWAC:

1. Promotes relevant social service planning for Indian children when the children's Tribes are not available or the children's Tribes have requested LICWAC involvement for consultation and case plan development;
2. Encourages the preservation of Indian families and Tribes and the heritage of each Indian child referred to CA and the private child care and placing agencies that it licenses; and
3. Assures provision of necessary assistance to department staff by tribal representatives and off-reservation Indian organizations in the social service planning for Indian children for whom CA has a responsibility.

### **3. Tribal-State Agreement**



4. As a further effort to provide services to Indian children and families, CA has adopted the Tribal-State Agreement as policy. This Agreement provides a blueprint for the development of local agreements, training, and other activities related to ICW issues. The Agreement resulted from a partnership formed by Indian Tribes in the state of Washington and CA. The Agreement is consistent with and expands on ICWA, the ICW provisions of the WAC, and state law.

## **01.30 AUDIENCE**

1. This manual applies to CA staff, licensed or certified public and private child care and placing agencies, and CA contractors.
2. For the purpose of this manual the term "social worker" means all staff in the referenced audience providing services to Indian children and families. If a particular agency has responsibility for a specific task, the manual specifically references that agency; i. e., the first part of Chapter 05 applies to CA CPS social workers only.

## **01.35 COORDINATION AND COMMUNICATION WITH TRIBES AND NATIVE ORGANIZATIONS**

### **1. Purpose and Scope**

This protocol establishes guidelines for CA staff to obtain tribal involvement in the selection of CA staff who will serve or who will impact services on Native American/Alaskan Native/Canadian Band, Tribe or Metis children. The protocol also includes guidance for CA staff in responding to concerns expressed by tribal or off-reservation Indian organization representatives regarding CA staff performance in complying with ICW requirements.

### **2. Selection of Staff Providing Services to Indian Children**

1. In order to employ staff with sensitivity to cultural and tribal issues in case decisions and service delivery, CA will involve Tribes and off-reservation Indian organizations in the selection of CA staff, including social workers, supervisors, Area Managers, Regional Administrators, Regional Managers, headquarters and regional program managers that:
2. CA will assign to an ICW caseload;
3. Will serve ICW cases on fairly routine basis; or
4. Will have an impact on cases involving Indian children.
5. When recruiting to hire such staff, the CA supervisor or manager must invite participation of each Tribe and off-reservation Indian child welfare organization in the service area by:
  1. Asking for tribal and off-reservation organization participation in review of applications and/or recommendations on specific applicants.
  2. Inviting, with reasonable notice, tribal and off-reservation organization representatives to participate in the interviews if they choose. CA and affected Tribes and off-reservation Indian organizations will define timeframes for notice and invitations in local agreements between CA and the affected Tribes and organizations.
6. The responsible CA appointing authority retains final responsibility for selection of the successful candidate for employment. However, the CA Manager must give careful consideration to tribal comments and preferences in selecting the successful candidate.
7. The CA supervisor must notify the tribal and off-reservation Indian organization representatives of the person selected to fill the position as soon as CA selects an applicant from the candidates presented.

### **3. Communication on Performance Concerns**

1. CA encourages tribal and off-reservation Indian organization representatives to identify concerns regarding CA staff performance regarding ICW issues at the lowest appropriate level in the

organization, beginning with the employee with whom the Tribe or Indian organization has concerns. CA encourages both CA staff and the tribal and off-reservation Indian organization to utilize problem-solving techniques as appropriate at all levels of the resolution process.

2. Whenever a Tribe or off-reservation Indian organization expresses concern about ICW-related performance of a CA employee, the appropriate CA supervisor or manager will treat the expression of concern with respect and assure the tribal or organization representative that CA will review the issue with the involved employee.
3. The CA supervisor or manager will review the situation with the involved employee and implement appropriate corrective steps, as necessary. The supervisor or manager will then inform the tribal or organization representative that the supervisor or manager has reviewed the situation with the CA employee and that the employee and the supervisor or manager have undertaken corrective steps, where indicated.
4. CA managers may take action appropriate to the situation, consistent with personnel rules and the Union/Management Agreement between the department and the Washington Federation of State Employees, including, but not necessarily limited to, reassignment of the employee. CA may not share information on the specific personnel actions with the Tribe or off-reservation Indian organization.
5. Tribes and off-reservation Indian organizations may take issues up the DSHS chain of command if they believe CA has not adequately addressed their concerns at the local or regional levels.

## **01.40 SANCTIONS FOR NONCOMPLIANCE - PRIVATE AGENCIES AND CONTRACTORS**

### **1. Complaints**

1. CA-licensed or certified public and private child care and placing agencies and CA contractors must comply with all federal and state laws and policies related to Indian child welfare, including the CA's *Indian Child Welfare Manual*.
2. CA staff receiving complaints regarding noncompliance by a particular agency need to refer the complainant to the Division of Licensed Resources (DLR) licenser for the agency, if a licensed or certified agency, the CA Division of Program and Policy Development child care or placing agency program manager, and the ICW program manager.
3. If CA determines, after investigation, that the private child care or child placing agency or CA contractor has not complied with applicable laws, policies or manual provisions, CA must take the corrective actions outlined below.

### **2. Licensed or Certified Agencies**

1. Where it appears noncompliance is an isolated incident, the CA licenser must write a deficiency report and require a plan of correction. The plan must describe corrective action planned to correct identified deficiencies and to assure no repetition of the non-compliant practice. The licenser must provide a copy of the corrective action plan to the Tribe(s) of any Indian child(ren) involved in a noncompliance incident.
2. Where, as the result of a review of additional complaints, CA determines that the agency is unable or unwilling to comply with the requirements of ICWA, this manual, or with WAC 388-73-044, CA must take action against the license and/or the contract of the child care or placing agency. CA's licensing action may include, but is not necessarily limited to, the following:
  1. **Suspension/summary suspension of a license**  
Either action would prohibit an agency from operating during the period of suspension and would interrupt CA's payments to the agency for child care and services. CA may lift the suspension when the agency comes into compliance.
  2. **Provisional licensure of an agency**  
The agency may operate and receive payment during the period in which CA has

provisionally licensed the agency. However, CA may deny application for full license if the agency fails to provide evidence of compliant corrective action within 30 days of receipt of the provisional license.

3. **Amendment or modification**

CA may amend or modify a license to prohibit the agency from caring for Indian children or impose other restrictions/requirements upon the licensee.

4. **License Revocation**

CA must revoke a license where it is evident that lesser actions have not been or will not be effective in gaining compliance with the requirements.

3. **CA Contractors**

1. For those private or public child welfare agencies having contracts with DSHS, CA may take contract actions in addition to licensing actions. Regional or state office contracting staff, not licensing staff, initiate contract actions, after determining the agency is out of contract compliance. Child care or placing agency contracts also require conformity to licensing standards, so contract action may be based on the finding of noncompliance with the requirements of this manual or with WAC 388-73-044, as well.

2. Contract actions include, but are not limited to, the following:

1. **Stop Placement Notice**

A stop placement notice, usually issued by a regional office, informs the public or private agency, other regions, and the state office that the department will not make placements with the agency. The stop placement notice does not interrupt payment on behalf of children already placed with the agency by the department. The stop placement notice does not prohibit the agency from accepting children from sources other than the department.

2. **Contract Amendment**

CA may amend the contract to stop payment for the care of Indian children.

3. **Contract Termination**

CA may terminate the contract with the agency. Such action will cause the department to remove all children placed with the agency through the department and to stop all payments under the contract.

4. **Additional Sanctions for Noncompliance**

In all cases where the department or a responsible federal agency determines that an agency licensed, certified, or contracted by the department violated ICWA, CA must take the following actions, in addition to possible licensing and contract actions.

1. The DCFS Regional Administrator or DLR Regional Manager, as applicable, must prepare and send to the Assistant Secretary, Children's Administration, a report of noncompliance. The Assistant Secretary must forward the report to the Bureau of Indian Affairs (BIA). If the case involves children who are members of or eligible for membership in any Tribe, the Assistant Secretary must provide a copy of the noncompliance report to the Tribe.
2. The Assistant Secretary, Children's Administration, on tribal or BIA recommendation, must request that the State Attorney General develop an *amicus* brief in support of tribal or BIA legal action taken against an agency for noncompliance.
3. In support of any tribal or BIA legal action, department staff may serve as expert witnesses in legal proceedings, upon request of the Tribe or BIA.
4. CA, in consultation with the Attorney General's Office, must explore and pursue other available legal remedies to secure compliance with federal law requirements.

## 01.45 REQUIREMENT WAIVERS

A DCFS Regional Administrator or the DLR Director may waive provisions of this manual only in accordance with the provisions of the *CA Operations Manual*, chapter 2000, section 2320. Before granting waivers of these

provisions, the Regional Administrator or Director must consult with the affected Tribes and off-reservation Indian organizations.

## 01.50 LICWAC/STATE IMPASSE PROCEDURES

The following definition applies to this section:

“**Impasse**” means a deadlock between CA and the LICWAC or child’s Tribe following thorough discussion by the CA social worker of the case plan and case decisions with the worker’s supervisor and managers and the LICWAC or tribal designee, as applicable, does not concur with the department’s plan and decisions.

See chapter 14 for definitions of the following terms:

If the LICWAC does not agree with the CA social worker’s case plan for the Indian child, CA and the LICWAC implement the following procedures to resolve the impasse. If the child’s Tribe does not agree with the case plan for the Indian child, who is a member or eligible for membership in the particular Tribe, the Tribe may utilize the procedures to resolve the impasse. CA does not intend to apply the impasse procedures to disagreements about a specific service or service provider.

### 1. Purpose and Scope

1. CA staff will use these procedures strictly as guidelines to promote good communication and to expedite timely resolution of issues related to cases involving CA social workers and the CA-appointed Local Indian Child Welfare Advisory Committee (LICWAC) or non-tribal Indian child welfare organizations. CA and the LICWAC or Tribe may not use impasse procedures to circumvent a court order.
2. While CA cannot impose these requirements on Tribes, as Sovereign Nations, CA strongly encourages Tribes to use these procedures as steps to resolve issues at the lowest level possible within the CA organizational structure. These procedures do not supersede, diminish, or infringe upon tribal sovereignty, the Centennial Accord, or any other tribal/state agreements that address tribal impasse procedures.

### 2. Definition

- o “Indian Child”
- o “Washington State Indian Child”
- o “Canadian First Nations Child”
- o “Recognized Indian Child”
- o “Local Indian Child Welfare Advisory Committee,” or LICWAC

### 3. Procedures

0. CA encourages the LICWAC or the child’s Tribe to first seek resolution of issues with the social worker’s supervisor prior to invoking these procedures.
  1. For cases where the LICWAC or the child’s Tribe does not assess the child to be at imminent harm, the timeframes contained in these procedures may be extended if CA and the LICWAC or the Tribe mutually agree to the extension.
  2. Within one work day after the LICWAC or the Tribe determines that an impasse exists, the LICWAC Chair or tribal designee will notify the CA Area Manager or DLR Regional Manager, as applicable, who will schedule an impasse staffing. The LICWAC Chair or tribal designee may deliver the notice by fax, e-mail, in writing, or telephone and should include all major points of disagreement so that each issue can obtain resolution. Following any verbal notice, the CA social worker needs to request a written statement from the LICWAC Chair or Tribe.
    1. CA encourages the CA Area Manager or DLR Regional Manager, as applicable, to mediate a resolution to the dispute at any point in the proceeding. Provided mediation is unsuccessful, the Area Manager or Regional Manager schedules the impasse staffing with

the LICWAC or tribal designee(s), the CA social worker, the social worker's supervisor, the Regional Administrator or Regional Manager, the CA headquarters ICW program manager, and, if necessary, an Assistant Attorney General with expertise in ICW issues. Scheduling needs to occur within five working days.

2. If CA or the LICWAC or Tribe, as applicable, believes the child(ren) is in imminent danger or at serious risk of harm, CA must follow the Child Protection Team (CPT) guidelines. See the *CA Practices and Procedures Guide*, chapter 2000, section 2562. CA will place the child out of potential danger until CA holds a staffing, that includes the Regional Administrator or Regional Manager, as applicable, within one work day of the placement.
3. If a court hearing is imminent, the CA social worker needs to request the Assistant Attorney General to seek a continuance to provide additional time to reconcile any disagreement between the CA social worker and the Tribe.
4. If the court hearing is not continued, the Area Manager will schedule the impasse staffing prior to the hearing. CA recognizes that, due to the legal requirement to hold a shelter care hearing within 72 hours, excluding weekends and holidays, of the child's placement in shelter care, CA may not always be able to conduct the impasse staffing before the hearing.
5. If the LICWAC or the Tribe and CA cannot mutually resolve the impasse at the regional level, the Regional Administrator or the Regional Manager, as applicable, and the LICWAC or tribal designee notify the Assistant Secretary for Children's Administration of the need to schedule an impasse staffing to occur within three work days of the notification.
6. The Area Manager and Regional Administrator or Regional Manager, when applicable, will participate at impasse meetings beyond the regional level. The social worker and/or supervisor may participate at the request of the Regional Administrator or Regional Manager, as applicable.
7. The CA social worker submits and requests the LICWAC or Tribe to submit by fax or e-mail the LICWAC or Tribe's concerns to the Assistant Secretary's office. The social worker must also submit any previous staffing minutes and other documents pertinent to the decision to the Assistant Secretary prior to the impasse staffing. The social worker or other CA representative, if the social worker does not attend, must bring the complete case file to the impasse staffing.
8. If CA and the Tribe cannot mutually resolve the impasse at the Assistant Secretary's level, the Assistant Secretary notifies the DSHS Secretary that the Secretary's Office needs to schedule a final impasse staffing within three work days of the notification. The Assistant Secretary will forward all case related documentation to the Secretary's Office.
9. CA must make every effort to include all parties to the original impasse at each level of review.
10. The Secretary's decision on the impasse is final.

## **02.0 Tribal/ State Agreements**

### **02.01 INTRODUCTION**

1. The Indian Child Welfare Act (ICWA), 25 U.S.C. 1901, et. seq., authorizes the state of Washington to enter into agreements concerning the care and custody of Indian children and jurisdiction over child custody proceedings involving Indian children.
2. The department, as authorized in ICWA, has offered an agreement to each Tribe in the state depending on the Tribe's status as an Exclusive Jurisdiction or Concurrent Jurisdiction Tribe. The department and the Tribes have entered into these agreements to implement ICWA, to supplement the Act's requirements, and to apply any CA regulations, directives, policies, or manual instructions consistently with the terms of the agreements and the Act.
3. This chapter provides placement for agreements that Children's Administration (CA) regional and local offices have negotiated with the Tribes and off-reservation Indian organizations within their respective

service areas. CA expects its regional and local offices to enter into procedural agreements with the Tribes and off-reservation Indian organizations in the respective service areas that comply with and complement the agreement between the Tribe or off-reservation Indian organization and the state.

## **02.05 EXCLUSIVE JURISDICTION**

The department has recognized the exclusive original jurisdiction of applicable Tribes with respect to child welfare matters covered in the agreements with those Tribes. This exclusive original jurisdiction applies to Indian children who are resident or domiciled within the respective Tribe's reservation or who are wards of the tribal court. The agreements between these Tribes and the state honor the Tribes' status as possessing exclusive jurisdiction over such children.

## **02.10 CONCURRENT JURISDICTION**

1. DSHS recognizes that DSHS and some Tribes have concurrent jurisdiction with respect to child welfare matters arising within the Tribe's reservation or that involve Indian children resident or domiciled on the Tribe's reservation. The department's agreements with these Tribes provide that CA will offer the Tribe with an opportunity to exercise tribal jurisdiction before CA takes any action to invoke state court jurisdiction, except as otherwise specified in the agreement with the Tribe.
2. CA recognizes that such Tribes, if they choose, have exclusive civil jurisdiction over matters concerning Indian children in circumstances involving termination of parental rights, involuntary foster care placement and adoption proceedings, and application of dependency, children in need of services, and child abuse and neglect laws.

## **02.15 REGIONAL AND LOCAL AGREEMENTS**

CA staff will place all regional and local Tribal/State agreements applicable to the service area of the Region and the local office in this section.

## **03.0 Verification of Child's Indian Status**

### **03.01 INTRODUCTION**

1. CA social workers must identify whether a child is of Indian ancestry in order to preserve the child's culture and to ensure that the CA staff meet the requirements of the ICWA, state laws, and the WAC.
2. CA social workers must identify a child as Indian early in the case activity. Such early identification is necessary to ensure that the Indian child is not traumatized by culturally inappropriate and/or illegal placements that must be interrupted at a later date to comply with the Indian placement requirements of the ICWA and/or WAC.
3. All valid information regarding a person's membership status in the Tribe originates from the Tribe. The Tribe is the only authority that can verify a person's membership or eligibility for membership status.
4. Tribal membership and tribal enrollment are not the same thing. Tribal enrollment is a process. About half of all Native Americans and Alaska Natives are formally enrolled in their Tribe. To be enrolled in a Tribe, a person must be a tribal member; membership in a Tribe is not dependent upon being enrolled. This is a very important distinction that all workers need to understand, since the ICWA applies to children who are members or eligible for membership in a Tribe, not just those who are enrolled in a Tribe.

## 03.05 APPLICATION OF INDIAN CHILD WELFARE MANUAL

1. Unless otherwise specifically indicated, the requirements of this Manual apply to all children meeting the definitions of Indian child found in Chapter 03.10(A) below.
2. Unless otherwise specifically indicated, Chapter 11 of this Manual contains procedures applicable to Canadian First Nations and Recognized Indian Children, as defined in Chapter 3.10 (A)2 and 3. Regardless of enrollment or membership status, if the child is Indian, the social worker must follow the requirements of this chapter.

## 03.10 DEFINITIONS OF INDIAN CHILD

1. The requirements of this manual apply to different categories of Indian children. The individual child's category determines the law and procedures that apply in a particular case. For this reason, the social worker must understand the categories and take the necessary steps to identify the child's Indian category at the very outset of service involvement. The following definitions of categories of Indian children apply in this manual.
2. The following definitions apply in this manual:

25 U. S. C. 1903(4)

1. **“Indian child”** - An Indian child is an unmarried person under the age of 18 and who is either:
    1. A member of a federally recognized Indian Tribe, including an Eskimo, Aleut or other Alaska Native; or
    2. A child eligible for membership in a federally recognized Indian Tribe, including an Eskimo, Aleut or other Alaska Native and is the biological child of a member of a federally recognized Indian Tribe.
  2. **Washington State Indian Child** - An Indian child meeting the definition of “Indian Child” and whose Tribe is a federally recognized Tribe located within the state of Washington.
  3. **“Canadian First Nations Indian Child”** – An unmarried person under the age of 18 who is a member of a treaty Tribe, Metis community, or a non-status community from Canada.
  4. **“Recognized Indian Child”** – An unmarried person under age 18 who does not meet the definitions of Indian child, Washington State Indian Child, or Canadian First Nations Indian child. Regardless of enrollment or membership status, an recognized Indian child is a child considered to be an Indian by a federally or non-federally recognized Indian Tribe or off-reservation Indian/Alaska Native Community organization.
  5. **Federally Recognized Indian Tribe**  
“Federally Recognized Indian Tribe” means any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native Village.  
25 U. S. C. 1903(8)
3. **Verification of Indian Status**
    1. The CA social worker must obtain verification of a child's Indian status by an Indian Tribe or band, community, or non-tribal Indian organization in the form of a written affidavit, declaration, or other certified statement that states the basis by which the Indian Tribe or band, community, or non-tribal Indian organization has determined that the child is Indian.
    2. When the social worker has been unable to verify a child's Indian status through **active efforts** to obtain verification from an Indian Tribe, the social worker may accept verification of the child's Indian status from a non-tribal Indian organization

4. See Chapter 12, below, for a list of federally recognized Indian Tribes in the United States. The list is not totally accurate because it may not contain newly recognized Tribes. The social worker must contact the Tribe or the BIA directly for assistance in determining the current status of any unlisted Indian Tribe.
5. Even in the case of an Indian child who is not an enrolled member of a federally recognized Tribe or a non-federally recognized Tribe, the social worker must seek to include the child's Tribe throughout every step of the case process.

## 03.15 APPLICATION OF FEDERAL LAW, POLICIES, AND STATE WAC'S

1. Application of federal and state laws as well as the WAC varies depending on the Indian child's definitional category.
2. The Multi-Ethnic Placement Act (MEPA), as amended by the Interethnic Adoption Provisions (IEAP) amendments, 42 USC 671a, does not apply to Indian children meeting the definition of **Federally Recognized Indian Child**.
3. CA has developed the *Indian Child Welfare Compliance Checklist*, DSHS 09-777, to assist the CA social worker in following the procedures in this Manual. The social worker must use the checklist as the face sheet for the ICW Section of the case record file, for easy reference.
4. For Canadian First Nations Indian Children and Recognized Indian Children, follow provisions of Chapter 11.

## 03.20 INQUIRY INTO CHILD'S INDIAN STATUS

1. The provisions of this section apply to Indian children of all categories. See Chapter 03.10 of this manual for definitions of the categories.
2. Upon acceptance of a case for service, the CA social worker must immediately seek to discover whether the involved child is of Indian ancestry. **The assigned social worker must do this in every case at every case transfer.** The social worker must document in the ICW section of the child's case file all efforts to discover a child's ancestry. At a minimum the social worker, including intake staff, must ask a referrer, the parent(s)/Indian custodian(s), the child (if the child is of sufficient age), and relatives of the child:
  1. Whether the child is of Indian or native ancestry.

Alaska Native and Canadian First Nations often use terms other than "Indian" to describe their ancestry. For this reason, the social worker needs to inquire about "native" ancestry as well as "Indian" ancestry.

"First Nation," "from a band," and "aboriginal peoples" are also common terms used to describe Canadian First Nations ancestry. Canadian First Nations often use the terms "band" and "reserve" to denote "Tribe" and "reservation."

2. Whether the child is or has been the ward of any Tribal Court.
3. CA social workers must continue to inquire about the child's Indian status throughout the life of the case and document the results in the CAMIS SER. The worker needs to ask the parents and the parents' relatives, including grandparents, aunts and uncles, and adult siblings. Following are examples of points at which it would be appropriate to inquire:
  1. Intake;
  2. Placement;
  3. 30-day review;



4. Filing of petition;
  5. On the record at the shelter care hearing;
  6. Case transfers;
  7. Administrative reviews;
  8. Child protective and multi-disciplinary team meetings;
  9. Permanency planning staffings/adoption staffings;
  10. Termination hearings; and
  11. Other staffings, such as Sexually Aggressive Youth (SAY), Family Resource Panel, supervisory review, and relative home studies.
3. The social worker must obtain from each parent a completed *Indian Identity Request*, DSHS 09-761.
    1. The social worker files the original copy in the ICW section of the child's service file.
    2. Within 10 working days following the parent's completion of the form, the social worker provides a copy of the form to the regional or local LICWAC liaison or ICW compliance program manager, as applicable.
  4. The department must consider the child to be Indian if any one of the following circumstances exist:
    1. Any party to the case, Indian Tribe, Indian organization, or public or private agency informs the social worker that the child is an Indian child.
    2. The referrer, the child, the child's parent(s)/Indian custodian(s), or relatives give reason to believe that the child is Indian.
    3. The social worker discovers information suggesting the child is Indian.
    4. The residence or domicile of the child or the child's parent(s)/custodian(s) is known to be a predominantly Indian community. See Chapter 14 for the separate definitions of "residence" and "domicile." There is an important legal and case planning distinction between the "residence" and "domicile" of an Indian child. If the social worker is uncertain as to the "residence" and "domicile" of an Indian child, the social worker must seek clarification from the social worker's supervisor and/or the attorney for the child's Tribe and/or the assigned Assistant Attorney General. The Tribe's social services program also may provide clarification of the child's status.
    5. The child is or has been a ward of any Tribal Court.
  5. Upon receipt of information that the child is of Indian ancestry, the social worker immediately takes necessary steps to identify the child's Tribe and contacts the Tribe for verification of the child's Indian status and invites the Tribe to participate in the case. See Chapter 03.25, below.
    1. If the social worker does not know the identity of the child's Tribe, the social worker follows the procedures in Chapter 03.25(E), for contacting the BIA.
    2. The social worker also immediately takes steps to staff the case with LICWAC, if the child's Tribe is unavailable. See Chapter 10.02(C) regarding LICWAC.

## **03.25 CONSIDERATIONS FOR IDENTIFYING ALASKA NATIVE/NATIVE AMERICAN CHILDREN**

1. In order to comply with the spirit and intent of ICWA, the social worker must be able to identify whether or not any child and family to which the social worker provides services is affiliated with a Tribe. Given that Alaska has the highest proportion of tribal members relative to its total population and given that 40 percent of all federally recognized Tribes are located in Alaska, to be professionally responsible, the child protection and adoption agency workers must be especially vigilant in this regard.
2. A child's affiliation with a Tribe centers around the issue of membership. Factors include a child's physical characteristics, blood degree of native ancestry, or the child's family's cultural practices, religious beliefs, lifestyle, socio-economic status or place of residence. None of the factors, in and of itself, determines a child's membership or eligibility for membership in a Tribe.

1. Each of over 550 federally recognized Tribes in the country has a set of criteria, usually within the tribal constitution, which the Tribe uses to establish a person's membership in the Tribe, just as every country has criteria to establish a person as a citizen of the nation.
2. With such a large number of Tribes in the country and over 225 Tribes in Alaska alone, the social worker must establish a working protocol that will help the social worker to screen each child's family. The social worker uses the protocol to determine if there is a reason to believe that the child might be a member of or eligible for membership in a Tribe and to verify the information if the social worker suspects the child may be a member or eligible for membership in a Tribe.
3. Questions workers may use to screen families and to determine resources which may be available to verify a child's tribal affiliation follow.
  1. Does either of the child's parents or blood relatives claim any degree of Alaska Native or Native American ancestry? If the answer is yes, it is possible that an ancestor of the child was a member of a Tribe and there is reason to believe that the child could be eligible for membership in a Tribe.
  2. Were or are either of the child's biological parents, grandparents, other blood relatives, or ancestors a member of a Tribe? If the answer is yes, it is possible that the child is a member or eligible for membership in the same Tribe(s).
  3. Is the child, either of the child's parents, or any blood relative a shareholder in an Alaskan Native Village Corporation or Regional Native Corporation established under the Alaska Native Claims Settlement Act? If the answer is yes, the child may be a member or eligible for membership in an Alaska Tribe located in that village or within the boundaries of the Regional Native Corporation. Not being a shareholder cannot be used to conclude that a person is not an Alaska Native, but if the person is a shareholder, then the person is an Alaska Native.
  4. Is the child, either parent, or any blood relative receiving or eligible to receive any type of services from an agency funded by the BIA or the Indian Health Service? If the answer is yes, the child may be a member or eligible for membership in a Tribe which may be located within the service area of the agency.
  5. Did the child, either parent, or any of their ancestors live on or near an Indian Reservation, or a Rancheria in California, in the state of Oklahoma, or in or near a community where any of Alaska's 225 federally recognized Tribes are located? If the answer is yes, there is reason to believe that the child may be a member of or eligible for membership in a Tribe which may be located nearby the respective area.
4. The answers to any of the above questions can help the worker screen potential families and children who may be affiliated with a Tribe. The only way to verify tribal membership is to identify the Tribe involved and to contact a tribal representative who is authorized to provide documentation regarding a child's membership. Some of the aforementioned questions may help the worker narrow down the potential location of the Tribe(s) involved. Primary partner agencies, which can serve as locator as well as verification resources to the worker, include the following:
  1. The BIA in Washington, D.C. or any of its area Offices located throughout the country. Offices of the BIA serve as an important resource that can assist the worker in locating the appropriate Tribe(s) and, in some cases, may be able to provide verification as to an individual's tribal membership. The area office of the BIA serving Alaska is located in Juneau.
  2. Any one of 12 Regional Native Nonprofit organizations in Alaska. These organizations provide BIA funded services to Tribes within specific geographic boundaries of the state, can assist in locating the appropriate Tribe(s), and may house tribal enrollment records and program case files which could help to verify tribal membership for individuals of some Tribes located in their service area. A 13 th regional corporation serves Alaska

Natives who reside outside Alaska or who resided outside Alaska when the corporations were established.

3. Tribal offices located in villages and communities throughout the country. Many Tribes have established locally based service centers on or near their tribal communities. These offices, through the Tribal Councils, provide verification of tribal membership and serve as the most important resource to the worker regarding this issue.

## **03.30 IDENTIFICATION OF CHILD'S INDIAN STATUS**

1. If the social worker knows the identity of the child's Tribe(s), the social worker contacts all Tribe(s) by telephone as quickly as possible, and in no event later than one working day following discovery of the Tribe's identity. The social worker follows the telephone call with a written request for verification of the child's Indian status. The social worker uses Inquiry to Indian Tribe, Band, or Nation, DSHS 09-539, and Family Ancestry Chart, DSHS 04-220(X) to contact all Tribe(s) identified. The social worker must send the inquiry letter, DSHS 09-539, to the tribal ICW director and to tribal enrollment officer. For Canadian First Nation and Recognized Indian Children, refer to chapter 11 of the ICW manual.
2. Send the inquiry letter to the child's Tribe(s) by standard postal mail, fax or email. The fax line and email must be secure and able to receive confidential information. Document all inquiry letters and Tribe(s) response and place or upload copies in the case file. If there is no response from the Tribe(s) or Canadian First Nation(s) within ten days, the social worker must follow up with a telephone call and document in the file.
3. In seeking to verify the child's Indian status, the social worker inquires as to whether the child or child's Indian parent(s) was previously adopted.
  1. If the child or child's Indian parent(s) was previously adopted, the social worker makes reasonable attempts to obtain available information regarding the identity of the child's/Indian parent's biological family. A child's adoption record may be opened to help obtain information regarding the child's ancestry.
  2. The social worker promptly provides such information to the child's Tribe or, if the identity of the child's Tribe is unknown, to the Bureau of Indian Affairs. See 03.30(E) below.
4. If the child is affiliated with more than one Tribe, the social worker contacts each Tribe by telephone and sends each Tribe a written request for verification of the child's Indian status.
5. When the social worker contacts a Tribe for verification of Indian status as required above, the social worker also asks whether the Tribe considers the child to be Indian regardless of the child's membership status. The verification forms required above contain this additional request for information.
6. Only when the identity of the child's Tribe is unknown or uncertain, the social worker contacts the Portland area office of the BIA by telephone. See Chapter 12 for BIA contact information. The social worker follows the telephone call with a written request for verification of the child's Indian status. The social worker uses Inquiry To Bureau of Indian Affairs, DSHS 09-536, and Family Ancestry Chart, DSHS 04-220(X).
7. If the social worker has reason to believe the child is Canadian First Nations but does not know the identity of the child's Tribe/band, the social worker immediately contacts the ICW program manager at CA Headquarters by telephone to request assistance in identifying the child's Tribe/band. The social worker follows the telephone call with a written request for assistance.
8. Until the social worker verifies that a child is or is not an Indian child, the social worker presumes the child to be an Indian child for planning and service delivery purposes.
  1. Unless the social worker learns that a child meets one of the definitions of Indian child, in section 03.10, the social worker asks the child's parent(s)/custodian(s) and the child (if of sufficient age) whether an off-reservation Indian/Alaska Native community organization considers the child to be Indian.

2. The social worker attempts to contact any Tribe or organization identified in response to the above inquiry. When the social worker identifies an organization, the social worker asks the organization whether it considers the child or the child's parent(s) to be Indian. The social worker uses Inquiry To Indian Organization, DSHS 09-775.
3. When the social worker identifies a Tribe, the social worker contacts the Tribe as required in section 03.25(A), above.
9. The social worker attempts to obtain a written response to requests for verification of a child's Indian status. At a minimum, the social worker includes written documentation in the service file of the name, address, and telephone number of the person who provided information about the child's Indian status and a summary of the information provided.
10. The social worker must request LICWAC assistance in obtaining verification of a child's Indian status. See Chapter 10 for LICWAC procedures.

## **03.35 DETERMINATION OF TRIBAL MEMBERSHIP STATUS**

1. Only a Tribe makes determination of a child's tribal membership status. A tribal determination of membership or eligibility for membership is final. The social worker does not make the determination of an Indian child's membership or eligibility status.
  1. Except as otherwise provided in Chapter 11, the term "Indian child's Tribe" means the federally recognized Tribe(s) in which an Indian child is a member or eligible for membership.
  2. If an Indian child is a member or eligible for membership in more than one Tribe, the social worker provides notification to each of the Tribes and, with respect to each Tribe, follows all other applicable procedures in this manual.
2. If the social worker contacted the BIA because the social worker did not know the identity of the child's Tribe, the BIA's determination regarding a child's tribal membership status is final unless later contradicted by a Tribe identified as the Indian child's Tribe.
3. See Chapter 11 for procedures regarding determination of Canadian First Nations or Recognized Indian children who are not federally recognized.

## **03.40 WHEN THE CHILD MAY BE CONSIDERED NON-INDIAN**

1. CA staff must follow the provisions of this manual until the social worker has verified with reasonable certainty that a child does not meet the definition of Indian child, as found in Chapter 03.10(A). If the child does not meet any of the above definitions, CA staff will consider the child non-Indian and the provisions of this manual do not apply.
  1. Even if the Tribe and/or the LICWAC verifies a child with Indian heritage to be a non-Indian for the purpose of this manual, the social worker must develop a case plan for that child in accordance with the requirements for culturally appropriate services in the *CA Case Services Policy Manual*, Chapter 1000, section 1610.
  2. The social worker documents in the service record the actions taken to identify a child's Indian status in accordance with the requirements of this chapter and the basis for concluding that none of the above definitions apply.
2. In cases where the social worker has requested verification of a child's Indian status as required by this chapter and has not received a response to such request(s), the social worker may consider a child non-Indian and need not follow the provisions of this manual if **all** of the requirements below are satisfied:

1. The social worker has sent a written request for verification of the child's Indian status to the Tribe and/or the BIA as required in Chapter 03.25.
  2. If the Tribe or BIA has not provided verification within 30 calendar days following the date the social worker sent the written request for verification, the social worker has sent a second written request and has contacted the Tribe and/or BIA by telephone.
  3. The Tribe or the BIA has not provided verification within 30 calendar days following the date that the social worker sent the second written request and neither the Tribe nor the BIA has requested additional time for verification.
  4. If the Tribe or the BIA requested additional time for verification and the Tribe or the BIA has not provided verification within 60 calendar days after the first written request for verification was sent. The social worker must follow up with the Tribal Council. See paragraph B(2), above.
  5. The social worker has provided all available information regarding the child's family history to the Tribe or the BIA and has taken reasonable steps to obtain and provide any additional information requested by the Tribe or the BIA.
  6. The child is not an Canadian First Nations or Recognized Indian child who is not federally recognized. See Chapter 11 regarding Canadian and Unrolled Indian children not federally recognized.
  7. The social worker has documented in the ICW section of the child's service file all information necessary to demonstrate compliance with the above requirements, including the name, address, and telephone number of the person(s) contacted by telephone within the Tribe and/or the BIA.
3. The social worker must make copies of the inquiry, the ancestry chart, and replies from the Tribes and provide them to the LICWAC.
  4. LICWAC makes the determination of non-Indian status and completes the form.
  5. The social worker must copy the *Determination of Non-Indian Status* form and place it in the ICW section of the case record.
  6. If the social worker obtained verification from the Tribe or the LICWAC of a child as non-Indian in accordance with the provisions of paragraph C, above, and the Tribe and/or BIA subsequently verifies that the child is Indian as defined in Chapter 03.10, the social worker follows the requirements of this manual in performing casework or placement activities after the date the social worker verifies the child's Indian status.
  7. A Tribe and/or the BIA may verify a child's Indian status orally or in writing. If the verification is oral, the social worker documents in the service record the date the Tribe or BIA provided verification and the name, address, and phone number of the person who provided the verification.

## **03.45 TRIBAL, BUREAU OF INDIAN AFFAIRS, AND CANADIAN TRIBE/BAND CONTACT INFORMATION**

For information on contacting the Tribes, BIA, and Canadian Tribe/Bands, see Chapter 12 of this manual.

## **04.0 Confidentiality and Information Disclosure**

### **04.05 GUIDELINES REGARDING DISCLOSURE OF CONFIDENTIAL RECORDS/INFORMATION TO TRIBES**

Children's Administration (CA) conditions disclosure of confidential records, documents, or information to an authorized tribal or Indian organization representative upon:

1. Federal or state laws that require or authorize CA, child care and placement agencies, or CA contractors to disclose confidential information; or
2. Entry of an order, by a state, federal, or tribal court with jurisdiction over the parties and the subject matter, that requires or authorizes CA, child care and placement agencies, or CA contractors to disclose confidential information; or
3. Written consent, by the person who is the subject of the confidential information, authorizing CA, child care or placement agencies, or CA contractors to disclose such information; or
4. A contractual agreement between CA and a Tribe or an Indian organization under which the Tribe or Indian organization provides Child Protective Services (CPS), Child Welfare Services (CWS), or other social services. Disclosure of confidential information is necessary for provision of services under the contract; or
5. A written understanding between CA and a Tribe or Indian organization, whereby the Tribe or Indian organization provides CPS, CWS, or other social services, and disclosure of confidential information is necessary for provision of services.

## **04.10 ACCESS TO TRIBAL AFFILIATION INFORMATION FOR ADULT INDIAN ADOPTEES**

1. Upon application of an adopted Indian person who has reached the age of 18, the court that entered the final adoption decree must:
  1. Inform the individual of the tribal affiliation, if any, of the individual's biological parents; and
  2. Provide such other information as may be necessary to protect rights flowing from the individual's tribal relationships.  
25 U.S.C. 1917
2. The CA social worker must refer an adopted Indian individual of at least age 18 who requests the name of the court which entered the final adoption decree, to the Adoption Program Manager in the CA Division of Program and Policy Development in Olympia for that information, if available.
3. The CA social worker or Adoption Program Manager must also refer such adopted Indian individuals to Tribes or Indian organizations who assist adopted Indian individuals in obtaining access to court records.
4. If the adopted Indian individual was adopted through CA or an agency licensed or certified by CA, the CA social worker or private agency staff, as applicable, also must:
  1. Search the agency files; and
  2. Advise the adopted Indian individual as to the name and location of any Tribe or band mentioned in the agency files.

## **04.15 ACCESS TO TRIBAL MEMBERSHIP BY ADULT INDIAN ADOPTEE**

1. The CA social worker or licensed or certified agency, as applicable, must advise adopted Indian individuals over the age of 18, the adoptive or foster parents of an Indian child, or an Indian Tribe of the provisions of 25 U.S.C. 1951, when approached by such parties.
2. Upon the request of an adopted individual over the age of 18, the adoptive or foster parents of an Indian child, or an Indian Tribe, the Secretary of the Interior must disclose such information as may be necessary for enrollment as a tribal member or for determining any rights associated with that membership.

# 04.20 APPLICATION OF DISCLOSURE GUIDELINES

1. The CA social worker or licensed or certified agency staff must disclose information regarding a Federally Recognized Indian Child or a Canadian First Nations child or Recognized Indian child as required or authorized by the provisions of this manual.
2. Whether CA or the child care or placing agency may disclose particular information to a tribal or Indian organization representative in an individual case will depend upon the following variables:
  1. The child's tribal membership status (actual or potential);
  2. The nature of the information to be disclosed;
  3. The legal status of the case; i. e., pending state or tribal court action; and
  4. The purpose of the disclosure.
3. Unless a court of competent jurisdiction has permanently terminated parental rights, the CA social worker needs to attempt to obtain written consent to disclosure from the child's parents.
  1. The CA social worker must not reveal the identity of confidential Child Protection Service (CPS) referrers without the referrer's permission.
  2. The CA social worker discloses information regarding a person's HIV/AIDS status only in accordance with the *CA Operations Manual*, chapter 5000, section 5723(F).
4. If the court has terminated parental rights or if the social worker is unable to obtain parental consent to disclose, the general guidelines below regarding disclosure of confidential information must apply. Although the guidelines are not all inclusive, the most common circumstances where the department may disclose information include:
  1. The CA social worker or licensed or certified agency staff may disclose identifying information regarding a child who may be Indian and the child's family for purposes related to verification of the child's Indian status, determination of tribal wardship status, and determination of the child's residence and domicile.
  2. The CA social worker or licensed or certified agency staff must disclose information regarding a child who is a member of or eligible for membership in a federally recognized Tribe to that Tribe for purposes related to child welfare case planning upon the Tribe's request.
  3. The CA social worker or licensed or certified agency staff must disclose information regarding the child to the child's Tribe if the Tribe has intervened or upon request of the Tribe in the following circumstances:
    1. The proceeding involves a child who is a member of or eligible for membership in a federally recognized Indian Tribe; and
    2. The state or tribal court proceeding pertains to voluntary foster care placement, dependency, guardianship, termination of parental rights, Child in Need of Services (CHINS) or At-Risk Youth (ARY) petitions, or relinquishment/ adoption.
  4. The CA social worker or licensed or certified agency staff must send case record information to the Tribe by certified mail, return receipt requested, within five working days of receipt of the Tribe's request.
5. The CA social worker or licensed or certified agency staff must disclose information regarding the child to an intervening Canadian Tribe/Band or a federally/non-federally recognized Indian Tribe if the Tribe/Band intervenes as a party in a state court proceeding involving:
  - o Voluntary out of home placement;
  - o Dependency;
  - o Child in Need of Services (CHINS) or At-Risk Youth (ARY) petitions; or
  - o Relinquishment/adoption of an Canadian First Nations child or Recognized Indian Child.
6. The CA social worker or licensed or certified agency staff may disclose information regarding a Federally Recognized Indian Child or an recognized Indian Child for case planning and/or consultation

purposes to the child's Tribe/Band, involved Indian organizations, social service agencies, or other service resources.

7. The CA social worker or licensed or certified agency staff must disclose information regarding a child of Indian ancestry to the appropriate LICWAC for case planning purposes and staffings conducted in accordance with Chapter 10, section 10.20(K), of this manual.
8. For disclosure requirements to prospective adoptive parents, see Chapter 08.
9. The social worker must consult with the Attorney General's Office or other appropriate legal representative if questions arise regarding confidentiality or disclosure of information.

## **04.25 LETTERS AND TELEPHONE CALLS TO TRIBES**

The CA social worker must send letters with confidential information in envelopes marked "Confidential: Indian Child Welfare." The social worker must not give identifying client information when leaving telephone messages.

## **05.0 Casework Services Prior to Court Involvement**

### **05.01 INTRODUCTION**

1. The Children's Administration (CA) Child Protective Services (CPS) worker follows the policies and procedures outlined in the manuals below. If there is a conflict between provisions between the procedures contained in the *CA Practices and Procedures Guide*, the social worker and the supervisor follow the CPS procedures in sections 05.05 through 05.25 of this manual. The relevant CA manual sections, in addition to this manual, include:
  - *Case Services Policy Manual* – Chapter 2000, section 2100
  - *Case Services Policy Manual* – Chapter 3000, section 3200
  - *Case Services Policy Manual* – Chapter 4000, section 4100
  - *Case Services Policy Manual* – Chapter 4000, section 4400
  - *Case Services Policy Manual* – Chapter 4000, section 4500
  - *Case Services Policy Manual* – Chapter 4000, section 6100
  - *Practices and Procedures Guide* – Chapter 2000, section 2200
  - *Practices and Procedures Guide* – Chapter 2000, section 2300
  - *Practices and Procedures Guide* – Chapter 2000, section 2400
  - *Practices and Procedures Guide* – Chapter 2000, section 2500
  - *Practices and Procedures Guide* – Chapter 2000, section 2600
  - *Practices and Procedures Guide* – Chapter 2000, section 2700
2. The CA Family Reconciliation Services (FRS) social worker and the supervisor follow the procedures found in the CA manuals outlined below as well as the procedures found in section 05.45 of this chapter. If there is a conflict between procedures in the *Practices and Procedures Guide* and the provisions of this manual, the social worker and the supervisor follow the procedures in section 05.45 of this chapter. The relevant CA manual sections, in addition to this manual, include:
  - *Case Services Policy Manual* – Chapter 2000, section 2200
  - *Case Services Policy Manual* – Chapter 3000, section 3300
  - *Case Services Policy Manual* – Chapter 4000, section 4300
  - *Practices and Procedures Guide* – Chapter 3000, section 3121
  - *Practices and Procedures Guide* – Chapter 3000, section 3132
  - *Practices and Procedures Guide* – Chapter 3000, section 3133



- *Practices and Procedures Guide* – Chapter 3000, section 3140
  - *Practices and Procedures Guide* – Chapter 3000, section 3450
  - *Practices and Procedures Guide* – Chapter 3000, section 3500
3. All social workers follow the procedures pertaining to general out-of-home placement and child welfare practice requirements contained in the *CA Practices and Procedures Guide*, chapter 4000, as well as the provisions found in sections 05.30 through 05.40 of this chapter. If there is a conflict between provisions, the social worker and the supervisor follow the procedures in sections 05.30 through 05.40 of this chapter.

## 05.05 CPS REFERRALS - INVOLVEMENT OF ALL INDIAN TRIBES BEFORE COURT INTERVENTION

1. Upon receipt of a screened-in CPS referral involving an Indian child, as defined in Chapter 03, section 3.10, the CPS social worker:
2. Furnishes the child's Tribe with information to:
3. Establish the child's membership status;
4. Provide notification of court proceedings; and/or
5. Do CPS case planning for the child.
6. Notifies the child's Tribe of the CPS referral immediately; e. g., telephone, fax, e-mail;
7. Provides additional information upon request of the child's Tribe if the Tribe has intervened as a party in a child custody proceeding involving the child;
8. When the child's Tribe requests additional information and the Tribe has not intervened in a child custody proceeding, makes reasonable attempts to secure parental consent or a court order authorizing disclosure to the Tribe;
9. With proper authority to disclose information, furnishes the Tribe or a tribally designated organization, upon request, with all case record material, reports, family social histories, or other documents related to an incident of abuse and/or neglect, and:
10. Clearly designates the case record material as "CONFIDENTIAL INDIAN CHILD WELFARE INFORMATION";
11. Does not divulge the names of confidential referrers to the tribal designee without the permission of the referrer; and
12. Does not divulge information related to the HIV/AIDS status of the child or the child's parent(s) except in accordance with written CA policies and guidelines. See the *CA Operations Manual*, chapter 5000, section 5700;
13. See chapter 04 for additional information on disclosure;
14. Staffs all cases involving Indian children with the tribal designee from the child's Tribe. If a tribal designee is not available, the social worker consults on the case with the appropriate LICWAC. See Chapter 10 for LICWAC procedures.
15. Contacts tribal social services to explore available services that will:
16. Address the safety needs of the child;
17. Assist the parent to retain custody of the child; and
18. Further the child's tribal relationship.
19. Makes **active efforts** to prevent out-of-home placement by providing culturally sensitive services. See section 05.30.
20. Involves the child's Tribe within one working day if emergency circumstances necessitate investigation or protective services intervention prior to involving the Tribe.
21. CA Intake will send CPS referrals that Intake does not screen in to the Tribe for the Tribe's information.

## 05.10 INDIAN INTERPRETER - CPS CASES

1. Whenever possible, upon receipt of a screened-in complaint or referral involving child abuse/neglect of an Indian child, the CPS social worker contacts a person to serve as an Indian interpreter or translator. An Indian interpreter is a person knowledgeable of the culture, customs, child rearing practices, and standards of the child's Tribe. See chapter 14, Definitions.
  1. The worker consults with the worker's direct supervisor to identify possible resources.
  2. When the CPS social worker, family member, or Tribal social worker feels a need for assistance in communicating with the Indian family in the family's own language, the CPS worker contacts the child's Tribe, an Indian organization, the CA ICW program manager, or the LICWAC to identify a suitable interpreter.
  3. See Chapter 10 for LICWAC procedures and Chapter 14 for definition of "Indian organization" and "Indian interpreter."
2. The CPS social worker involves an Indian interpreter to assist the worker to:
  1. Communicate with the Indian family;
  2. Avoid unnecessary protective services, intervention, or removal of children;
  3. Secure emergency placement in a relative's home or another Indian home in accordance with the placement preference of the Tribe or of this manual, described in Chapter 07;
  4. Comply with the notification requirements of this manual, Chapter 06; and
  5. Secure reliable identification of the child as an Indian child, in accordance with Chapter 03, regarding determination of a child's Indian status.

## 05.15 REPORTS TO LAW ENFORCEMENT

1. For purposes of complying with the requirements of this section, the term "appropriate law enforcement agency" means the police agency responsible for enforcing criminal laws in the geographical area where an incident occurred.
  1. If the incident occurred within the boundaries of an Indian reservation, the CPS worker must report the incident to the tribal police. If the Tribe does not have a police agency, the CPS worker must report to the area Federal Bureau of Investigation (FBI) and or the local city or county law enforcement agency.
  2. The CPS worker must also, when appropriate and consistent with local or regional agreements with the Tribe contained in chapter 02, report the incident to the police agency for the county and/or city in which the incident occurred.
2. The social worker or supervisor must report, as required by RCW 26.44.030 and RCW 74.13.031, to law enforcement alleged incidents of child abuse or neglect in accordance with the *CA Practices and Procedures Guide*, chapter 2000, section 2571. The social worker or supervisor may send the report via mail, fax, or e-mail.
  1. CA must report to the appropriate law enforcement agency, in accordance with local office procedures, within 24 hours of the department's receipt of a report in which Intake labels the response time as "emergent" and Intake believes the child's welfare to be in immediate danger.
  2. With the exception of a child fatality or near fatality, which the social worker must report immediately, the social worker or the worker's supervisor must notify law enforcement within 72 hours of receipt of any reported incident of:
    - a. Sexual abuse;
    - b. Non-accidental physical injury of a child;
    - c. Incidents where the investigation reveals reasonable cause to believe that a crime against a child may have been committed.
  3. Unless otherwise agreed in a local written working agreement with law enforcement, developed in consultation with the Attorney General's Office, CA staff making an oral report to law

enforcement must, within five working days of receipt of the referral, also report in writing. The person making the report:

- a. Must file a copy of the report in the CA case file or in an administrative file when no case record exists; or
  - b. May use a CAMIS Law Enforcement Report to comply with the requirement for a written referral.
4. The social worker or the worker's supervisor may release referrer identification information to law enforcement in all instances where the referrer has not requested confidentiality. The social worker or the worker's supervisor:
    - a. May delete the name of the referrer from reports sent to law enforcement when the referrer requests confidentiality and no written agreement to honor that status exists; and
    - b. May include the name of the confidential referrer when the local written protocol with law enforcement and prosecutors contains the agreement to hold the name confidential.
  5. CA must, when contacted, accept information about third party CA/N. Intake must then record this information and forward it to law enforcement when it meets the statutory definition of what is to be reported.
  6. CA may share information with law enforcement about CA/N referrals not requiring reports when law enforcement is investigating CA/N involving the child victim.
3. See the *CA Practices and Procedures Guide*, chapter 2000, section 2573, for information regarding law enforcement assistance for taking a child into custody.
  4. See the *CA Practices and Procedures Guide*, chapter 2000, section 2574, regarding the requirement for CA offices to maintain written working agreements with local law enforcement agencies.

## 05.20 SERVICES FOR INDIAN FAMILIES PRIOR TO COURT ACTION

1. Before filing a dependency, guardianship, or involuntary termination of parental rights petition in state court, the CA social worker must make **active efforts** to provide social services to the family for protection of an Indian child.
  1. The social worker must make **active efforts** only when the circumstances of the family, viewed in light of the prevailing social and cultural conditions and the way of life of the Indian community:
    1. Require the provision of social services for the protection of the child; and
    2. To support the relationship between the child and the parent(s)/Indian custodian.
  2. **Active efforts** include those services the social worker actively provides to rehabilitate and/or prevent the breakup of the family. **Active efforts** require more direct involvement by the social worker with the family than reasonable efforts.
2. The CA social worker will jointly develop and, whenever possible, provide the services in consultation with the social services program of the child's Tribe.

## 05.25 REMEDIAL AND REHABILITATIVE SERVICE PLAN

The CA social worker provides remedial and rehabilitative services based on a written plan designed to effectively address and eliminate problems that are destructive to the family. The social worker must design a plan:

1. Formulated with the direct collaboration of the child's parent(s), Indian custodian, if any, the child (if of sufficient age), grandparents (when appropriate), other relatives (when appropriate), the child's Tribe, and a qualified expert. See Chapter 14 for definition of "qualified expert";
2. That ensures that the worker makes **active efforts** to prevent and eliminate the need for removal of the child from the family home;
3. That takes into account the prevailing social and cultural conditions in the child's Indian community;
4. That encourages maintenance of an ongoing familial relationship between the parent(s) or Indian custodian and the child, as well as among the child, the child's siblings, and other members of the child's extended family throughout the time the social worker engages in **active efforts** to prevent family breakup; and
5. That encourages maintenance of an Indian child in the child's own family residence.

## 05.30 CHILD PROTECTIVE TEAM STAFFINGS

1. The *CA Practices and Procedures Guide* outlines requirements for Child Protective Team (CPT) staffings. When a CA social worker needs to have a CPT staffing involving an Indian child in the custody of the department and that child is a member of a federally recognized Indian Tribe, the social worker contacts the social services program of the child's Tribe to request such a staffing using the following preferences:
  1. The Tribe's CPT; or
  2. A LICWAC/CPT or other CPT designated by the Tribe; or
  3. A regular CPT with Tribal or LICWAC participation, in person or by telephone.
2. See Chapter 11 for procedures regarding CPT staffing of cases involving Canadian First Nation or Recognized Indian Children.

## 05.35 IMPLEMENTATION OF THE SERVICE PLAN

The social worker's implementation of the plan must stress the use and involvement, where available, of community services and resources specifically designed for Indian families. These services and resources include, but are not limited to:

1. Extended family;
2. Tribal social services and other services offered by the department, including FRS;
3. Indian organization programs aimed at preventing family breakup;
4. Traditional Indian therapy administered by traditional practitioners, where available;
5. Individual Indian caregivers who have skills to help the family;
6. Indian Health Service;
7. Qualified expert(s), as defined in chapter 14; and
8. Bureau of Indian Affairs.

## 05.40 FAMILY RECONCILIATION SERVICES

If the parent of an Indian child requests Family Reconciliation Services (FRS), and such services are appropriate, the CA social worker must contact the child's Tribe within 24 hours to determine if the Tribe offers such services.

1. If the child's Tribe offers FRS, then the CA social worker refers the family for appropriate services.

2. If the child's Tribe does not offer FRS, the CA social worker refers the child's family to an FRS contractor in accordance with the *CA Practices and Procedures Guide*, chapter 3000.

## 06.0 Court-Related Activities

### 06.01 INTRODUCTION

1. This chapter contains very specific procedural requirements that Children's Administration (CA) staff must follow when the child involved in a child welfare case is an Indian child as defined in chapter 03, section 03.05(A). CA staff must follow all necessary procedures in chapter 03 to ensure compliance with federal and state law. See chapter 03 for information about verification of Indian status.
2. If CA or child placing agency (CPA) social workers fail to comply with the procedural requirements in this chapter, the court may set aside court orders as invalid. Parties to invalid adoptions may challenge the adoptions, and the court may vacate the adoption after entry of the adoption decree.
3. In addition to the requirements of this Chapter, the CA social worker must follow the requirements of the *CA Practices and Procedures Guide*, chapters 2000, 3000 and 4000. If conflict exists between the provisions of this manual and the *Practices and Procedures Guide*, the social worker must follow the requirements of this chapter, when consistent with statutory requirements.
4. Except as specifically provided, this chapter does not apply to Canadian First Nations Indian children or to Recognized Indian Children. See Chapter 11 for information about Canadian and Recognized Indian Children.

### 06.05 INDIAN AFFILIATION

Upon acceptance of a case for service, the social worker must immediately seek to verify if the involved child is an Indian child as defined in chapter 03, section 03.05(A). Chapter 03 contains procedures for making that verification. The social worker must carefully follow the procedures in Chapter 03 so that all subsequent legal actions conform to federal and state law.

### 06.10 JURISDICTION

1. Jurisdiction is an important concept in working with Indian Tribes and is generally defined as the authority of a sovereign power to govern those within its territorial or reservation boundaries. Indian Tribes are sovereign powers and have the ability to govern Indian people who are resident or domiciled within the boundaries of their reservations, even if such persons are located off the reservation.
2. Jurisdiction over Indian child custody proceedings can be exclusive to a Tribe or concurrent with the state. See the definition of "child custody proceedings," in chapter 14 of this manual. Dependency, voluntary foster care placement, Child In Need of Services (CHINS), guardianship, termination, voluntary relinquishment, and adoption proceedings are child custody proceedings.
3. If the Tribe has **exclusive jurisdiction**, the Tribe has sole authority over the disposition of child custody proceedings involving Indian children who reside or are domiciled within the boundaries of its reservation. If the Tribe has **concurrent jurisdiction** with the state, the Tribe and the state both have authority over child custody proceedings involving Indian children who reside or are domiciled within the boundaries of the tribal reservation. See Chapter 14 for the definition of "domicile" and "residence."
  1. The Tribe not only has jurisdiction over its own child members who are resident/domiciled on the reservation, the Tribe also has jurisdiction over Indian children from other Tribes who are resident/domiciled on the reservation.

2. A child's residence or domicile is generally deemed to be that of the parent(s) or legal custodian, but the Tribe makes the determination.
4. The state has jurisdiction over child custody proceedings involving Indian children who are not resident of or domiciled within the boundaries of an Indian reservation.
5. Even if the state exercises jurisdiction in a case, an Indian child's Tribe has the right to request that the state transfer the case to tribal court jurisdiction. See section 06.35 for information about transfer of jurisdiction to the tribal court.
6. Regardless of whether a Tribe has exclusive or concurrent jurisdiction over child custody proceedings, the Tribe always has exclusive jurisdiction over Indian children who are wards of the tribal court.
7. A Tribe with exclusive jurisdiction may request that the state take jurisdiction in a specific case. CA, in consultation with assigned legal representation, determines if it will then assume jurisdiction.

## 06.15 FEDERALLY RECOGNIZED WASHINGTON STATE TRIBES – EXCLUSIVE, CONCURRENT, AND SELF-GOVERNANCE JURISDICTION

1. For purposes of applying the requirements of this manual, the following Washington State Tribes have **exclusive jurisdiction** over child custody proceedings involving Indian children who are resident or domiciled within the reservation boundaries.
  - o Colville
  - o Jamestown S'Klallam
  - o Lower Elwha Klallam
  - o Muckleshoot
  - o Nisqually (exclusive jurisdiction only applies on reservation holdings acquired after 1968)
  - o Nooksack
  - o Port Gamble S'Klallam
  - o Quileute
  - o Samish
  - o Sauk-Suiattle
  - o Spokane
  - o Upper Skagit
  - o Yakama
2. For purposes of applying the requirements of this manual, the following Washington State Tribes have **concurrent jurisdiction** with the state over child custody proceedings involving Indian children who reside or are domiciled within the boundaries of the reservation.

Tribes set forth in this list may disagree with the "concurrent jurisdiction" designation and may, in some cases, claim exclusive jurisdiction status. If this happens, the social worker must contact the Office of the Attorney General office or other appropriate legal representative for assistance in resolving jurisdictional issues.

- o Chehalis
- o Hoh
- o Kalispel
- o Lummi
- o Makah
- o Nisqually (concurrent jurisdiction only applies on reservation holdings acquired before 1968)

- Puyallup
- Quinault
- Shoalwater Bay
- Snoqualmie
- Squaxin Island
- Stillaguamish
- Suquamish
- Swinomish
- Tulalip

3. LIST OF SELF GOVERNANCE TRIBES AS OF DECEMBER 1997

Tribe	Contact
Jamestown S'Klallam	Superintendent (360) 533-9100
Lower Elwha	Superintendent (360) 533-9100
Lummi Indian Nation	Superintendent (425) 258-2651
Makah	Self-Govt. Specialist (360) 645-2201
Muckleshoot	Superintendent (425) 258-2651
Nisqually	Superintendent (425) 258-2651
Nooksack	Superintendent (425) 258-2651
Port Gamble	Superintendent (425) 258-2651
Quinault Indian Nation	Superintendent (360) 533-9100
Shoalwater Bay	Superintendent (360) 533-9100
Skokomish	Superintendent (360) 533-9100
Squaxin Island	Superintendent (360) 533-9100
Suquamish	Superintendent (425) 258-2651
Swinomish	Superintendent (425) 258-2651

## 06.20 VERIFICATION OF TRIBAL OR STATE COURT JURISDICTION - ALL FEDERALLY RECOGNIZED TRIBES

Except for emergency cases as provided for in section 06.60, the social worker complies with the following procedures before seeking to initiate in state court any child custody proceeding that involves an Indian child.

1. In order to determine if the social worker should file a child custody action in state court or assist a parent to obtain state court validation of a voluntary consent to placement, termination, or adoption, the social worker seeks to verify if:
  1. The Indian child is a ward of tribal court; or
  2. The child is domiciled or residing on an Indian reservation.
2. The social worker contacts the child's Tribe about tribal court wardship. If the social worker has reason to believe that the child is a ward of a tribal court other than that of the child's Tribe, the social worker also contacts the other tribal court. If the child is a ward of tribal court, that Tribe has exclusive jurisdiction.

1. In non-emergency cases involving an Indian child who is a ward of tribal court, the social worker does not file a state court action but refers the case to the appropriate tribal authorities.
  2. In non-emergency cases involving Tribes with concurrent jurisdiction, the social worker follows the procedures in section 06.25. If the Tribe does not wish to assert jurisdiction, the social worker files an action in state court according to Washington State law.
  3. The social worker may file an action in tribal court only at the Tribe's request.
  4. In emergency cases, the social worker follows the procedures in section 6.60, below.
  5. The social worker documents contacts with the Tribe(s) in the ICW section of the family's service record.
3. The social worker immediately contacts the child's Tribe about domicile or residence. If the social worker has reason to believe that the child's domicile or residence is on the reservation of a Tribe other than the child's Tribe, the social worker also contacts the other Tribe. The social worker documents contacts with the Tribe(s) and the Tribe's position regarding the child's domicile/residence in the service record and reports to court.
  4. Prior to filing a court action in state court, the social worker:
    1. Asks the parent to identify the parent's and the child's residence and domicile; and
    2. Asks the Tribe to identify the parent's and the child's legal residence and domicile.
  5. If the social worker identifies a conflict between the parent's assertion and the Tribe's determination concerning domicile, the Tribe's determination resolves the issue.
  6. If the social worker verifies that the parent and/or child are domiciled on the reservation, the social worker does not file a court action in state court, unless the Tribe does not have a tribal court.
  7. If the Tribe determines that the parent/child are not residing nor domiciled on the reservation, the social worker may file a court action in state court according to Washington state law.
  8. The social worker follows all notice requirements and other procedures set forth in this chapter whenever the worker commences a state court proceeding involving an Indian child.
  9. In cases where the Tribe has exclusive jurisdiction or exercises concurrent jurisdiction over a child custody matter involving an Indian child, the social worker provides available information and documentation that may be necessary to help the Tribe commence or pursue a child custody proceeding in tribal court.
  10. If, due to the circumstances of a particular case, the social worker cannot contact the child's Tribe or verify the child's wardship status, residence, or domicile prior to filing a child custody action in state court, the social worker must make immediate and continuing efforts notify the Tribe after filing.

## **06.25 SPECIAL REQUIREMENTS FOR FEDERALLY RECOGNIZED WASHINGTON STATE INDIAN TRIBES WITH CONCURRENT JURISDICTION**

1. Except for emergency cases, the social worker must follow the special requirements in this section in all cases involving Indian children who reside or are domiciled within a reservation of a Washington State Indian Tribe with concurrent jurisdiction over child custody proceedings. See section 06.15(B) for a list of concurrent jurisdiction Tribes in Washington.
2. A social worker refers matters regarding Indian children who reside or are domiciled within a concurrent jurisdiction Indian reservation to appropriate tribal authorities, so that the child custody proceedings may be commenced in tribal court.
3. If a child resides or is domiciled within a concurrent jurisdiction reservation, the social worker notifies the child's Tribe by registered mail return receipt requested of the social worker's intent to file a state court action and of the date that the action will be filed. A social worker:



1. Does not file a state court action if a child custody proceeding has already been filed in tribal court:
2. Sends notice to the child's Tribe at least five business days prior to filing any state court action; and
3. Includes along with the notice a copy of all documents and records supporting the necessity of initiating a child custody proceeding.
4. If a social worker receives notification or has knowledge that a tribal court has commenced a child custody proceeding, the social worker does not file a child custody proceeding in state court and, upon timely request by the Tribe, assists the tribal court in adjudicating the case. See section 6.40 regarding the assistance social workers will provide in tribal court proceedings.
5. A CA social worker does not file an action in tribal court unless requested to do so by the Tribe.

## **06.30 RECORD KEEPING/JURISDICTIONAL VERIFICATION - ALL FEDERALLY RECOGNIZED TRIBES**

1. A social worker keeps a record in the ICW section of the service file on a case-by-case basis of the inquiries the worker made to verify whether a child is a ward of the tribal court. The worker also keeps a record of the facts considered in reaching a decision that a child is or is not a resident of or domiciled on the reservation of a federally recognized Indian Tribe.
2. A social worker provides a copy of the child's record, upon request, to the Indian child's Tribe, parent or Indian custodian, and any *guardian ad litem* appointed to represent the child.
3. A social worker also provides a copy of the record to any Indian Tribe that claims the Indian child as a ward of its tribal court and to any Indian Tribe that claims the Indian child to be resident/domiciled on the Tribe's reservation.

## **06.35 TRANSFER OF JURISDICTION FROM STATE COURT TO TRIBAL COURT - ALL FEDERALLY RECOGNIZED TRIBES**

1. Following the commencement in state court of a child custody proceeding involving an Indian child, the child's Tribe, parent(s), or the child's Indian custodian may petition or request transfer of the proceeding to tribal court. The CA social worker sends *Motion and Order to Transfer Jurisdiction to Tribal Court*, DSHS 09-547, or *Tribal Court Motion and Order to Accept Jurisdiction*, DSHS 09-548, to the Tribe for its use for these purposes.
2. A CA social worker must not encourage the child's parent or Indian custodian to object to transfer of jurisdiction.
3. Upon petition/request, state court must transfer the proceeding to tribal court unless the state court finds good cause to the contrary or unless a child's parent or Indian custodian objects to the transfer of jurisdiction.
4. A CA social worker must not oppose a petition/request for transfer to tribal court without first consulting with worker's immediate supervisor and the assigned Assistant Attorney General or contracted prosecuting attorney. The worker must base any objection on fact.

## **06.40 TRIBAL COURT PROCEEDINGS - ALL FEDERALLY RECOGNIZED TRIBES**

If a child custody proceeding involving an Indian child is filed in a tribal court, the social worker assists the tribal court in adjudicating the case upon timely request by the Tribe. The Tribe must request assistance in a tribal court proceeding sufficiently in advance to allow the social worker the time and opportunity for adequate preparation. Such assistance from the social worker may include:

1. Provision of available information and documentation that the Tribe may need to pursue a child custody proceeding in tribal court. See chapter 04 regarding confidentiality.
2. Testimony in a tribal court proceeding. The tribal court should give the CA social worker an opportunity to address the feasibility of the proposed case plan/court order in writing or through testimony.
3. Preparation of service/placement case plans.
4. Assistance in implementing tribal court orders regarding services and placements. If the CA social worker cannot implement a tribal court order, the social worker notifies the tribal court in writing as soon as possible.
5. Agency assumption of the care, custody, and supervision of an Indian child under a tribal court order. If the social worker cannot implement an order for agency care, custody, and supervision of a child, the social worker notifies the tribal court in writing as soon as possible.

## **06.45 INTERVENTION BY TRIBES**

1. A federally recognized Indian Tribe at any time has the right to intervene as a party in state court child custody proceedings involving children who are members or eligible for membership in a Tribe.
2. A child's Indian custodian has the right to intervene in such proceedings. See Chapter 14 for definition of "Indian custodian."
3. A Canadian First Nations or Recognized Indian child's Tribe or band may seek intervention pursuant to Superior Court Civil Rule 24 (CR 24). See Chapter 11 regarding tribal intervention in child custody proceedings involving Recognized Indian Children.
4. A social worker supports a request for intervention filed by a child's Tribe or Indian custodian.

## **06.50 VOLUNTARY CONSENT TO FOSTER CARE PLACEMENT**

### **06.501 Introduction**

1. A CA social worker does not make a voluntary placement of an Indian child in foster care until the worker has:
  1. Followed the procedures in sections 06.10 through 06.40 regarding verification of tribal jurisdiction and special requirements applying to federally recognized Washington State Indian Tribes; and
  2. Notified the Tribe; and
  3. Followed the consent to place procedures described in this section.
2. Voluntary consents to foster care placement are not valid unless the parent signs the consent before a tribal or state court judge more than 10 calendar days after the child's birth and the judge approves the consent.

## **06.502 Child a Ward of Tribal Court or Resident/Domiciled on an Exclusive Jurisdiction Indian Reservation**

1. If a parent or Indian custodian seeks to voluntarily place an Indian child in foster care, the CA social worker asks the parent and Tribe if the child is a ward of tribal court or is a resident or domiciled within the boundaries of an exclusive jurisdiction Indian reservation. Follow procedures outlined in sections 06.10 through 06.40.
2. If the child is a ward of tribal court or resident or domiciled on an exclusive jurisdiction Indian reservation, the social worker:
  1. Informs the parent or Indian custodian that the Tribe has exclusive jurisdiction to approve such placements.
  2. Assists the parent or Indian custodian, at the request of and in cooperation with the Tribe's social services program, to place the child in foster care or make such other arrangements as may be appropriate under the circumstances.

## **06.503 Child NOT a Ward of Tribal Court and NOT Resident/Domiciled on an Exclusive Jurisdiction Indian Reservation**

1. When a parent or Indian custodian seeks to voluntarily place an Indian child in foster care, and the child is not a ward of tribal court and is not resident/domiciled on an exclusive jurisdiction Indian reservation, the CA social worker informs the parent or Indian custodian of:
  1. Placement preference requirements;
  2. Requirements for notification of the child's Tribe and extended family members; and
  3. The requirement for state or tribal court validation of the consent prior to placement. If the social worker has actual or constructive knowledge that the child may be an Indian or Alaska Native, or if the social worker has not verified whether or not the child is such a child, the social worker must obtain court validation of the voluntary consent.
2. The social worker assists the parent or Indian custodian to contact an Indian interpreter or a representative of the social services program of the child's Tribe to ensure that the consent is voluntary and that the parent or Indian custodian understands what the parent or custodian is doing. See Chapter 14 for definition of "Indian interpreter."
  1. The social worker documents such assistance in the ICW section of the service record. If the social worker refers the parent or Indian custodian to an identified individual, the social worker includes in the service record documentation the date of the referral and the name of the individual to whom the worker made the referral.
  2. Upon request, the social worker provides the documentation to the child's Tribe.
3. The social worker:
  1. Encourages the parent or Indian custodian to execute any consent to foster care placement before a tribal court judge if consistent with the practice and procedures of the tribal court for the child's Tribe.
  2. Cooperates with the tribal social services program and assists with placement if the tribal court processes the consent to place. See Chapter 6.40 regarding tribal court proceedings.

## 06.504 Involvement of Tribal Social Services

Prior to accepting a voluntary consent to foster care placement, the social worker:

1. Encourages the parent or Indian custodian to contact the child's Tribe regarding available services to assist the parent or Indian custodian to retain custody of the child or to maintain the parent-child relationship during placement.
2. Documents in the ICW section of the service record the worker's efforts to have the parent or Indian custodian contact the child's Tribe regarding available services.
  1. If the social worker refers the parent or Indian custodian to an identified individual within the child's Tribe, the social worker includes in the ICW section of the service record documentation the date of the referral and the name of the individual to whom the worker made the referral.
  2. The social worker provides the documentation to the child's Tribe, upon request.

## 06.505 Explanation of Consent Form

1. The social worker fully explains the consent to place form, *Consent to Foster Care Placement and Court Certification*, DSHS 09-763, to the parent or Indian custodian of an Indian child. The worker uses an Indian interpreter, when possible, to explain the form to the parent/Indian custodian.
  1. The social worker requires the parent or Indian custodian to read the consent form prior to obtaining the parent or Indian custodian's signature on the form.
  2. If the social worker has any doubt about the parent or Indian custodian's ability to read and understand the consent form, the worker will read and explain the form to the parent or custodian.
  3. If the social worker or the parent/custodian has any doubt about the parent or Indian custodian's ability to understand English, the worker makes arrangements to have the form read and explained to the parent or Indian custodian in the parent or custodian's primary language.
2. The social worker obtains the parent or Indian custodian's signature on the consent form acknowledging that the parent or custodian has read the consent form, understands the consent form, and wishes to consent to the child's placement in foster care.
  1. The social worker gives a copy of the signed consent form to the parent or Indian custodian.
  2. The social worker explains to the parent or Indian custodian that the consent is not valid until the parent or Indian custodian also signs the form in court and a judge approves the consent.
3. The social worker does not place the child in foster care until the parent or Indian custodian has signed the consent form in court, and the judge has approved the consent.

## 06.506 Validation Procedures

The CA social worker must comply with the following consent to place procedures:

1. When the social worker obtains the signature of an Indian child's parent or Indian custodian on a consent to place form, DSHS 09-763, the social worker immediately sends copies of the signed form, by registered mail, return receipt requested to:
  1. The child's Tribe;
  2. The non-consenting parent (including any alleged father); and
  3. The child's Indian custodian, if any.
2. The social worker does not file the petition for validation of the voluntary consent until at least five business days after sending copies of the signed form to the child's Tribe and to the non-consenting parent or Indian custodian.

1. If circumstances require a shorter time period, the social worker provides the Tribe and non-consenting parent or Indian custodian with telephone notice of the consent.
2. The social worker gives telephone notice far enough in advance to allow the tribal representative time to communicate with the parents or Indian custodian and for the tribal representative and the non-consenting parent to appear for the court validation hearing.
3. The social worker completes and files a *Petition for Court Validation*, DSHS 09-762, in juvenile court. Upon filing the petition, the social worker:
  1. Notifies the child's parents (including any alleged father), the child's Indian custodian, if any, and the non-consenting parent if the parent's whereabouts are known, as soon as possible of the time, date, and place of any scheduled validation hearing.
    - a. If the social worker does not provide the initial notification in writing, the social worker also sends written notice to the parents (including any alleged father) and the Indian custodian, if any, using *Notice to Parent/Indian Custodian*, DSHS 09-543.
    - b. The social worker completes *Declaration of Notification*, DSHS 09-767, and files the declaration with the court.
  2. Provides the parents (including any alleged father) and the Indian custodian with a copy of the consenting parent's signed consent, a copy of the notice sent to the Tribe, and a copy of the petition or other court documents filed in the proceeding.
  3. Provides the non-consenting parent, if whereabouts are known, a copy of the petition.
  4. Notifies the child's Tribe as soon as possible by telephone of the date, time, and place of any scheduled validation hearing.
    - a. The social worker also sends written notice of the validation hearing to the child's Tribe, using *Notice to Indian Tribe, Band or Nation*, DSHS 09-541.
    - b. If the child is a member or eligible for membership in more than one Tribe, the social worker provides notice to all such Tribes.
    - c. The social worker completes *Declaration of Notification*, DSHS 09-767, and files the declaration with the court.
  5. Provides the child's Tribe with a copy of any petitions or other court documents filed in the proceeding.
4. If the child's Tribe or Indian custodian requests to intervene in the proceeding, the social worker provides the Tribe or Indian custodian with the information necessary to accomplish the intervention. If the child's Tribe or parent(s)/Indian custodian requests transfer of the proceeding to tribal court, the social worker supports the transfer.
5. The court clerk schedules a validation hearing to be held within 48 hours after the petition is filed. However, a hearing cannot be held until more than 10 days after the birth of the Indian child.
6. The consenting parent(s) must appear personally at the validation hearing to enter on the record the parent's consent to foster care placement.
7. At the validation hearing, the parent(s) signs the consent before the judge. The social worker or the social worker's legal representative presents the *Consent to Foster Care Placement and Court Certification*, DSHS 09-763, to the court for approval and court certification.
8. The social worker follows:
  1. The placement preferences found in Chapter 07 unless the child's Tribe has changed or waived the preference.
  2. The requirements of Chapter 07, section 07.20, regarding notice to the child's extended family.
9. The social worker returns the child to the parent(s) upon withdrawal of the consent unless one of the following applies:
  1. Under RCW 13.34.050, the court has ordered the child taken into custody on a finding of reasonable grounds to believe that:
    1. The child is dependent; and
    2. The child's health, safety, and welfare will be seriously endangered if the child is not taken into custody; and

3. At least one of the grounds for ordering continuing custody demonstrates a risk of imminent harm to the child.
2. Under RCW 13.34.130, the court orders removal of the child from the home because:
  0. The child's health, safety, and welfare cannot be adequately protected in the home; and
  1. The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child.
10. The social worker notifies the court of the child's return home and obtains an order of dismissal, using the *Motion, Declaration and Order of Dismissal*, DSHS 09-759.
11. The social worker notifies the child's Tribe, the non-consenting parent (including any alleged father), the child's Indian custodian, and any other party to the validation proceeding when the parent or the department has terminated the consent to place, and the department has returned the child home. CA considers a copy of a signed *Motion, Declaration and Order of Dismissal*, DSHS 09-759, adequate notice of the child's return home.

## 06.507 Services Following Placement

Following the placement of an Indian child in foster care under a valid voluntary consent, the social worker provides placement services in accordance with the requirements of chapter 07, section 07.70.

## 06.508 Changing Voluntary to Involuntary Placement

1. Except in emergency circumstances, the social worker notifies the child's Tribe, the parents (including any alleged father), and the Indian custodian, if any, of a decision to change a voluntary foster care placement into an involuntary foster care placement. Except when contrary to the best interests of the child, the social worker gives notice at least 15 calendar days before filing a dependency petition. The worker uses *Notice of Change of Voluntary Placement to Involuntary Placement*, DSHS 09-774, to provide notice. In emergency situations, the social worker follows the procedures in section 06.60.
2. The social worker does not petition any court for an involuntary foster care placement when basing the petition solely on the prior voluntary child placement.

## 06.55 PRECONDITIONS FOR FILING A DEPENDENCY, DEPENDENCY GUARDIANSHIP, OR INVOLUNTARY TERMINATION PETITION

- A. Except in emergency situations, the social worker follows the requirements set forth in paragraph B, below, before filing a dependency, guardianship, or involuntary termination petition in juvenile court. In emergency cases the social worker follows the requirements outlined in section 06.60 regarding shelter care placement.
- B. Before filing a dependency, dependency guardianship, or involuntary termination petition in juvenile court, the social worker must:
  1. Make **active efforts** to comply with the requirements of Chapter 05 of this manual to prevent the breakup of the Indian family.
  2. Comply with the requirements of sections 06.10 through 06.40 regarding verification of tribal court jurisdiction and special requirements applying to federally recognized Indian Tribes.

3. Consult with the child's Tribe and provide the Tribe with any records and documents supporting the decision to file a petition in juvenile court. See Chapter 04 regarding confidentiality.
  4. Seek to formulate with the Tribe a mutually acceptable course of action in the best interests of the child.
  5. Make **active efforts** to agree to family service plans, voluntary service agreements, and legal arrangements, such as restraining orders or protection order, designed to protect the child and eliminate the need for filing a petition in juvenile court.
- C. The social worker does **not** file a dependency, dependency guardianship, or involuntary termination petition in juvenile court when the **only** grounds for such a petition are evidence of:
1. Community or family poverty; or
  2. Crowded or inadequate housing; or
  3. Alleged alcohol abuse or other nonconforming social behaviors on the part of the parent(s) or Indian custodian.
- D. When filing a petition, the social worker only considers the above factors when the worker can demonstrate such factors are directly connected to evidence that the child's health, safety, and welfare is endangered.

## **06.60 SHELTER CARE PLACEMENT**

### **06.601 Verification of Jurisdiction/Wardship**

If it is necessary to place an Indian child in shelter care, the social worker verifies if the child is a ward of a tribal court or is a resident of or domiciled within the boundaries of an exclusive jurisdiction Indian reservation. See sections 06.10 through 06.40 for information about jurisdiction. The social worker:

1. Contacts the child's Tribe, which determines jurisdiction, for necessary information to make this verification.
2. If possible, contacts the child's Tribe for verification prior to placing the child.
3. If, due to the circumstances of the case, it is not possible to contact the child's Tribe or verify jurisdiction prior to placement, makes efforts to contact the Tribe within one working day following placement.
4. Documents contacts with the child's Tribe in the ICW section of service record.

### **06.602 Child a Ward of Tribal Court or Domiciled/Resident on an Exclusive Jurisdiction Indian Reservation**

1. If an Indian child is a ward of the tribal court or resident of or domiciled within the boundaries of an exclusive jurisdiction Indian reservation, neither the social worker nor juvenile court may exercise authority to place the child in foster care, unless authorized by the tribal court. See section 06.15(A).
2. If an Indian child, who is a ward of the tribal court or is resident or domiciled on an exclusive jurisdiction Indian reservation, is located off the reservation, the social worker may, after attempting to contact the Tribe, in emergency situations:
  1. Arrange emergency pick up by law enforcement; or
  2. Obtain a court order authorizing emergency placement in shelter care in order to prevent imminent physical damage or harm to the child or sexual abuse of the child.

3. Give the child's parent(s) or Indian custodian a copy of the *Parent's Guide to CPS*, DSHS 22-484(X), and a copy of the *Temporary Custody Notification* form, DSHS 09-731, if one of the following places a child in DSHS custody:
  1. An emergency pickup by law enforcement; or
  2. A hospital/medical hold; or
  3. A court order authorizing emergency shelter care placement.
3. When obtaining a court order for emergency placement, the social worker follows the legal procedures in section 06.605.
4. A shelter care placement does not extend for a period longer than 72 hours (excluding Saturdays, Sundays and holidays) without an order of the court of competent jurisdiction approving such placement. If the tribal court is unable to issue an order within the 72 hour period, the social worker arranges for a juvenile court shelter care hearing during that period.
5. If the juvenile court has issued a shelter care order, the social worker immediately seeks dismissal of the juvenile court proceeding as soon as the tribal court exercises jurisdiction over the child.
6. Following placement, the social worker:
  1. Makes **active efforts** to return the child home;
  2. Takes necessary steps to ensure that a child's shelter care placement ends immediately when the placement is no longer necessary to prevent harm to the child's health, safety, or welfare; and
  3. Immediately returns the child to the child's parent(s) or Indian custodian when the placement ends.

## 06.603 Child NOT a Ward of Tribal Court and NOT Resident/Domiciled on an Exclusive Jurisdiction Indian Reservation

1. The social worker may take steps to arrange for emergency pick-up of an Indian child by law enforcement or to obtain a juvenile court order authorizing shelter care placement if the child is:
  1. Not a ward of tribal court; or
  2. Not resident or domiciled within an exclusive jurisdiction Indian reservation; and
2. The social worker does not seek shelter care order unless the order is necessary to prevent harm to the child's health, safety, or welfare. The social worker follows the legal procedures of section 06.605.
3. The social worker gives the child's parent(s) or Indian custodian a copy of the *Parent's Guide to CPS*, DSHS 22-484(X), and a copy of the *Temporary Custody Notification* form, DSHS 09-731, if one of the following places a child in DSHS custody:
  1. An emergency pickup by law enforcement; or
  2. A hospital/medical hold; or
  3. A court order authorizing emergency shelter care placement.
  4. Unless the social worker returns a child to the child's parent(s) or Indian custodian within 72 hours, excluding weekends and holidays, following shelter care placement of the child, the worker arranges for a juvenile court shelter care hearing. The court must hold the hearing within 72 hours, excluding weekends and holidays, following the child's shelter care placement.
4. Following placement, the social worker:
  1. Makes **active efforts** to return the child home;
  2. Takes necessary steps to ensure that the shelter care placement ends immediately when the placement is no longer necessary to prevent imminent harm to the child's health, safety, or welfare; and
  3. Immediately returns the child to the child's parent(s) or Indian custodian when the placement ends.



5. The initial shelter care placement must not extend for a period longer than 72 hours (excluding Saturdays, Sundays and holidays) unless:
  1. The juvenile court transfers the case to tribal court, and the tribal court orders a longer placement period; or
  2. The social worker obtains a juvenile court order approving a longer period of placement.

## 06.604 Involvement of Tribal Social Services

As soon as possible following knowledge of the need for an emergency shelter care placement of an Indian child, the social worker actively involves the social services program of the child's Tribe in all matters pertaining to the shelter care placement.

## 06.605 Legal Procedures

1. The social worker must:
  1. File a *Dependency Petition*, DSHS 09-428, in Juvenile Court according to Washington State law and an *Addendum to Petition*, DSHS 09-771.
  2. Notify the child's parent(s) and/or Indian custodian, if any, and the child's Tribe of the time, date, and place of an initial hearing by the quickest means available. The social worker documents the notification in the ICW section of the case file.
    1. When providing written notification, the social worker uses the *Temporary Custody Notification*, DSHS 09-731. The social worker also provides the parent(s) or Indian custodian with a copy of the *Parent's Guide to CPS*, DSHS 22-484.
    2. When possible, the social worker must provide notification to the child's Tribe prior to placing the child in shelter care.
  3. Provide written notification of subsequent shelter care proceedings and the dependency fact-finding hearing to the child's parent(s), including any alleged father, and Indian custodian, if any, and the child's Tribe as required in Section 06.651(C), below.
2. If the child's Tribe or Indian custodian, if any, requests to intervene in the proceeding, the social worker provides documents and information to use in that intervention. If the child's Tribe, parent(s), or Indian custodian, if any, requests transfer of the proceeding to tribal court, the social worker supports the transfer except as provided in section 06.35.

## 06.606 Placement Beyond 72 Hours

### Federally Recognized Indian Tribes

1. When the social worker assesses the need for continuing placement beyond 72 hours (excluding Saturdays, Sundays and holidays), the worker immediately contacts the social services program of the child's Tribe to establish whether the Tribe wishes to request a transfer of jurisdiction to the tribal court. The social worker makes necessary forms available to the Tribe:
  - o *Motion and Order to Transfer Jurisdiction to Tribal Court*, DSHS 09-547
  - o *Tribal Court Motion and Order to Accept Jurisdiction*, DSHS 09-548
2. If the case has not been filed in tribal court prior to a state court issuing an order, a juvenile court must hold a shelter care hearing within the 72 hour period in accordance with RCW 13.34.060. The Tribe does not waive the right to request transfer of jurisdiction at any time by declining to request transfer within the 72 hour period.
  1. The social worker takes immediate steps to involve the child's Tribe in the case if the Tribe is not already involved.

2. When possible, the social worker seeks to present at the initial shelter care hearing the testimony of a qualified expert regarding the need for continued foster care placement of the child. See Chapter 14 for definition of "qualified expert."
3. If expert testimony is not used in the initial shelter care hearing, the social worker takes immediate steps to involve a qualified expert in the case.
4. Unless the social worker or the court has previously returned the child to the parent(s) or Indian custodian, the worker requests that the court hold a subsequent shelter care hearing within 30 calendar days of the initial shelter care hearing.
  0. If the social worker recommends continued foster care placement at the 30-day shelter care hearing, the worker also presents the testimony of a qualified expert regarding the need for continued foster care placement of the child.
  1. If the court orders continued foster care placement following the 30-day shelter care hearing, the social worker requests that the court set a fact-finding hearing as soon as possible, if the court has not already set the case for fact-finding.
  2. The social worker makes **active efforts** before the fact-finding to return a child to the custody of the child's parent(s) or Indian custodian, if any, if the worker determines foster care placement is no longer necessary to prevent harm to the child's health, safety, or welfare.
    1. If the court enters an order for shelter care placement of a child, the social worker obtains a modification of the order prior to returning the child to the custody of the child's parent(s) or Indian custodian, if any.
    2. When the social worker or the court returns a child to the custody of the child's parent or Indian custodian, the social worker notifies any other parent or Indian custodian, if any, the child's Tribe, and any other party to the proceeding.
    3. The worker must provide the notification in writing and specify the name and address of the person to whom the child has been returned, unless the safety of the child or care provider would be jeopardized by providing this information.

## 06.607 LICWAC Procedures

The social worker staffs the case with LICWAC only if the worker has been unable to identify the child's Indian Tribe or at the request of the child's Tribe. See Chapter 10 for LICWAC procedures.

## 06.608 Placement Preferences

- A. The social worker follows the foster care placement preferences found in Chapter 07, unless the child's Tribe has changed or waived the preferences.
- B. The social worker may make an emergency shelter care placement not within the placement preferences found in Chapter 07 only if the social worker, in cooperation with the child's Tribe, has made **diligent** and documented **efforts** to place the child within the placement preferences.
- C. When the social worker not does initially place a child in accordance with the placement preferences, the worker **continues efforts** to place the child in accordance with the preference requirements of Chapter 07 as soon as possible.

## 06.609 Services Following Placement

Once the social worker has placed an Indian child in shelter care, the social worker provides services following placement in accordance with the requirements of Chapter 07.

# 06.65 DEPENDENCY

## 06.651 Legal Procedures – Fact-Finding

1. Except in emergency cases, the social worker follows the requirements of section 06.55 before filing a dependency petition in juvenile court.
2. In emergency situations, the social worker follows the requirements of Chapter 06.60 regarding shelter care placement.
3. To commence a dependency proceeding, the social worker, or CA's legal representative, completes and files a *Dependency Petition*, DSHS 09-428, with juvenile court. The social worker also completes and files with the court an *Addendum to Petition*, DSHS 09-771.
4. The social worker follows the notification procedures below.
  1. After filing the dependency petition, the social worker immediately arranges for personal service to the child's parents, including any alleged father, and Indian custodian, if any, with formal Notice and Summons, issued by the Court Clerk, and with *Notice to Parent/Indian Custodian*, DSHS 09-543.
    1. If the social worker cannot give or arrange for personal service, the worker arranges for notification by registered mail, return receipt requested, to the person's last known address. The worker also arranges for mailing of a copy of the notice by regular mail to the person's last known address.
    2. The social worker arranges for notice by publication if the worker cannot give or arrange for notice by personal service or registered mail.
    3. The child's parent(s) and Indian custodian, if any, must receive written notification at least 15 business days prior to the dependency fact-finding hearing if the parent(s) or custodian resides within the state of Washington. The parent(s) and custodian, if any, must receive written notification 10 business days prior to the fact-finding if the parent(s) or custodian lives outside of the state of Washington.
  2. After the social worker or the worker's legal representative files the dependency petition, the worker immediately arranges for formal Notice and Summons, issued by the Court Clerk and *Notice to Federally Recognized Indian Tribe, Band, or Nation*, DSHS 09-541, to the Tribes of which the child may be eligible for membership.
    1. The social worker arranges for notification to the Tribe's address as listed in Chapter 12 in this manual. The social worker obtains a specific name and address of a tribal representative and sends a copy of the notification directly to that person, by registered mail, return receipt requested, as well as by regular mail.
    2. If the child is a member of or eligible to be a member of more than one Tribe, the social worker arranges for notification to all such Tribes, following the steps in paragraph "a," above, and follows up with telephone calls.
    3. The child's Tribe(s) must receive notification at least 15 business days prior to the dependency fact-finding hearing.
  3. When the social worker sends written notice to the child's parent(s), the child's Indian custodian, if any, and the child's Tribe, the worker also sends:
    1. Copies of the petition and scheduling orders;
    2. *Tribal Intervention/Request for Continuance*, DSHS 09-542, to the child's Tribe; and
    3. *Parent/Indian Custodian Request for Continuance*, DSHS 09-544, to the child's parent(s) and Indian custodian, if any.
  4. **Notice to BIA**
    1. If the social worker does not know the location or identity of the child's Tribe, parent(s), and Indian custodian, if any, the worker arranges to send notification to BIA by registered

mail, return receipt requested, at least 35 calendar days prior to the fact-finding hearing, using *Notice to BIA*, DSHS 09-545. See Chapter 12 for BIA contact information.

2. The social worker also sends to the BIA a copy of the notices to the parent(s), the Indian custodian, if any, and the child's Tribe and all other background information that may assist the BIA in locating or identifying the child's parent(s), Indian custodian, and/or the child's Tribe.
5. **Documentation of Notification**

The social worker:

1. Includes the client case name and case number on the postal confirmation of delivery form to facilitate matching the form with the proper case when the form returns from the Postal Service; and
  2. Files the original returned confirmation form in the ICW section of the client case file; and
  3. Files copies of forms and letters sent to the BIA, the child's Tribe(s), parent(s), and Indian custodian, if any, in the ICW section of the client case file.
6. The child's Tribe and/or parent(s) and Indian custodian, if any, may request continuation of the case for at least 20 calendar days from the date of the scheduled fact-finding hearing. To do this, the parties use the *Tribal Intervention/Request for Continuance*, DSHS 09-542, or *Parent/Indian Custodian Request for Continuance*, DSHS 09-544, as applicable.
  7. If the child's Tribe or Indian custodian requests to intervene in the proceeding, the social worker provides documents and information related to the intervention. If the child's Tribe requests transfer of the proceeding to tribal court, the social worker supports the transfer except as provided in Chapter 06.35.
  8. The social worker provides a copy of the dependency order to the child's parent(s), Indian custodian, if any, the child's Tribe, and any other party to the proceeding.
  9. When the court dismisses a dependency proceeding at or before the fact-finding hearing, the social worker provides a copy of the dismissal order to the child's parent(s), Indian custodian, if any, the child's Tribe, and any other party to the proceeding. The social worker uses *Notice of Dependency Dismissal*, DSHS 09-776, to provide notification.

## 06.652 Disposition

1. At the dependency disposition, the court may order out-of-home placement of an Indian child only upon proof that:
  1. The social worker has made or provided **active efforts** to eliminate the need for placement.
  2. Continued parental or Indian custodian physical custody is likely to result in serious emotional or physical damage to the child.
    - a. The standard of proof for this finding is "clear, cogent, and convincing evidence."
    - b. The social worker utilizes a qualified expert witness to meet this standard. See Chapter 14 for definition of "qualified expert witness."
2. If the child is placed in out-of-home care, the social worker must:
  1. Place the child in a specific placement designated by the Tribe, or, if the Tribe designates no specific placement, follow the Tribe's official placement preference order.
  2. Follow the placement preferences found in Chapter 07 if the child's Tribe has not designated a specific placement or placement preferences.
  3. Follows the requirements of Chapter 07 regarding notice to the child's extended family.
3. **Notification of Dispositional Hearing**
  1. If the dispositional hearing is at a different time than the fact-finding hearing, the social worker notifies the child's parent(s), including any alleged father, the child's Indian custodian, if any, and

the child's Tribe of the time, date, and place of the dispositional hearing by the quickest means possible. The social worker documents the notification in the ICW section of the case file.

2. The social worker also provides written notice of the dispositional hearing to the child's parent(s), Indian custodian, if any, and to the child's Tribe. The worker uses the *Notice to Parent/Indian Custodian*, DSHS 09-543, or *Notice to Federally Recognized Indian Tribe, Band or Nation*, DSHS 09-541, as applicable.
4. The social worker provides a copy of the disposition order to the child's parent(s), Indian custodian, if any, the child's Tribe, and any other party to the proceeding.

## **06.653 Social Study/Report to the Court and/or Individual Service and Safety Plan**

1. Prior to preparing a social study/report to court and/or an Individual Service and Safety Plan (ISSP) for the dependency dispositional hearing, the social worker staffs the case with the designee of the child's Tribe. See Chapter 04 regarding confidentiality. The social worker includes recommendations of the child's Tribe in the report to the court or in the ISSP.
  1. If, after the social worker makes diligent efforts to contact the Tribe, a tribal designee remains unavailable, the worker staffs the case with LICWAC in accordance with the procedures in Chapter 10. If the social worker wishes to staff the case with a tribal LICWAC, the social worker seeks to obtain the Tribe's approval for use of the tribal LICWAC.
  2. The social worker includes recommendations of the LICWAC in the report to the court or in the ISSP.
  3. If the child's Tribe subsequently becomes involved, LICWAC involvement will stop unless the child's Tribe requests continued LICWAC involvement.
  4. The child's Tribe may choose not to be involved and also require that the LICWAC not be involved.
    1. If the child's Tribe declines and does not want LICWAC involvement, then the social worker must ask the Tribe to designate an alternative resource to provide consultation to the social worker on the case.
    2. If the child's Tribe does not designate an alternative resource, the Regional Administrator, in consultation with the Tribe, designates an Indian expert for consultation.
2. When the social worker prepares a social study/report to court and/or an ISSP for a dependency dispositional hearing or dependency review hearing, the worker invites the child's Tribe and a qualified expert to play an active role in the preparation of such study. See Chapter 14 for definition of "qualified expert." The worker will describe in detail the role of the child's Tribe and fully state the Tribe's recommendations and such other information provided by the Tribe.
3. If the Tribe declines or fails to participate in the social study, the social worker involves a qualified expert to help prepare the study. The social worker may also involve an Indian interpreter in the preparation of the study. See Chapter 14 for definition of "Indian interpreter."
4. Upon filing the social study/report with the court, the social worker provides a copy of the social study/report to the child's parent(s), Indian custodian, if any, the child's Tribe, and any other party to the proceeding. See Chapter 04 regarding confidentiality.
5. Subject to the availability of funds and resources and within the department's legal authority to act, the social worker cooperates with and follows all recommendations of the Tribe, qualified expert, or Indian interpreter, as applicable, in the report to court.

## **06.654 Review Hearing**

1. The social worker notifies the child's parent(s), including any alleged father, the child's Indian custodian, if any, and the child's Tribe of dependency review hearings in juvenile court.
  1. The worker uses the following forms, as applicable, for this purpose:
    - *Notice to Parent/Indian Custodian* , DSHS 09-543
    - *Notice to Federally Recognized Indian Tribe, Band, or Nation* , DSHS 09-541
    - *Tribal Intervention/Request for Continuance* , DSHS 09-542
    - *Parent/Indian Custodian Request for Continuance* , DSHS 09-544
    - *Notice of Dependency Dismissal* , DSHS 09-776
  2. The social worker sends notice by registered mail, return receipt requested, at least 20 calendar days prior to the scheduled review date.
2. The social worker follows the requirements of section 06.653 in preparing the report to court and/or the ISSP for the dependency review hearing, involving the Tribe, parents, and caretakers in report preparation.
3. If the department will recommend removal of a child from the custody of a parent or Indian custodian, the social worker must follow procedures in section 6.652(A) and (B).
4. The social worker provides a copy of the dependency review order to the child's parent(s), Indian Custodian, if any, the child's Tribe, and any other party to the proceeding.

## **06.655 Services Following Placement**

If CA places an Indian child in foster care following a dependency finding, the social worker provides services following the placement in accordance with Chapter 07.70.

## **06.656 Child's Return Home and Notice of Dependency Dismissal**

1. When the court dismisses a dependency proceeding, the social worker provides a copy of the dismissal order to the child's parent(s), the Indian custodian, if any, the child's Tribe, and any other party to the proceeding.
2. When the social worker returns an Indian child to the custody of a parent or the Indian custodian, if any, the social worker notifies:
  1. Any other parent;
  2. Another Indian custodian, if any;
  3. The child's Tribe; and
  4. Any other party to the proceeding.
3. The social worker provides written notice, specifying the name and address of the person to whom the social worker has returned the child, unless the safety of the child or the care provider would be jeopardized by providing this information.
4. The social worker uses the *Notice of Dependency Dismissal*, DSHS 09-776, to provide the written notice.

## **06.70 CHILD IN NEED OF SERVICES**

The social worker documents efforts in the ICW section of the service record.

1. To commence a Child in Need of Services (CHINS) proceeding, the social worker, the child's parent, or the child may complete and file a CHINS petition with the juvenile court.

2. If the social worker files a CHINS petition regarding an Indian child, the social worker must comply with the requirements of sections 06.10 through 06.40 regarding verification of tribal court jurisdiction.
3. If the child is a ward of tribal court or is a resident or domiciled on an exclusive jurisdiction Indian reservation, the social worker immediately refers the case to the child's Tribe.
4. If the child is a resident of or domiciled on a concurrent jurisdiction Indian reservation, the social worker may only file a CHINS petition:
  1. After having made **active efforts** to assist the child and the parent(s) or Indian custodian, if any, to file a tribal court proceeding; and
  2. Such efforts have been unsuccessful.
5. If the child is not a ward of tribal court and is not a resident of or domiciled on an exclusive jurisdiction Indian reservation, the social worker contacts a qualified expert approved by the child's Tribe or an Indian interpreter for assistance in communicating with the family regarding provision of reunification services and transfer of the case to tribal court. See Chapter 14 for definition of "qualified expert" and "Indian interpreter."
6. The social worker does not file a CHINS petition in juvenile court unless the worker has satisfied the CHINS requirements of the *CA Case Services Policy Manual* and the *CAPractices and Procedures Guide*, Chapter 3000.
7. The social worker follows the notification procedures below:
  1. After the social worker files the CHINS petition, the social worker immediately sends notice of the proceeding to the child's Tribe, using *Notice to Tribe of CHINS Proceeding*, DSHS 09-758; or
  2. The social worker sends notice to the Tribe when the worker becomes responsible for case plan development or a placement recommendation if one of the following parties files the CHINS petition and the child's Tribe has not been previously notified of the proceeding:
    - a. The Indian child;
    - b. The child's parent(s); or
    - c. The child's Indian custodian, if any
8. In arranging foster care placement for the child, the social worker follows the Tribe's placement preferences or foster care placement preferences found in Chapter 07, unless the child's Tribe has changed or waived the preferences.

## 06.75 Dependency Guardianship

1. The social worker follows the requirements of section 06.55 before filing a dependency guardianship petition in juvenile court. In developing the plan for dependency guardianship, the social worker places within the Tribe's placement preferences, if known, or follows the placement preferences found in chapter 07.70 unless the child's Tribe has waived or changed the preferences.
2. Prior to filing a dependency guardianship petition, the social worker staffs the case with a designee from the child's Tribe and obtains tribal recommendations. See chapter 04 regarding confidentiality. If a tribal designee is unavailable, the social worker may staff the case with the LICWAC. See chapter 10 regarding LICWAC procedures.
3. To commence a dependency guardianship proceeding, the social worker (or the agency's legal representative) completes and files a *Dependency Guardianship Petition*, DSHS 09-453, with the juvenile court. The social worker also completes and files with the court an *Addendum to Petition*, DSHS 09-771.
4. The social worker follows the notice procedures below.
  1. The social worker provides notice to the parties or potential parties using the following forms, as applicable, as described in subsequent paragraphs:
    - *Notice to Parent/Indian Custodian* , DSHS 09-543
    - *Notice to Federally Recognized Indian Tribe, Band, or Nation* , DSHS 09-541
    - *Tribal Intervention/Request for Continuance* , DSHS 09-542

- *Parent/Indian Custodian Request for Continuance* , DSHS 09-544
- 2. After filing the dependency guardianship petition, the social worker immediately takes necessary steps to arrange for the child's parents (including any alleged father) and Indian custodian, if any, to be personally served with formal Notice and Summons. The Court Clerk must issue the Notice and Summons. The social worker must also provide the *Notice to Parent/Indian Custodian*, DSHS 09-543.
  - a. If personal service cannot be given, the social worker arranges to send notification by registered mail, return receipt requested, to the person's last known address.
  - b. The social worker arranges for notice by publication if notice by personal service or by mail cannot be given.
  - c. The child's parent(s) or Indian custodian, if any, must receive written notification at least 15 business days prior to the dependency guardianship fact-finding.
- 3. After filing the dependency guardianship petition, the social worker immediately arranges for the Court Clerk to issue the Notice and Summons and to send *Notice to Federally Recognized Indian Tribe, Band, or Nation*, DSHS 09-541, to the child's Tribe by registered mail, return receipt requested.
  - . The social worker arranges to send notification to the Tribe address listed in Chapter 12 below.
    - a. If the child is a member of or eligible to be a member of more than one Tribe, the social worker arranges to send notification to all such Tribes.
    - b. The child's Tribe(s) must receive notification at least 15 business days prior to the dependency guardianship fact-finding hearing.
- 4. When the social worker sends written notice to the child's parent(s) or Indian custodian, if any, and the child's Tribe, the worker also sends:
  - 0. Copies of the petition;
  - 1. Scheduling orders, if applicable;
  - 2. *Tribal Intervention/Request for Continuance*, DSHS 09-542, to the child's Tribe; and
  - 3. *Parent/Indian Custodian Request for Continuance*, DSHS 09-544, to the child's parent(s) or Indian custodian, if any.
- 5. **Notice to BIA**
  - 0. If the social worker does not know the location or identity of the child's Tribe, parent(s), and Indian custodian, if any, the worker arranges to send notification to BIA by registered mail, return receipt requested, at least 35 calendar days prior to the fact-finding hearing, using *Notice to BIA*, DSHS 09-545. See Chapter 12 for BIA contact information.
  - 1. The social worker also sends to the BIA a copy of the notices to the parent(s), the Indian custodian, if any, and the child's Tribe and all other background information that may assist the BIA in locating or identifying the child's parent(s), Indian custodian, and/or the child's Tribe.
- 6. The child's Tribe and/or parent(s)/Indian custodian may request a continuance for at least 20 calendar days from the date of the scheduled fact-finding hearing. CA provides the following forms for this purpose: *Tribal Intervention/Request for Continuance*, DSHS 09-542, and *Parent/Indian Custodian Request for Continuance*, DSHS 09-544.
- 7. If the child's Tribe or Indian custodian requests to intervene in the proceeding, the social worker supports intervention. If the child's Tribe or parent(s) or Indian custodian, if any, requests transfer of the proceeding to tribal court, the social worker supports the transfer.
- 5. At the dependency guardianship fact-finding, the court may grant the guardianship only upon proof that continued parental custody will likely result in serious emotional or physical damage to the child.
  - 1. The social worker must demonstrate provision of **active efforts** to eliminate the need for placement and to preserve the family.
  - 2. The standard of proof for this finding is "clear, cogent, and convincing" rather than a preponderance of the evidence.



3. The social worker uses a qualified expert witness to meet this standard. See Chapter 14 for the definition of “qualified expert witness.”
6. The social worker provides a copy of the dependency guardianship order to the child’s parent(s), the child’s Indian custodian, if any, the child’s Tribe, the guardian, and any other party to the proceeding.
7. The social worker notifies the child’s parent(s), including any alleged father, the child’s Indian custodian, if any, the child’s *guardian ad litem*, and the child’s Tribe of any proceeding for modification or termination of the dependency guardianship order. The worker provides the following forms, as applicable:
  - o *Notice to Parent/Indian Custodian* , DSHS 09-543
  - o *Notice to Federally Recognized Indian Tribe, Band, or Nation* , DSHS 09-541
  - o *Tribal Intervention/Request for Continuance* , DSHS 09-542
  - o *Parent/Indian Custodian Request for Continuance* , DSHS 09-544
8. When the state court modifies, terminates, or dismisses dependency guardianship order, the social worker provides a copy of the modification, termination, or dismissal order to the child’s parent(s), Indian custodian, if any, the child’s Tribe, the dependency guardian, and any other party to the proceeding.
9. When the state court returns an Indian child to the custody of a parent(s) or Indian custodian, if any, the social worker notifies any other parent, Indian custodian, the child’s Tribe, and any other party to the proceeding. The social worker provides written notification and specifies the name and address of the person to whom the child has been returned, unless the safety of the child or the care provided would be jeopardized by providing this information.
10. After the court establishes a dependency guardianship, the social worker provides services following placement as required in chapter 07, section 07.73.

## 06.80 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

1. The social worker follows the requirements of Chapter 06.55 before filing a petition for involuntary termination of parental rights in Juvenile Court.
2. Prior to filing a termination petition, the social worker staffs the case with a designee from the child's Tribe and obtains tribal recommendations. See Chapter 04 regarding confidentiality. If a tribal designee is unavailable, the social worker consults with LICWAC. See Chapter 10 regarding LICWAC.
3. To commence a termination proceeding, the social worker or the agency's legal representative completes and files a *Termination Petition*, DSHS 09-766, with the juvenile court. The social worker also completes and files with the court an *Addendum to Petition*, DSHS 09-771.
4. The social worker follows the steps below:
  1. After filing the termination petition, the social worker immediately arranges for the child's parent(s), including any alleged father, and Indian custodian, if any, to be personally served with formal Notice and Summons, issued by the Court Clerk, and with *Notice to Parent/Indian Custodian*, DSHS 09-543.
    1. If the social worker cannot arrange for personal service, the worker arranges for notification to be sent by registered mail, return receipt requested, to the person's last known address.
    2. The social worker arranges for notice by publication if notice by personal service or by mail cannot be given.
    3. The child's parent(s) and Indian custodian, if any, must receive written notification at least 15 business days prior to the termination fact-finding.
  2. After filing the termination petition, the social worker immediately arranges for formal Notice and Summons, issued by the Court Clerk, and *Notice to Federally Recognized Indian Tribe, Band*

or Nation, DSHS 09-541, to be sent to the child's Tribe by registered mail, return receipt requested.

1. The social worker arranges for notification to be sent to the Tribe's address as listed in Chapter 12 in this manual.
  2. If the child is a member of or eligible to be a member of more than one Tribe, the social worker arranges for notification to be sent to all such Tribes.
  3. The child's Tribe(s) must receive notification at least 15 business days prior to the termination fact-finding.
3. When the social worker sends written notice to the child's parent(s), the child's Indian custodian, if any, and the child's Tribe, the social worker also sends:
1. Copies of the petition;
  2. Any scheduling orders, if applicable;
  3. *Tribal Intervention/Request for Continuance*, DSHS 09-542, to the child's Tribe; and
  4. *Parent/Indian Custodian Request for Continuance*, DSHS 09-544, to the child's parent(s) and Indian custodian, if any.
4. **Notice to BIA**
1. If the social worker does not know the location or identity of the child's Tribe, parent(s), and Indian custodian, if any, the worker arranges to send notification to BIA by registered mail, return receipt requested, at least 35 calendar days prior to the fact-finding hearing, using *Notice to BIA*, DSHS 09-545. See Chapter 12 for BIA contact information.
  2. The social worker also sends to the BIA a copy of the notices to the parent(s), the Indian custodian, if any, and the child's Tribe and all other background information that may assist the BIA in locating or identifying the child's parent(s), Indian custodian, and/or the child's Tribe
5. The child's Tribe and/or parent(s) or Indian custodian, if any, may request the case be continued for at least 20 calendar days from the date of the scheduled fact-finding hearing. The Tribe may use *Tribal Intervention/ Request for Continuance*, DSHS 09-542, and the parent(s) or Indian custodian uses *Parent/Indian Custodian Request for Continuance*, DSHS 09-544.
6. If the child's Tribe or Indian custodian requests to intervene in the proceeding, the social worker supports intervention. If the child's Tribe, parent(s), or Indian custodian, if any, requests transfer of the proceeding to tribal court, the social worker supports the transfer.
5. The state court may terminate the parent-child relationship of an Indian child and the child's parent(s) only upon proof, **beyond a reasonable doubt**, that continued parental custody will likely result in serious emotional or physical damage to the child and that the social worker has made or provided **active efforts** to eliminate the need for placement and to preserve the family. The social worker uses a qualified expert witness to meet this standard. See Chapter 14 for definition of "qualified expert witness."
6. The social worker provides a copy of the termination order to the child's parent(s), the child's Indian custodian, if any, the child's Tribe, and any other party to the proceeding.
7. The social worker follows:
1. Tribal preferences or the placement preferences found in Chapter 07, section 07.05, unless the child's Tribe has changed or waived the preferences.
  2. The requirements of Chapter 07.20 regarding notice to the child's extended family.
8. When the state court dismisses a termination proceeding, the social worker provides a copy of the dismissal order to the child's parent(s), the child's Indian custodian, if any, the child's Tribe, and any other party to the proceeding.
9. When a court terminates the rights of a child's parent(s) involuntarily, the social worker provides services following placement as required in chapter 07, section 07.74.

# 06.85 VOLUNTARY RELINQUISHMENT/TERMINATION OF PARENTAL RIGHTS AND CONSENT TO ADOPTION

## 06.851 Introduction

1. The social worker does not accept a voluntary consent to relinquishment/termination of parental rights or adoption of an Indian child until the social worker has followed the:
  1. Procedures in Chapter 06.10 through 06.40 regarding verification of tribal jurisdiction and special requirements that apply to Washington State Indian Tribes, and
  2. Consent to relinquishment/termination or adoption procedures described in this section.
2. Voluntary consents to relinquishment/termination or adoption are not valid unless the parent signs the consent before a tribal or juvenile court/superior court judge more than **10 calendar days** after the child's birth and unless the judge approves the consent.

## 06.8510 Legal Procedures for Termination

The social worker complies with the following procedures regarding termination of parental rights under chapter 26.33 RCW, the adoption statute. The termination procedures apply when one parent has relinquished parental rights and the other parent, including any alleged father, has not relinquished parental rights.

- A. "Parent" and "alleged father" as used in this section mean a parent or alleged father whose parental rights have not been previously terminated.
- B. Pending court approval of the relinquishing parent's consent to relinquishment/termination or adoption, the social worker does not place an Indian child in the temporary custody of the prospective adoptive parents/placement agency unless the worker places the child in accordance with:
  1. Chapter 06.50, Voluntary Consent to Foster Care Placement; or
  2. Chapter 06.60, Shelter Care Placement; or
  3. Chapter 06.65, Dependency.
- C. The social worker, or the agency's legal representative, completes and files a termination of parental rights petition in superior or juvenile court, using *Petition for Termination of Parent Child Relationship*, DSHS 09-474. The social worker also completes and files with the court a *Declaration of Adoption Facilitator*, DSHS 09-765.
- D. Upon filing the termination petition, the social worker:
  1. Provides the non-consenting parent, including any alleged father, with at least 20 calendar days for parents in-state and 30 calendar days for parents out of state written notice of the date, time, and place of any court proceeding to terminate parental rights. The worker uses *Notice and Summons (Relinquishment/Termination/Adoption)*, DSHS 09-770.
    - a. The social worker arranges for the notice to be personally served on the parents, including any alleged father.
    - b. If personal service cannot be given, the social worker arranges for notice to be sent by registered mail, return receipt requested, to the person's last known address.
    - c. The social worker arranges for notice by publication if notice by personal service or notice by mail cannot be given.

2. Provide the non-consenting parent, including any alleged father, with a copy of the consenting parent's signed consent to relinquishment/termination or adoption and sends a copy of the notice to the child's Tribe, along with a copy of any petitions or other court documents filed in the proceeding.
  3. Provides the child's Tribe with at least 20 business days written notice of the date, time, and place of any court proceeding to terminate parental rights, using *Notice to Federally Recognized Indian Tribe, Band or Nation*, DSHS 09-541.
    - a. The social worker sends notice by registered mail, return receipt requested.
    - b. If the child is a member or eligible to be a member of more than one Tribe, the social worker sends notice to all such Tribes.
    - c. If the social worker does not know the location or identity of the child's Tribe and/or parent(s) and/or Indian custodian, if any, the worker arranges for notification to send notification to the BIA by registered mail, return receipt requested, at least 35 calendar days prior to a fact-finding hearing, using *Notice to BIA*, DSHS 09-945.
  4. Provides the child's Tribe with a copy of the consenting parent's signed consent and a copy of any petitions or other court documents filed in the proceeding.
- E. If the child's Tribe requests to intervene in the proceeding, the social worker supports intervention. If the child's Tribe or parent(s) requests transfer of the proceeding to tribal court, the social worker supports the transfer.
- F. A state court may terminate the parent-child relationship of an Indian child and the child's non-consenting parent or non-consenting alleged father, where paternity has been claimed or established, only upon proof, **beyond a reasonable doubt**, that continued parental custody will likely result in serious emotional or physical damage to the child and that the social worker has made or provided **active efforts** to eliminate the need for placement and to preserve the family. The social worker uses a qualified expert witness to meet this standard. See Chapter 14 for the definition of qualified expert witness.
- G. The social worker provides a copy of the termination order to the parent whose rights are terminated pursuant to the order, any parent whose rights have not been terminated, and any other party to the proceeding.

## 06.8511 Services Following Placement

When a state court has terminated the rights of a child's parent(s) under chapter 26.33 RCW, the social worker provides services following placement as required in chapter 07, section 07.74.

## 06.852 Child a Ward of Tribal Court or Resident/Domiciled on an Exclusive Jurisdiction Indian Reservation

1. If a parent seeks to voluntarily consent to relinquishment/ termination of parental rights or adoption of an Indian child, the social worker verifies if the child is a ward of tribal court or is a resident or domiciled within the boundaries of an exclusive jurisdiction Indian reservation. See Chapter 06.10 through 06.40 for information about jurisdiction.
2. If the child is a ward of tribal court or resident/domiciled on an exclusive jurisdiction Indian reservation, the social worker:
  1. Informs the parent that the Tribe has exclusive jurisdiction to approve the relinquishment/termination or adoption.

2. Assists the parent, at the request of the Tribe's social service program, to obtain tribal court approval of the consent to relinquishment/termination as may be appropriate under the circumstances.

## 06.853 Child NOT a Ward of Tribal Court or NOT Resident/ Domiciled on an Exclusive Jurisdiction Indian Reservation

1. When a parent seeks to voluntarily consent to relinquishment/termination of parental rights or adoption of an Indian child who is not a ward of tribal court and is not resident/domiciled on an exclusive jurisdiction Indian reservation, the social worker informs the parent of:
  1. Requirements regarding placement preference, notification of the child's Tribe and extended family, and court validation of the consent.
  2. The possibility of relinquishing/terminating parental rights or pursuing the adoption through a tribal court proceeding.
  3. The name, address, and phone number of a contact person from the child's Tribe.
  4. The rights of adopted Indian children to obtain adoption record information.
2. The social worker uses *Relinquishment and Adoption Information to Parent of Indian Child*, DSHS 09-769, to provide the information required in paragraph A, above. The social worker gives the original of the form to the parent and puts a copy in the service file.
3. When the social worker knows the identity of the prospective adoptive parents, the worker informs the prospective adoptive parents of:
  1. Requirements regarding placement preference, notification of the child's Tribe and extended family, and court validation of the parent's consent.
  2. The possibility of pursuing the adoption through a tribal court proceeding.
  3. The possibility of receiving assistance through the Adoption Support Program.
  4. The name, address, and phone number of a contact person with the child's Tribe.
  5. The right of adopted Indian children to obtain adoption record information.
4. The social worker uses *Information To Prospective Adoptive Parent of Indian Child*, DSHS 09-778, to provide the information required in paragraph C, above. The social worker gives the original of the form to the prospective adoptive parents and puts a copy in the service file.
5. The social worker encourages the child's parent to contact an Indian interpreter or a representative of the Tribe's social services program to ensure that the consent is voluntary and that the parent understands what the parent is doing. See Chapter 14 for definition of "Indian interpreter."
  1. The social worker documents the encouragement in the ICW section of the service record. If the worker refers the parent to an identified individual, the worker includes in the ICW section of the service record documentation of the referral date and the name of the individual to whom the worker made the referral.
  2. Upon request, the social worker provides the documentation to the child's Tribe.

## 06.854 Pre-Validation Services

1. Prior to assisting a parent of an Indian child to obtain state court validation of a voluntary consent to relinquishment/ termination or adoption, the social worker makes **active efforts** to provide the parent with services designed to prevent the breakup of the Indian family and to keep the child with the parent. In providing such services, the worker consults with the social services program of the child's Tribe when possible.

2. The social worker seeks to identify, locate, and notify the non-consenting parent before helping a parent obtain court validation of a voluntary consent to relinquishment/ termination or adoption.

## 06.855 Involvement of Tribal Social Services

Before seeking validation of a voluntary consent to relinquishment/termination or adoption in juvenile/superior court, the social worker:

1. Encourages the parent to contact the child's Tribe regarding available services that may help the parent retain custody of the child or further the child's family and tribal relationship.
2. Documents in the ICW section of the service record efforts to have the parent contact the child's Tribe regarding available services.
  1. If the social worker refers the parent to an identified individual within the child's Tribe, the social worker includes in the ICW section of the service record documentation the date of the referral and the name of the person to whom the worker made the referral.
  2. The social worker provides the documentation to the child's Tribe, if requested.

## 06.856 Explanation Of Consent To Relinquishment/Termination or Adoption

1. The social worker explains the consent form, *Relinquishment, Consent to Termination/Adoption, and Court Certification*, DSHS 09-764, to the parent of an Indian child prior to obtaining the parent's signature on the form. The social worker uses an Indian interpreter, when possible, to explain the form to the parent. See Chapter 14 for definition of "Indian interpreter."
2. The social worker requires the parent to read the consent form prior to obtaining the parent's signature on the form.
  1. If the social worker has any doubt about the parent's ability to read and understand the consent form, the worker must read and explain the form to the parent.
  2. If there is any doubt about the parent's ability to understand English, the social worker arranges to have the form read and explained to the parent in the parent's primary language.
3. The social worker obtains the parent's signature on the consent form acknowledging that the parent has read the consent form, understands the consent form, and wishes to consent to relinquishment/termination of parental rights or adoption of the child.
  1. The social worker gives the parent a copy of the signed consent form.
  2. The social worker explains to the parent that:
    1. The **consent is not valid until** the parent also signs the form in court and a **judge approves** the consent; and
    2. The parent must sign the consent in court, and an impartial, competent person who is selected by the parent and who is at least 18 years of age must witness the signing.
4. Pending court approval of the parent's consent to relinquishment/termination or adoption, the social worker does not place an Indian child in the temporary custody of the prospective adoptive parents/placement agency unless the worker places the child in accordance with:
  1. Chapter 06.50, Voluntary Consent to Place in Foster Care; or
  2. Chapter 06.60, Shelter Care Placement; or
  3. Chapter 06.65, Dependency.

## 06.857 Validation Procedure

- To obtain court validation of a parent's consent, the social worker:
  1. Files a petition for relinquishment in juvenile or superior court;
  2. Uses *Petition for Relinquishment and Termination of Parent-Child Relationship*, DSHS 09-474, and attaches the consent form signed by the parent to the petition; and
  3. Completes and files with the court a *Declaration of Adoption Facilitator*, DSHS 09-765.
- Upon filing the relinquishment petition, the social worker:
  1. Provides the parent(s), including any alleged father, with at least 20 calendar days written notice of the date, time, and place of any court proceeding to validate the consent to relinquishment. The worker uses *Notice and Summons (Relinquishment/ Termination/Adoption)*, DSHS 09-770. The social worker arranges for notice:
    - a. To be personally served on the parent(s), including any alleged father;
    - b. To be sent by registered mail, return receipt requested, to the person's last known address if personal service cannot be given;
  2. Provides the consenting parent(s), including any alleged father, with a copy of the consenting parent's signed consent, a copy of the notice sent to the child's Tribe, and a copy of any petitions or other court documents filed in the proceeding.
  3. Provides the child's Tribe with at least 20 business days written notice of the date, time, and place of any court proceeding.
    - a. The social worker provides the Tribe with copies of:
      - *Notice to Parent/Indian Custodian* , DSHS 09-543
      - *Notice to Federally Recognized Indian Tribe, Band, or Nation* , DSHS 09-541
      - *Tribal Intervention/Request for Continuance* , DSHS 09-542
      - *Parent/Indian Custodian Request for Continuance* , DSHS 09-544
    - b. The social worker sends notice by registered mail, return receipt requested.
    - c. If the child is a member or eligible to be a member of more than one Tribe, the social worker sends notice to all such Tribes.
  4. Provides the child's Tribe with a copy of the parent's signed consent and a copy of any petitions or other court documents filed in the proceeding.
- (no C. listed j.u.)
- If the child's Tribe requests to intervene in the proceeding, the social worker supports intervention. If the child's Tribe or parent(s) requests transfer of the proceeding to tribal court, the social worker supports the transfer.
- The consenting parent(s) must appear **inperson** at the relinquishment hearing to enter on the record the parent's consent to relinquishment/termination or adoption.
- At the relinquishment hearing, the parent(s) signs the consent before the judge.
  1. An impartial, competent person, at least 18 years of age, who is selected by the parent must witness the parent's in-court signature. The consent form must contain a statement identifying the witness by name, address, and relationship to the parent.
  2. The social worker or the social worker's legal representative presents the consent form to the court for approval and court certification. The worker or legal representative uses *Relinquishment, Consent to Termination/Adoption, and Court Certification*, DSHS 09-764.
- Upon entry of an order approving the relinquishment and terminating parental rights, the social worker provides a copy of the termination order to the consenting parent(s), any parent whose rights have not been terminated, and any other party to the proceeding.
- The social worker follows the:
  1. Tribal placement preferences or the preferences found in Chapter 07, section 07.05 unless the child's Tribe has changed or waived the preferences; and
  2. Follows the requirements of Chapter 07, section 07.20 regarding notice to the child's extended family.

## 06.858 Withdrawal of Consent

The parent(s) of an Indian child may **withdraw consent** to relinquishment/termination or adoption **at any time before entry** of the adoption decree. See chapter 08, sections 08.90 and 08.125, for procedures governing the setting aside or termination of an adoption.

- A. If a parent of the Indian child withdraws consent to relinquishment/termination or adoption prior to entry of the adoption decree, the social worker must promptly return the child to the parent's custody unless:
  1. The parent voluntarily consents to foster care placement of the child. See Chapter 06.50 regarding voluntary consent to foster care placement; or
  2. A court previously entered an order for foster care placement, the order remains in full force and effect; or
  3. Return of custody would likely cause an emergency resulting in harm to the child's health, safety, or welfare.
- B. The social worker returns custody to the parent(s) unless a law enforcement pick-up has been initiated or a shelter care/pick-up order has been entered. See Chapter 06.60 regarding shelter care placement.
- C. If the social worker returns the child to the parent(s)' custody following withdrawal of the consent, the worker, in cooperation with the social services program of the child's Tribe, assists the child to make as successful a return to the custody of the parent(s) as possible. Assistance includes:
  1. Helping the child adjust emotionally and psychologically to the change in placement.
  2. Helping the parent(s) to understand and effectively meet the child's needs.
  3. Helping the foster/pre-adoptive family adjust to the loss of the child.
  4. Assisting the child make a successful transition back to parental custody.
  5. Using a qualified expert to help the parent(s), child, and foster/pre-adoptive family or placement facility, if necessary. See Chapter 14 for definition of "qualified expert"

## **06.859 Withdrawal of Consent to Adoption After Final Decree**

- A. Only within the first two years after the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption on grounds that consent was obtained through fraud or duress. The parent may petition the court to vacate the adoption decree.
- B. Upon a finding that the consent was obtained through fraud or duress, the court must vacate the decree and may return the child to the parent or order other placement.
- C. See section 06.858, above, for requirements and limitations on returning the child to the parent as well as guidelines for assisting the child and parent to adjust to reconciliation.

## **06.90 OPEN ADOPTION AGREEMENTS**

- RCW 26.33.295 provides that the parties to an adoption proceeding may enter into agreements regarding future communication with or contact between child adoptees, adoptive parents, and birth parents. These agreements are not legally enforceable unless the terms are set forth in a written court order entered in accordance with the statutory provisions.
  1. An agreement need not discuss the identity of the parties to be legally enforceable.
  2. The court cannot enter a proposed order unless the terms of the order are approved in writing by:
    - a. The prospective adoptive parents;
    - b. Any birth parent whose parental rights have not been terminated; and
    - c. The CA social worker, if the child is in the custody of DSHS or a child placing agency at the time of the proposed agreement; and
    - d. An attorney or a *guardian ad litem* representing the child in the proceeding.



3. The court may not enter a proposed order unless the court finds that the terms of the order are in the child's best interests.
  4. Failure to comply with the terms of an agreed order regarding communication or contact is not a basis for setting aside an adoption decree. Agreed orders may be enforced through a civil action.
- If all parties to an adoption have reached a clear agreement regarding continuing contact between the child and the child's birth parents, the social worker will assist the parties to include terms of their agreement in a proposed court order separate and apart from the termination order and the adoption decree.
    1. Although RCW 26.33.295 does not specifically address contact or communication between the child and the extended birth family members, the parties to the adoption enter into such an arrangement under provisions of chapter 26.10 RCW regarding non-parental visitation.
    2. If all parties to an adoption have reached a clear agreement regarding continuing contact between the child and members of the child's extended birth family, the social worker will assist the parties to set forth their agreements in an agreed order separate and apart from the termination order and the adoption decree.

## 07.01 INTRODUCTION

- When a case involves the foster care placement or pre-adoptive placement of an Indian child, the Children's Administration (CA) social worker follows the requirements of this chapter. "Pre-adoptive" placement means the temporary placement of an Indian child following termination of parental rights, but prior to or in lieu of adoptive placement.
  1. The CA social worker follows the requirements of chapter 8 in making an adoptive placement (permanent placement for adoption) of an Indian child.
  2. In addition to the requirements of this chapter, the social worker follows the court-related requirements of Chapter 6 of this manual.
- Each CA local office must set up and the assigned CA social worker must maintain a client case file for each child and the child's family in accordance with the *CA Operations Manual*, chapter 13000, sections 13230 through 13412. The case file must include, as Section V, Indian Child Welfare (ICW):
  1. Section V contains all ICW documentation except legal documentation, which is filed in Section II. Documentation includes, but is not limited to:
    - a. A completed *Ancestry Chart Family Tree* for the child;
    - b. Correspondence with Tribes;
    - c. Local Indian Child Welfare Advisory Committee (LICWAC) staffing reports;
    - d. Notification to families, Indian organizations, and Tribes of potential Indian status;
    - e. Relative search information for Indian children;
    - f. All ICW forms, including Postal Service confirmation cards; and
    - g. The child's enrollment status information.
  2. The information in this Section is filed chronologically.
  3. When the ICW Checklist is utilized, it is filed directly behind the section tab.
- The social worker must enter Service Episode Record (SER) information on case activity, including relative search, in accordance with the *CA Operations Manual*, chapter 13000, section 13100.
- Prior to placing an Indian child in the home of a person other than the child's parent(s) or Indian custodian, the CA social worker must make **active efforts** to prevent or eliminate the need for removal of the child from the family home. When making case planning or placement decisions for the child, the social worker considers the child's parent(s)/Indian custodian as the primary resource for the child (See Chapter 14). If out-of-home placement is necessary, the social worker places the child in accordance with the order of preference listed in section 07.05, below, unless the child's Tribe has established a different order of preference.
- The requirements of the federal **Adoption and Safe Families Act (ASFA)**, [42 USC 629 – 629b and 42 USC 671a] do not apply to children meeting the definition of federally recognized Indian child.

However, the ASFA requirements apply to Recognized Indian Children, including Canadian First Nations Indian children. See the *CA Practices and Procedures Guide*, chapter 4000, section 42673, for requirements relating to these children.

## 07.015 Association of American Indian Reports – 1969 – 1986

A study conducted by the Association of American Indian Affairs in 1969, and updated in 1974, classified the state of Indian child custody proceedings and placements in state courts. This study found that between 25 and 35 percent of all Indian children had been separated from their families and placed in foster homes, adoptive homes, or institutions. In some states the problem was worse than in others. In Minnesota, one in every eight Indian children under eighteen was living in an adoptive home; and, in 1971-72, nearly one in every four Indian children under the age of one was adopted. During the years included in the studies:

- **Minnesota** – Indian children were placed in foster care or adoptive homes at a per-capita rate five times greater than non-Indian children.
- **Montana** – The ratio of Indian foster care placement was at least 13 times greater than other groups.
- **South Dakota** – Indian children comprised 40 percent of all adoptions made by the state since 1967-68, yet Indians made up only seven percent of the juvenile population. The number of Indian children living in foster homes was, per capita, nearly 16 times greater than the non-Indian rate of placements.
- **Washington** – The Indian adoption rate was 19 times greater and the foster care rate 10 times greater than for non-Indian children.

Congress concluded that states removed Indian children from their families for inappropriate reasons and that removals reflected a lack of understanding on the part of state administrative and judicial bodies of essential tribal relations, of Indian child rearing practices, and of the social and economic conditions prevailing on Indian reservations. These problems existed in both voluntary and involuntary proceedings (Dorsay, 1990).

In 1986, 9,005 Native American children resided in substitute care. Fifty-two percent of these children were in public programs (state care), 34 percent were in tribal care, 9 percent were in Bureau of Indian Affairs (BIA) care and 5 percent were served by off reservation programs; i.e., urban Indian centers and urban health care centers with Indian child welfare programs. During the same period, more than 9,300 children entered care while only 6,258 left care. Child welfare programs and the courts place Indian children in substitute care at a rate 3.6 times greater than the rate for non-Indian children. Although Indian children make up 0.9 percent of the total child population, they represent 3.1 percent of the total substitute care population (CSR-TFA, 1989).

The median length of time in substitute care for an Indian child is 12 to 23 months for state, tribal, and off reservation programs and 36 to 59 months for BIA programs. The proportions of children in care for three years or more are 24 percent for state programs, 18 percent for tribal programs, 57 percent for BIA programs, and 34 percent for off-reservation programs. Additionally, children are more likely to be discharged to Indian families if they are in off-reservation Indian center care or tribal care rather than in state or BIA care (CSR-TFA, 1989).

## 07.05 PLACEMENT PREFERENCES - FOSTER CARE/PRE-ADOPTIVE PLACEMENTS

Federally recognized Indian children are exempt from the requirements of the Multi-Ethnic Placement Act (MEPA) and the Inter-Ethnic Adoption Provisions (IEAP), 42 USC 671a. It is imperative that CA social workers exert **active and diligent efforts** to immediately place recognized Indian children within the following

placement preferences, without discriminating against any potential placement on the basis of race, color, or national origin. See the *CA Operations Manual*, chapter 4000, section 4510 for MEPA/IEAP requirements.

- A. In any foster care or pre-adoptive placement of an Indian child, the social worker places the child in accordance with the order of preference established by the child's Tribe. The social worker contacts the social services program of the child's Tribe for information about the Tribe's order of preference. See Chapter 11 for Canadian First Nations Indian children and Recognized Indian Children.
- B. If the child's Tribe has not established an order of preference, the social worker places the child in the following order of preference:
  1. A member of the child's extended family. See chapter 14 for definition of "extended family".
  2. A foster home licensed, approved, or specified by the child's Tribe.
  3. An Indian foster home licensed or certified by DSHS or a private agency licensed by DSHS to make such placements. For purposes of applying these preferences, an "Indian foster home" means that at least one of the foster parents is a member of a federally or non-federally recognized Indian Tribe, including Eskimo, Aleut, other Alaska Native, or Canadian First Nations. See Chapter 12 for a list of federally recognized Tribes in the United States.
  4. An institution for children approved by an Indian Tribe or operated by the child's Indian Tribe or LICWAC, if the child's Tribe is not available, or operated by an Indian organization having a program suitable to meet the needs of the Indian child. See Chapter 14 for definition of "Indian organization."
- C. In seeking to place an Indian child in accordance with the requirements of paragraph (A) or (B) above, the social worker informs all families eligible for foster care payments of such eligibility. See the *CA Practices and Procedural Guide*, Chapter 5000, Section 5134, regarding initial foster home licenses.

## 07.10 DUTIES WHEN APPLYING PLACEMENT PREFERENCES

- When applying the placement preferences of Chapter 07.05, the social worker uses the social and cultural standards prevailing in the child's tribal or Indian community.
- When applying the preferences and not placing with the child's parent(s), the social worker, when possible:
  1. Places a child in the least restrictive setting which most approximates a family and which will meet the child's special needs.
  2. Places a child within reasonable proximity to the child's home, taking into account any special needs of the child, except that the worker may consider the parent(s)' request that the child be placed on the child's reservation even if not in proximity to the child's home.
  3. When placing more than one sibling, places siblings together or in close proximity unless such placement would cause serious physical or emotional harm to one or more of the children.
  4. Places the child where the parent has the opportunity to have regular access to the child without undue economic, physical, or cultural hardship.
  5. Enables siblings to have regular contact with one another and allows other family members regular access to the child, unless such contact would cause serious physical or emotional harm to one or more of the children.
- **Parental Placement Wishes**

The CA social worker, absent good cause, follows the wishes of the birth parent regarding the placement of the child.

1. The social worker gives consideration to preferences such as family constellation and religion consideration when matching children to foster homes.
  2. Unless the social worker identifies and documents a compelling reason, the worker must not place a child in a home of an identified ethnicity except when ICWA guides placement preferences.
  3. Parental authority is appropriate in areas that are not connected with the abuse or neglect that resulted in the dependency and should be integrated through the foster care team.
- The social worker does not place the child outside the preference categories except as provided in section 07.35.
  - The social worker does not make a placement prior to review and, whenever possible, approval of the placement by the social services program of the child's Tribe(s). If the child is placed in emergency circumstances, the social worker contacts all identified Tribe(s) within one working day of placement.

## **07.15 DILIGENT SEARCH FOR PLACEMENT**

- The social worker makes a diligent search for a suitable placement within the order of preference before considering a non-preferred placement.
  1. As part of a diligent search for placement, the social worker provides written notification to the child's extended family members, using *Notice to Extended Family Members*, DSHS 09-772, as required in section 07.20.
  2. The social worker documents telephone and/or written contacts in the ICW Section of the child's case record.
  3. The social worker continues a diligent search for a preferred placement following the Indian child's placement outside the preference categories.
- At a minimum, a diligent search involves contacting the following resources in this specified order:
  1. The social services program, Tribal ICW director, and Tribal enrollment officer of the child's Tribe and, if the child resides on the reservation of another Tribe, the social services program, Tribal ICW director, and Tribal enrollment officer of the Tribe where the child resides.
  2. For placement procedures regarding Canadian First Nation and Recognized Indian Children, see section 11.40 of the ICW manual.
  3. The Local Indian Child Welfare Advisory Committee (LICWAC). See chapter 10 regarding LICWAC procedures.
  4. Off-reservation Indian organizations. See chapter 14 for definition of "Indian organization." See chapter 12, section 12.40, for non-federally recognized Tribes.
  5. The Bureau of Indian Affairs (BIA). See chapter 12 for BIA contact information.
  6. Washington state and county listings of available Indian homes.
  7. Nationally known Indian placement programs.
  8. Other national placement programs.

## **07.20 NOTICE TO CHILD'S EXTENDED FAMILY**

- The social worker follows the procedures in this section if an Indian child:
  1. Is placed in non-relative foster care under a parental consent, dependency disposition, or termination of parental rights; or
  2. Is moved from a relative placement to a non-relative foster care placement.
- The social worker is not required to follow the procedures in this section if the child is placed in the home of an extended family member. See Chapter 14 for definition of "extended family member."
- The social worker notifies the Indian child's extended family members of the out-of-home placement and the steps they must take if they wish to be preferentially considered as a placement resource for the child. The worker uses the *Notice to Extended Family*, DSHS 09-772.

- The social worker notifies those family members whose names and addresses are known or can reasonably be found with assistance from the family, the child's Tribe, the BIA, or other appropriate resources.
- The social worker sends the notice by registered mail, return receipt requested, immediately following placement of the child in foster care under a dependency disposition order, an order terminating parental rights, or a court validated parental consent to foster care/relinquishment. If the social worker learns the extended family member's identity subsequent to the foster care placement, the social worker sends notice at that time.
- See the *CA Practices and Procedures Guide*, chapter 4000, section 45273, for expectations for initial and continuing search for suitable relative placement.

## **07.25 PARENTAL OBJECTION TO EXTENDED FAMILY NOTICE**

- If a child's parent(s) or Indian custodian objects to notification of an extended family member, the social worker consults with the child's Tribe in deciding whether the social worker should provide notice over the objection of the parent(s)/Indian custodian.
  1. If a child's parent(s)/Indian custodian expresses concern that the child could be harmed by contact with an extended family member, the social worker does not notify the family member if, after consultation with the child's Tribe, the social worker decides if the concerns of the parent(s)/Indian custodian are reasonable.
  2. If the parent(s)/Indian custodian bases the objection on a desire for anonymity or other reasons, the social worker decides, in consultation with the child's Tribe, whether notice to such family member is in the child's best interests.
  3. If the social worker concludes that, after consultation with the child's Tribe, family notification is in the child's best interests, the social worker notifies the child's extended family as required in section 7.20.
- The social worker follows the child's Tribe's recommendation regarding notification to an extended family member, unless the worker has concluded that the child's health and safety would be endangered by such notification. The social worker must document evidence of the health and safety issues in the SER.

## **07.30 TRIBAL REVIEW AND PLACEMENT APPROVAL**

1. The social worker does not make an out-of-home placement of an Indian child prior to review and, when possible, approval of the placement by the social services program of the child's Tribe(s). If the child is placed in emergency circumstances, the social worker contacts all identified Tribe(s) within one working day of placement.
2. If the social worker does not follow the placement recommendations of the child's Tribe due to health and safety concerns, the worker must provide a written statement to the Tribe. The worker's statement must explain the efforts the worker made to reach an agreement with the Tribe regarding the placement and describe the basis for the worker's decision. The social worker must then:
  1. Provide the statement to the Tribe within 10 days following the placement decision; and
  2. Place a copy of the statement in the ICW Section of the child's service record.
3. If the child's Tribe does not approve of the placement of the child or has concerns regarding the placement, the social worker must notify the court of the child's Tribe's objection or concerns and must document the situation in the child's Individual Service and Safety Plan (ISSP).

4. If the child's Tribe is not available to provide review and approval of the placement decision, the social worker must staff the case with LICWAC, while continuing **active efforts** to engage the child's Tribe. See Chapter 10 for LICWAC procedures.

## **07.35 PLACEMENT OUTSIDE PREFERENCE CATEGORIES**

- The social worker may place a federally recognized Indian child outside the preference categories specified in this chapter only when one or a combination of the following circumstances exists:
  1. The child's Tribe or the LICWAC, if the Tribe is unavailable, concurs that the best interests of the child require placement with a non-Indian family or other placement not within the preference categories. See Chapter 10 for LICWAC procedures.
  2. The child has extraordinary physical or emotional needs, diagnosed by a qualified expert, that cannot be met by a placement within the preference categories. See Chapter 14 for definition of "qualified expert." The social worker must:
  3. Provide the child's Tribe with a written statement explaining why the child's needs cannot be met by a placement within the preference categories.
  4. Place a copy of the statement in the ICW Section of the child's case record.
  5. The social worker has completed a diligent search for a placement within the preference categories and has determined that no suitable placement within the categories is available. In determining the suitability of a family, the social worker:
  6. Evaluates the family in accordance with the social, economic, and cultural standards prevailing in the Indian community in which the child's parent(s) or extended family members reside or with which the parent(s) or extended family members maintain social or cultural ties.
  7. Does not base the determination of non-availability on any difference between tribal and state standards for licensing and approval of foster homes or institutions.
  8. The social worker is unable to place the child in accordance with the placement preferences due to emergency circumstances.
- When placing an Indian child in a placement outside the preference categories due to circumstances set forth in paragraph (A)(3) or (4), the social worker, in cooperation with the social services program of the child's Tribe or the LICWAC, if the Tribe is unavailable, continues to diligently seek a suitable placement within the preference categories. The social worker:
  1. Places the child within the preference categories at the earliest possible time.
  2. In determining whether a change in placement would harm the child, seeks evaluation by a qualified expert. See Chapter 14 for definition of "qualified expert."

## **07.40 CHILD AND PARENTAL PLACEMENT PREFERENCES**

- If appropriate under the circumstances of the case and if the child is of sufficient age and maturity to be able to express a knowledgeable and reasoned opinion about the child's own placement, the social worker takes the child's preference into consideration in determining placement within the placement categories.
- The social worker considers the placement preference of the child's parent(s) in making a placement within the preference categories in accordance with section 07.10, above. The social worker does not consider the placement preference of the parent or child, or give weight to a parent's request for anonymity, if to do so would be contrary to:
  - The best interests of the child;

- The child's health and safety;
- The child's tribal relationship;
- The child's medical history; or
- The requirements of this manual.
- If the child's parent(s) has voluntarily consented to foster care or pre-adoptive placement, the social worker, in making a placement within the preferences categories, gives weight to a parent's request that the parent's identity not be disclosed.

## **07.45 RECORD OF PLACEMENT DETERMINATION**

- For each foster care or pre-adoptive placement determination, the social worker must document in the SER of the child's case record:
  1. Efforts to provide the parent with remedial services and rehabilitative programs designed to prevent the breakup of the Indian family;
  2. The basis and other circumstances for the placement determination;
  3. If siblings are not placed together, the reasons justifying separation of siblings and the steps taken to maintain the sibling relationship following placement; and
  4. Efforts made to comply with the placement preference requirements of this chapter.
  5. Homes contacted in the course of compliance efforts, including the names and addresses of extended family members and of tribally approved homes. See Chapter 14 for definition of "extended family member."
- The social worker provides to the child's Tribe:
  1. A copy of the service record documentation for any pre-adoptive placement at least seven business days prior to making the placement. See Chapter 04 regarding confidentiality.
  2. A copy of the record documentation for any foster care placement prior to making the placement, whenever possible, or within seven business days following the placement. See Chapter 04 regarding confidentiality.

## **07.50 CHANGE OF FOSTER CARE PLACEMENT**

- The social worker must notify the child's Tribe and, where rights have not been terminated, the parent(s) or Indian custodian when the social worker or the court makes a decision to change an Indian child's foster care placement, using *Notice of Placement Change*, DSHS 09-760.
  1. The social worker provides notification at least seven business days prior to the change in placement, unless exceptional circumstances necessitate a shorter notice period, using all available methods of communication.
  2. The worker must provide written notification and must explain the available procedures for participation in the decision-making process and for contesting any decision of the department or the court not to return the child to the custody of the parent(s) or Indian custodian.
- When the social worker changes the foster care placement of an Indian child, the social worker:
  1. In cooperation with the social services program of the child's Tribe, assists the child to adjust emotionally and psychologically to the change in foster care placement.
  2. In assisting the child, uses the services of a qualified expert. See Chapter 14 for definitions of "qualified expert."
  3. If moving the child from a relative placement to non-relative foster care, follows the requirements of section 07.20 regarding notice to the child's extended family.

## **07.55 THIRTY-DAY AND DEPENDENCY REVIEW INDIVIDUAL SERVICE AND SAFETY PLAN**

- On or before the 30th day following the out-of-home placement of an Indian child, the social worker must staff the case with a designee from the child's Tribe, if available, or LICWAC to develop the *Individual Service and Safety Plan (ISSP)*, DSHS 15-200. Thereafter, the social worker must staff the case with the tribal designee or LICWAC, if the Tribe is unavailable, when developing any ISSP updates. See Chapter 04 regarding confidentiality.
- If the social worker prepares an ISSP, social study, or report to court for a dependency disposition hearing or a dependency review hearing, the worker follows the requirements of Chapter 06, sections 06.53 and 06.54.
- The social worker provides the child's Tribe with a copy of the ISSP and ISSP updates 10 days prior to regularly scheduled court reviews.

## **07.60 ADMINISTRATIVE REVIEW**

1. CA conducts administrative reviews involving Indian children as provided in the *CA Practices and Procedures Guide*, chapter 4000, section 4650.
2. Whenever the department participates in an administrative review of an Indian child's placement in out-of-home care, the social worker:
  1. Provides notice of the administrative review to the child's parent(s)/Indian custodian, unless the court has previously terminated the legal rights of the parent(s)/Indian custodian;
  2. Assists the child's parent(s)/Indian custodian to participate in the review process; and
  3. Provides notice of the administrative review to the child's Tribe.
3. The child's parent(s)/Indian custodian, the child's Tribe, and the child (if age 12 or older) may participate in the review if they choose to do so. If indigence of the parent(s) precludes parental participation in the review, the social worker must arrange for agency payment of reasonable expenses necessary to assure meaningful parental participation in the review, subject to availability of agency funds designated by the agency for such purpose.
4. On request, the social worker must allow the child's parent(s)/Indian custodian and the child's Tribe access to all files, documents, and records pertaining to the child's placement. See Chapter 04 regarding confidentiality.
5. When possible, the social worker involves participation of a qualified expert in the review.
6. When the social worker makes a foster care/pre-adoptive placement in a non-Indian home, the worker, whenever possible, must involve a qualified expert in the placement. See Chapter 14 for definition of "qualified expert."

## **07.65 RECORDS FOLLOWING PLACEMENT**

The social worker periodically or, on request, provides the child's Tribe with reports and records that the worker prepares after a foster care or pre-adoptive placement. These reports/records contain descriptions and evaluations of:

1. The child's adjustment to the placement;
2. The relationship of the child with the child's parents, siblings, extended family members, and Tribe following placement; and



3. Other matters which may be considered in any administrative or judicial review of the placement. See Chapter 04 regarding confidentiality.

## 07.70 SERVICES FOLLOWING PLACEMENT

### 07.701 Shelter Care

- Following the placement of an Indian child in shelter care, the social worker, in cooperation with the social services program of the child's Tribe, actively provides reasonably available remedial and rehabilitative programs designed to return the child to the custody of the child's parent(s)/Indian custodian.
- The social worker must focus remedial and rehabilitative programs on eliminating risk to the child of sexual abuse or imminent physical harm if returned to the custody of the parent(s)/Indian custodian.

### 07.702 Foster Care

- A. When a CA social worker places an Indian child in foster care and a court has not terminated parental rights, the worker, in cooperation with the social services program of the child's Tribe, must **actively** provide reasonably available remedial and rehabilitative programs designed to return the child to the custody of the parent(s)/Indian custodian.
- B. The social worker must base the remedial and rehabilitative services on a plan designed to address and eliminate problems that are destructive to the family. The worker designs the plan to take into account the prevailing social and cultural conditions in the child's Indian community.
  1. At a minimum, the plan includes services for the family ordered by the juvenile court or by the tribal court (if such services would be provided if ordered by a juvenile court) as well as any other appropriate services the agency is able and willing to provide.
  2. The social worker develops the plan with the direct collaboration of:
    - a. The parent(s)/Indian custodians;
    - b. The child (if of sufficient age);
    - c. Grandparents and extended family members (when appropriate); and
    - d. The child's Tribe or the LICWAC, if the child's Tribe is unavailable. See Chapter 10 regarding LICWAC.
  3. When foster care placement is likely to exceed 30 days, the social worker involves a qualified expert in the development and implementation of the plan if possible. See Chapter 14 for definition of "qualified expert."
  4. The plan encourages maintenance of an ongoing family relationship and reasonable visitation between the parent(s)/Indian custodian and the child, as well as between the child, the child's siblings, and other members of the child's extended family.
    - a. Whenever possible, visitation will take place in the home of the parent(s)/Indian custodian, the home of other family members or some other non-institutional setting permitting the child and the visitors to have a natural and unsupervised interaction.
    - b. If parental indigence precludes frequent visitation, the social worker arranges for financial or other assistance, if available, to help the parent maintain planned visitation.
  5. The plan stresses the use and involvement, where available, of community services and resources specifically for Indian families. These include:
    - a. Extended family members;
    - b. Tribal social services and other programs;
    - c. Tribal organization programs aimed at preventing family breakup;
    - d. Traditional Indian therapy administered by traditional practitioners;

- e. Where available and appropriate, individual Indian caregivers who have skills to help the family; and
  - f. Resources of the BIA and Indian Health Service.
- C. The social worker, in cooperation with the social services program of the child's Tribe, assists the child in adjusting emotionally and psychologically to the foster care placement. As may be appropriate or necessary, this assistance will include involvement of a qualified expert in the placement of Indian children in non-Indian homes to:
- 1. Enable the child to deal with or overcome adjustment problems unique to such placements.
  - 2. Instruct the care provider regarding the special developmental and social problems common in such placements and how best to handle such problems.
- D. The social worker, in cooperation with the social services program of the child's Tribe, provides the child and/or the foster care provider with help in resolving socio-psychological problems related to placement, if requested by the child or the care provider or as necessary. The social worker informs the foster care provider and the child, if of sufficient age, of this service.
- E. The social worker, in cooperation with the social services program of the child's Tribe, provides the foster care home or facility with information on the background and special needs, if any, of the child. When necessary, the social worker instructs or arranges for instruction of the foster care home or facility in:
- 1. Foster care parenting skills;
  - 2. How to best meet the child's special needs; and/or
  - 3. How to best assist the child's adjustment to foster care.
- F. The social worker, in cooperation with social services of the child's Tribe, will regularly monitor the foster care home or facility for overall suitability and to assure that:
- 1. The child is not abused or neglected;
  - 2. The child's special needs are addressed; and
  - 3. The child's relationships with the child's parent(s)/ Indian custodian, siblings, extended family members, and Tribe are encouraged.
- G. When an Indian child eligible for membership in an Indian Tribe is in foster care, the social worker seeks to secure tribal membership for the child at the earliest possible time following placement.

## **07.703 Guardianship**

- When the social worker determines a guardianship is the most appropriate placement for an Indian child, and a juvenile court or tribal court appoints a guardian for the child, the social worker, in cooperation with the social services program of the child Tribe:
  - 1. Assists the child and the guardian in adjusting emotionally and psychologically to the guardianship placement.
  - 2. Offers other foster care support and services as may be appropriate and available.
- If a tribal court proceeding establishes the guardianship, the social worker provides services as required in chapter 06, section 06.16.
- If juvenile court establishes the guardianship pursuant to a guardianship petition, the social worker provides post-placement services as required in chapter 07, subsection 07.72, if a court has not terminated parental rights, or subsection 07.74, if a court has terminated parental rights.
- The social worker need not regularly monitor the guardian's home, as required in sections 07.72 and 07.74, unless the court, the Tribe, or the social worker, in consultation with the worker's supervisor, determines supervision to be necessary or appropriate under the circumstances of a particular case.

## **07.704 Parental Rights Terminated**

- A. When an Indian child is in foster care or pre-adoptive placement following a voluntary or involuntary termination of parental rights, the social worker, in cooperation with the social services program of the child's Tribe or LICWAC, if the child's Tribe is unavailable, develops a plan for the child's care, custody and control.
1. The plan must be consistent with:
    - a. The best interests of the child;
    - b. The child's special needs; and
    - c. The culture and customs of the child's Indian community.
  2. The principal focus of the plan is to identify the most suitable permanent living arrangement for the child. The social worker must invite the tribal social worker, or LICWAC if the child's Tribe is unavailable, to participate in the permanency planning prognostic staffing. The social worker, in collaboration with the social service program of the child's Tribe, determines whether long-term relative or foster care, guardianship, independent living, or adoption is the most suitable plan for the child.
  3. The social worker must develop the plan with direct collaboration of:
    - a. The child (if of sufficient age);
    - b. Other members of the child's extended family (whenever possible);
    - c. A qualified expert; and
    - d. The child's Tribe or the LICWAC, if the child's Tribe is unavailable. See Chapter 10 regarding LICWAC.
  4. The plan encourages maintenance of an ongoing familial relationship between the child, the child's siblings, and other members of the child's extended family.
  5. If the court previously terminated parental rights due to a voluntary relinquishment by the child's parent(s), the plan explores whether (despite the termination) return of the child to the custody of the parent(s) is a suitable living arrangement for the child.
    - a. If return of the child to parental custody is appropriate, the plan explores the feasibility of providing the child's parent(s) with remedial and rehabilitative services designed to return custody of the child to the parent(s);
    - b. If provision of services is feasible, the social worker, in cooperation with the social services program of the child's Tribe, provides the services to the parents with the goal of returning the child to parental custody.
    - c. Whenever appropriate or necessary, the social worker obtains a court order vacating the termination of parental rights.
    - d. When the plan for the child does not include the possibility of return to parental custody, the social worker provides services to the child and foster care or pre-adoptive home as required in this section.
- B. The social worker, in cooperation with the social services program of the child's Tribe, assists the child and the natural parent in adjusting emotionally and psychologically to the termination of parental rights and to the foster care or pre-adoptive placement of the child. As may be appropriate or necessary, this assistance will include involvement of a qualified expert, including when the placement is in a non-Indian home, to help the child deal with or overcome adjustment problems unique to the placement of Indian children in non-Indian homes
- C. The social worker, in cooperation with the social services program of the child's Tribe, provides the child and foster care provider or pre-adoptive home with help in resolving socio-psychological problems related to placement, if so requested by the child, foster care provider or pre-adoptive parent or as necessary. The social worker informs the foster care provider or pre-adoptive parent and the child, if of sufficient age, of this service.
- D. The social worker, in cooperation with the social services program of the child's Tribe, also provides the foster care provider or pre-adoptive parent with information on the background and special needs, if any, of the child. When necessary, the social worker instructs the foster care provider or pre-adoptive home in:
1. Foster care parenting skills;

2. How to best meet the child's special needs; and
  3. How to best assist the child's adjustment to foster care or pre-adoptive placement.
- E. When the social worker places the child in non-Indian foster care or pre-adoptive placement, the worker arranges for a qualified expert in the placement of Indian children in non-Indian foster care or pre-adoptive placements to instruct the care provider or pre-adoptive parent on the special developmental and social problems common in such placements and how best to handle such problems.
- F. The social worker, in cooperation with the social services program of the child's Tribe, regularly monitors the foster care or pre-adoptive placement for overall suitability and to assure that:
1. The child is not being abused or neglected;
  2. The child's special needs are addressed; and
  3. The child's relationships with the child's siblings, biological family, and Tribe are encouraged.
- G. When an Indian child eligible for membership in an Indian Tribe is in foster care or pre-adoptive placement following termination of parental rights, the social worker must seek to secure tribal membership for the child at the earliest possible time after the termination.

## **07.75 INDIAN TRUST INCOME**

1. When an Indian child is entitled to receive income from Indian trusts or other sources and the child is placed outside of the parental home, the social worker notifies the child's Tribe.
  1. The notice must contain a request to withhold a child's Indian trust funds and place the funds in a trust account until the child returns home or is adopted.
  2. The social worker files a copy of this notice in the ICW section of the child's case record.
2. When the child returns from out-of-home placement to the custody of the parent(s)/Indian custodian, the social worker notifies the child's Tribe.

## **07.80 FEDERAL BOARDING SCHOOLS**

1. Federal boarding schools operated by the BIA are available for the education of Indian children when other resources are not available or do not meet the needs of the particular child involved. The social worker does not place an Indian child in a boarding school except in accordance with the procedures in chapter 06 and chapter 07 of this manual.
2. CA may provide personal incidentals and the monthly replacement clothing allowance (SSPS Service Code 3223 FC CPI) while the child is in school if the following criteria are met:
  1. Planning for placement of the child in an out-of-state federal boarding school involved the child, the child's parent(s) or legal guardian(s), a representative of the BIA, and the social worker.
  2. The child was either in foster care or was a member of a family receiving Temporary Assistance to Needy Families (TANF).
  3. All financial resources available to the child, such as OASDI or Indian benefits, were taken into consideration.
  4. An Indian federal boarding school was considered a better educational resource for the child than any available in the child's home community.
3. The social worker develops an ISSP for a dependent child placed into a boarding school.

## **08.0 Adoption**

### **08.01 INTRODUCTION**

1. Adoption is not an acceptable case plan unless the child's Tribe concurs with termination of parental rights and adoption.
2. This chapter applies to children defined as "Indian Child" under the federal Indian Child Welfare Act (ICWA), 25 USC 1901, et. seq. If the child does not fall within this definition, see Chapter 11. The requirements of the federal **Adoption and Safe Families Act (ASFA)**, [42 USC 629 – 629b and 42 USC 671a] do not apply to children meeting the definition of federally recognized Indian child.
3. Adoption is a permanent plan for a child who is unable to live with the child's birth parents. Legally, other parents are substituted for the birth parents and given the full legal rights of birth parents.
4. For Indian children, when adoption is the permanent plan, Children's Administration (CA) staff will make every effort to continue the child's ties to the child's Tribe.
5. Adoption is possible once parental rights of both parents have been voluntarily or involuntarily terminated under the laws of the state of Washington and ICWA or any other competent jurisdiction, such as another country, state, or a federally recognized Indian Tribe.
6. In addition to the requirements of this manual, the service worker also follows the requirements of the *CA Case Services Policy Manual* and the *CA Practices and Procedures Guide*. If there is a conflict between chapter provisions, the social worker follows the provisions in the *Indian Child Welfare Manual*. For all children for whom adoption is being considered, the social worker must complete a *Declaration of Adoption Facilitator*, DSHS 09-765.

## **08.05 CHILD'S INDIAN STATUS**

1. The social worker follows the requirements of Chapter 3 of this manual regarding identification of a child's Indian status.
2. The social worker documents a child's Indian status in the service record on a *Family Ancestry Chart*, DSHS 04-220(x), and the *Indian Identity Request Form*, DSHS 09-761.
3. Before beginning an adoption process, the social worker must make all reasonable efforts to have the Indian child enrolled in the child's Tribe. If the child is not enrollable, the social worker must obtain confirmation of that status from the Tribe.

## **08.10 PARENTAL CONSENT TO ADOPTION**

1. The social worker does not accept a voluntary consent to relinquishment/termination or adoption of an Indian child until the service worker has followed the procedures in Chapter 6 of this manual.
2. Voluntary consents to relinquishment/termination or adoption are not valid unless signed by the parent before a tribal or juvenile court/superior court judge more than 10 days after a child's birth and unless approved by the judge.

## **08.15 PLACEMENT FOR ADOPTION BY THE CHILD'S TRIBE**

1. For all children in the custody of the department prior to the termination of parental rights, the CA social worker must have previously actively solicited the child's Tribe's involvement in determining the placement for the child. In most instances, the child's placement prior to the termination of parental rights will be the child's adoptive placement. The social worker must notify the child's Tribe in writing of the change in status of the child and must ask the Tribe to verify approval of the placement plan.
2. The social worker contacts the Tribe to request identification of an appropriate placement resource when the social worker has established a plan to place the child in a different home after termination and when the worker was unable to do adoptive placement planning prior to termination of parental rights.

1. The social worker makes a written adoption placement referral to the social services program of a child's Tribe in conformity with confidentiality requirements of chapter 04. The referral includes the following information:
  1. Comprehensive background information on the child's social and psychological development, using, at minimum, the current Individual Service and Safety Plan (ISSP) and the *Child's Medical and Family Background Report*, DSHS form 13-041;
  2. Information on all prior placements;
  3. Information about the extent of the child's relationship with parents, siblings, extended family members, and other significant person's in the child's life;
  4. Information concerning the interest, if any, of the child's foster parents and relatives in adopting the child;
  5. Information on the current or planned custody and placement of siblings;
  6. Information about any other ethnic heritage of the child in addition to the child's Indian heritage; and
  7. Other factors that might affect the placement decision.
2. If the child's Tribe undertakes the task of identifying a placement and does not find a suitable placement for a child within 60 days, the social worker, in consultation with the Tribe, finds a suitable placement.
3. The social worker documents the placement referral and tribal response in the service record and proceeds with the adoptive placement in accordance with this chapter if the social services program of the child's Tribe does not:
  1. Want to be involved in the adoption placement planning process; or
  2. Respond within 30 days following receipt of an adoption placement referral.
4. The social worker consults with LICWAC if the Tribe's social services program does not become involved in adoptive placement planning while continuing efforts to engage the child's Tribe. See Chapter 10.
3. In all cases, upon request, the social worker assists a child's Tribe to identify a suitable adoptive placement for the child.

## 08.20 PLACEMENT PREFERENCES

Federally recognized Indian children are exempt from the requirements of the Multi-Ethnic Placement Act (MEPA) and the Inter-Ethnic Adoption Provisions (IEAP), 42 USC 671a. It is imperative that CA social workers exert **active and diligent efforts** to immediately place recognized Indian children within the following placement preferences, without discriminating against any potential placement on the basis of race, color, or national origin. See the *CA Operations Manual*, chapter 4000, section 4510, for MEPA/IEAP requirements.

1. In any adoptive placement (i. e., permanent placement for adoption) of an Indian child, the social worker places the child in accordance with the order of preference established by the child's Tribe. The social worker contacts the social services program of the child's Tribe for information about the Tribe's order of preference.
2. If the child's Tribe has not established an order of preference, the social worker places the child in the following order of preference:
  1. A member of the child's extended family. See Chapter 14 for the definition of "extended family."
  2. Other members of the child's Tribe.
  3. Other Indian families of similar Indian heritage.
  4. Other Indian families. See section 08.15, above, regarding Indian status of adoptive families.
3. When exploring the suitability of families within the preference categories, the social worker informs families about the adoption assistance program and eligibility requirements for the program. The social worker assists families who may be eligible for the program to apply for adoption support.

4. When applying the placement preferences in paragraph B, the social worker:
  1. Uses the social and cultural standards prevailing in a child's tribal or Indian community; and
  2. Gives priority to suitable adoptive families within a tribal or Indian community, with families within a child's tribal or Indian community having the first preference.
5. The social worker, while applying the placement preferences listed above, and in collaboration with the child's Tribe, must give consideration to:
  1. Placement with a suitable adoptive family living in the child's tribal or Indian community;
  2. Placement in a manner assuring the maximum opportunity for the child to maintain and nourish a relationship with the child's Tribe;
  3. Whenever more than one sibling is to be placed, placement of siblings together or in close proximity, unless the placement would cause serious physical or emotional harm to one or more of the children; and
  4. Placement in a manner assuring maximum opportunity for maintenance of a sibling relationship, and/or
  5. Placement with an adoptive family that previously adopted one or more of the child's siblings.

## **08.25 DIRECT PLACEMENT BY CA OR LICENSED CHILD PLACING AGENCY – DILIGENT SEARCH FOR PLACEMENT**

1. The social worker diligently searches for a suitable placement within the order of preference before considering a non-preferred placement when a child's Tribe:
  1. Notifies the service worker that the Tribe will not undertake identification of an adoptive placement; or
  2. Has been unable to identify a suitable placement for the child or
  3. Has not responded within 30 days following receipt of an adoptive placement referral. See section 08.15.
2. The social worker documents telephone and/or written contacts with the child's Tribe in the child's service record and CAMIS.
3. At minimum, a diligent search involves contacting the following resources in the order listed:
  1. The child's Tribe;
  2. Relatives of the child or of the child's family;
  3. The Local Indian Child Welfare Advisory Committee (LICWAC);
  4. Off-reservation Indian organizations;
  5. The Bureau of Indian Affairs (BIA);
  6. DSHS, licensed private child placing, and tribal adoptive family registers;
  7. Nationally known Indian placement programs, such as Three Feathers, Ina Maka, and Rainbow agencies; and
  8. Other national placement programs/exchanges.
4. As part of a diligent search for placement, the social worker also provides written notification to the child's extended family members as required in Chapter 07, using *Notice to Extended Family Members*, DSHS 09-772.
5. The social worker keeps the child's Tribe informed of progress in seeking adoption placement for the child and pursues any placement recommendations offered by the Tribe.

## **08.30 PLACEMENT OUTSIDE OF PREFERENCE CATEGORIES PROHIBITED**

The social worker may place a **federally recognized Indian child** outside of the preference categories specified in this chapter only when at least one of the following circumstances exists:

1. The child's Tribe concurs that the best interests of the child require placement with a non-Indian family or in another setting not within the preference categories. See Chapter 10 for LICWAC procedures when the child's Tribe is not the primary resource for consultation and case plan development.
2. The child has extraordinary physical or emotional needs, diagnosed by a qualified expert, that possible placements identified within the preference categories cannot meet. The social worker can implement the plan only with the documented expressed concurrence and recommendation of the child's Tribe. See chapter 14 for the definition of "qualified expert."
  1. The social worker provides the Tribe with a written statement that explains why the possible placements identified within the preference categories cannot meet the child's needs.
  2. The social worker places a copy of the written statement in the ICW section of the child's service record.
  3. The social worker either receives consent from the Tribe or, if the Tribe is not the primary resource for consultation and case plan development, the LICWAC, to place outside of the placement preference categories.
3. The social worker has undertaken a **diligent search** for placement within the preference categories for a period of 180 days after the date that the child became available for adoptive placement and found no suitable placement within the preference categories.
  1. In determining the suitability of a family, the social worker evaluates the family in accordance with the social, economic, and cultural standards:
    1. Prevailing in the Indian community in which the child's parent(s) extended family members reside; or
    2. With which the parent(s) or extended family members maintain social or cultural ties.
  2. The social worker bases a determination that suitable families within the preference categories do or do not exist on tribal community standards, which are not necessarily state standards.
  3. The social worker either receives consent from the Tribe or, if the Tribe is not the primary resource for consultation and case plan development, the LICWAC to place outside of the placement preference categories.

## **08.35 PARENTAL AND CHILD ADOPTION PLACEMENT PREFERENCES**

1. If appropriate under the circumstances of the case, the social worker takes a child's preference into consideration in determining placement within the placement categories when the child is of sufficient age and maturity and able to express a knowledgeable and reasoned opinion about the child's adoptive placement.
2. The social worker considers the placement preference of the child's parent(s) in making a placement within the preference categories.
3. The social worker considers the placement preference of the parent or child or gives weight to a parent's request for anonymity only if not contrary to the best interests of the child, the child's tribal relationship, medical history, or contrary to the policies and procedures of this manual.

## **08.40 INDIAN STATUS OF ADOPTIVE FAMILIES**

1. The social worker requests that all adoptive applicants complete a copy of the *Verification of Indian Status*, DSHS 15-128. If an applicant claims status as an Indian, the social worker requests that the applicant provide documentation.



2. The social worker considers an applicant Indian if the applicant provides evidence, for at least one of the prospective adoptive parents, of membership or eligibility for membership in a federally or non-federally recognized Indian Tribe, including Eskimo, Aleut, other Alaska Native, or Canadian First Nations. See Chapter 12 for a list of federally recognized Indian Tribes. See Chapter 11 for procedures regarding Canadian First Nations and Recognized Indian Children.

## **08.45 FOSTER PARENT ADOPTIONS**

1. The child's social worker ensures the procedures in Chapter 07 have been followed in the selection of a foster care placement for a child.
2. As part of the process to approve the foster parent adoption of an Indian child, the social worker documents in the case file and for the child's Tribe:
  1. Whether the department has followed the procedures regarding tribal review and approval of placement, as set forth in Chapter 07;
  2. Whether the foster family is within the placement preferences in section 8.20;
  3. The tribal affiliation, if any, of the foster parents and the extent to which the foster parents are active in tribal and Indian cultural activities;
  4. The foster family's past performance and future commitment in exposing the child to the child's Indian tribal and cultural heritage;
  5. The foster parent's care of the child to date, the foster parent's commitment to incorporating the child into the family permanently, and the child's attachment to the foster family.

## **08.50 TRIBAL REVIEW AND APPROVAL OF PLACEMENT**

1. The social worker does not make an adoptive placement of an Indian child prior to review and approval of the placement by the child's tribal social services program or the LICWAC, if the Tribe is unavailable.
2. The social worker provides the child's Tribe, or LICWAC if the Tribe is unavailable, on a confidential basis, all adoptive home studies of homes under consideration for placement of the child. Home studies will identify whether the adoptive home applicant is affiliated with a Tribe and, if so, which Tribe. The social worker needs to obtain a release of information from the prospective adoptive parents to allow full disclosure of the adoptive home study to the Tribe if the child's Tribe has not intervened as a party to the case; and

## **08.55 INFORMATION TO PROSPECTIVE ADOPTIVE PARENTS**

1. Prior to placing an Indian child in an adoptive home, the social worker informs the prospective adoptive parents, using *Information to Prospective Adoptive Parent of an Indian Child* DSHS 09-778, of:
  1. The special legal requirements applicable to adoption of an Indian child;
  2. The possibility of pursuing the adoption through a tribal court proceeding; and
  3. The possibility of receiving assistance through the Adoption Support Program.
2. The social worker gives the original *Information to Prospective Adoptive Parent of an Indian Child*, DSHS 09-778, to the adoptive parents and places a copy in the ICW section of the service file.
3. The social worker completes the *Child's Medical and Family Background Report*, DSHS 13-041, and provides the original to the prospective adoptive parents for signature. See the *CA Practices and*

*Procedures Guide*, chapter 4000, section 4540, for requirements. The worker must complete this form in accordance with the state disclosure laws that are explained on the form. The worker retains a copy of the signed form in the ICW section of the child's service file.

4. The department does not consider a placement an adoptive placement until the adoptive parents sign both the DSHS 09-778 and the DSHS 13-041.

## **08.60 RECORD OF PLACEMENT DETERMINATION**

1. For each adoptive placement determination, the social worker documents in the child's Service Episode Record (SER):
  1. The basis for each adoptive placement decision.
  2. If siblings are not placed together, the reasons justifying sibling separation and the steps taken to maintain the sibling relationship following placement.
  3. Efforts made to comply with the placement preference requirements.
  4. The homes contacted in the course of compliance efforts, including the names and addresses of extended family members and of tribally approved homes. See chapter 14 for the definition of "extended family member."
2. The social worker provides the child's Tribe with a copy of the service record documentation for any adoptive placement prior to making the placement.

## **08.65 ASSESSMENT OF ADOPTIVE PLACEMENT**

1. The social worker conducts an assessment of the placement within 30 days after placing an Indian child in the home of prospective adoptive parents. After the initial assessment, the social worker conducts an assessment at least every 90 days until termination of the placement or entry of the final decree of adoption.
2. The social worker notifies the child's Tribe of the assessment. If the child's Tribe has declared itself to be unavailable or has not responded to verbal and written notices, the social worker notifies the LICWAC, while continuing efforts to engage the child's Tribe. See Chapter 10 for LICWAC procedures.
3. The social worker must offer the Indian child over the age of 12 and the child's Tribe the opportunity to participate in the assessment. The social worker must allow, upon request, the Tribe or LICWAC, if conditions in paragraph B apply, access to all files and documents pertaining to the child's placement.
4. At minimum, the assessment includes:
  1. Evaluation of the suitability of the adoptive home placement;
  2. The child's adjustment to the adoptive home;
  3. The adoptive family's adjustment to the child; and
  4. The extent to which the adoptive family has carried out the conditions, if any, of the placement; e.g., assisting the child to maintain relationships with siblings, extended family members, and the child's Tribe.
5. The social worker involves a qualified expert in the review. See Chapter 14 for the definition of "qualified expert."

## **08.70 RECORDS FOLLOWING PLACEMENT**

The social worker quarterly provides the child's Tribe with reports and records prepared after an adoptive placement and before a final decree of adoption. See Chapter 04 regarding confidentiality. These reports/records contain descriptions and evaluations of:

1. The child's adjustment to the adoptive home;
2. The adoptive family's adjustment to the child;
3. The suitability of the placement; and
4. The extent to which the adoptive family has carried out the conditions, if any, of the placement; e.g., assisting the child to maintain relationships with siblings, the natural family, and the child's Tribe.

## **08.75 SERVICES FOLLOWING PLACEMENT**

When placing an Indian child for adoption, the social worker complies with the following requirements in cooperation with the social services program of the child's Tribe:

1. When the department places an Indian child eligible for membership in an Indian Tribe for adoption, the social worker seeks to secure tribal membership for the child prior to the entry of a final decree of adoption.
2. When the department places an Indian child for adoption, until entry of a final decree of adoption, the social worker, in cooperation with the child's Tribe, evaluates the overall suitability of the placement and monitors the placement to assure:
  1. The child is not abused or neglected;
  2. The child's special needs are addressed;
  3. The child's relationship with the child's siblings and, if appropriate, other members of the child's birth extended family, is encouraged;
  4. The child's relationship with the child's Tribe is promoted; and
  5. All other conditions and commitments of the placement are met.
3. The social worker, in cooperation with the social services program of the child's Tribe, assists the child, the prospective adoptive parents and the child's natural parents to adjust emotionally and psychologically to the adoptive placement. As may be appropriate or necessary, this assistance includes:
  1. Involving a qualified expert and other expertise as may be appropriate; and
  2. When the adoptive placement is non-Indian, involving a qualified expert in the placement of the Indian children to assist the child to deal with or overcome adjustment problems unique to non-Indian placements. See Chapter 14 for the definition of a "qualified expert."
4. The social worker, in cooperation with the social services program of the child's Tribe, provides the prospective adoptive parents with information on the background and special needs, if any, of the child. Where necessary, the social worker instructs or arranges for instruction of the prospective adoptive parents in:
  1. How best to meet the child's needs; and
  2. How best to assist the child's adjustment to the adoptive placement.
5. When the adoptive placement is non-Indian, the social worker arranges for a qualified expert to instruct the prospective adoptive parents regarding the special developmental and social problems common in such placements and how best to handle those problems.
6. The social worker, in cooperation with the social services program of the child's Tribe, provides training to the prospective adoptive parents in the required skills when:
  1. An Indian child is the first child of the prospective adoptive parents; or
  2. The prospective adoptive parents need assistance in promoting the child's affiliation with the child's cultural heritage or meeting the child's special needs.

## **08.80 ADOPTION ASSISTANCE TO FAMILIES THAT ADOPT THROUGH STATE OR TRIBAL COURT**

1. CA provides adoption assistance to children adopted from foster care or relative placements if the children otherwise meet qualifications outlined in 42 U.S.C. 673, RCW 74.13.100 through RCW 74.13.150, chapter 26.33 RCW, and applicable federal and state regulations. Adoption assistance may, depending on the needs of the child, reimburse the family expenses incurred for adoption finalization and provide ongoing financial maintenance, medical assistance through Medicaid, and counseling costs.
2. The *CA Case Services Policy Manual*, chapter 9000, outlines state policy for the Adoption Support Program.
3. The *CA Practices and Procedures Guide*, chapter 5000, section 5700, describes procedures for accessing the Adoption Support Program and its services.

## **08.85 PRE-PLACEMENT AND POST-PLACEMENT REPORTS**

1. When a social worker prepares a pre-placement or post-placement report regarding the adoptive placement of an Indian child, the social worker invites the designee of the child's Tribe and, when possible, a qualified expert to participate in the preparation of the report. See chapter 14 for the definition of "qualified expert". If the worker prepared the report before learning the identity of the Tribe, the social worker, upon identifying the Tribe, will involve the Tribe in any reviews of the report and preparation of subsequent reports and decision-making.
2. The social worker prepares the pre-placement report in accordance with the *CA Practices and Procedures Guide*, chapter 5000, section 5330, and the post-placement report in accordance with the *Practices and Procedures Guide*, chapter 5000, section 5380. The reports must also:
  1. Describe the role of the child's Tribe in preparing the report;
  2. State the Tribe's recommendations or conclusions and the basis for the recommendations and conclusions;
  3. Include an evaluation of the suitability of the adoptive placement; and
  4. Inform the court if there is reason to believe the adoptive petitioners have improperly removed custody of the child from the child's parents or have improperly retained custody of the child following a visit or other temporary relinquishment of parental custody.
3. The social worker provides a copy of the report to the child's Tribe. If the child's Tribe has not intervened as a party in the adoption proceeding, the social worker obtains a release of information from the adoptive parents or a court order authorizing the release of information prior to providing the report to the child's Tribe.

## **08.90 PARENTAL WITHDRAWAL OF CONSENT TO RELINQUISHMENT, TERMINATION, OR ADOPTION**

The parent(s) of an Indian child may withdraw consent to relinquishment/termination or adoption at any time before entry of the adoption decree. If a parent of an Indian child withdraws a voluntary consent prior to entry of the adoption decree, the service worker follows the requirements of Chapter 06, section 06.858.

## **08.95 AGENCY CONSENT TO ADOPTION**

1. When CA or a licensed or certified child placing agency has permanent custody of an Indian child following termination of parental rights, the social worker actively involves the child's Tribe in any deliberations and decisions about whether the agency should consent to the child's adoption.
2. If the Tribe consents to the adoption, the social worker includes in the file the Tribe's written consent to the adoption.
3. If the Tribe objects to the case plan, the social worker, with the involvement of the social services program of the child's Tribe, conducts a detailed review of the case plan.
  1. Following the case plan review, if the social worker and the worker's supervisor determine that the agency should consent to the adoption despite the Tribe's objection, the social worker documents in the service record the basis for such determination.
  2. The social worker includes in the file the Tribe's written notice of objection to the adoption and recommendation for case planning and placement. If the Tribe has objected verbally, the social worker must request a written notification from the Tribe. The social worker and the worker's supervisor then refer the case for consideration to the Regional Administrator.
  3. The department may not consent to adoption of the child over the objection of the child's Tribe unless the case has been reviewed through the impasse procedures described in Chapter 01, section 1.50.

## **08.100 CONTENT OF FINAL ADOPTION DECREE – TRANSMITTAL OF ADOPTION INFORMATION TO SECRETRY OF THE INTERIOR – BUREAU OF INDIAN AFFAIRS**

1. In a Superior Court proceeding involving the adoption of an Indian child who is in the permanent custody of CA or a child placing agency, the social worker completes *Superior Court Adoption Information For Indian Child*, DSHS 09-768.
2. The social worker files the completed information form with the court and requests that the court include information from the form in the adoption decree wherever possible. The social worker puts a copy of the completed information form in the service file.
3. The social worker requests the court to send a copy of the final adoption decree and a copy of the information form to the Secretary of the Interior at the following address:Office of Tribal Services  
Division of Social Services  
Bureau of Indian Affairs  
1849 C Street N.W. MS-4660-MIV  
Washington, D.C. 20240

## **08.105 CHILDREN'S ADMINISTRATION PAYMENT OF TRIBAL ADOPTION PLACEMENT COSTS**

The social worker contacts the Adoption Program Manager for information about CA payment of expenses related to tribal court adoption proceedings.

## **08.110 RELEASE OF BIRTH RECORD INFORMATION TO THE CHILD'S TRIBE**

1. Prior to the entry of a final decree of adoption, the social worker provides the child's Tribe with a copy of the Indian child's original birth certificate.
2. B. If the child's Tribe has intervened as a party in the adoption proceeding, the social worker provides the Tribe a copy of the final decree of adoption, a copy of the child's amended birth certificate, and other records of the proceeding as the Tribe may request.
3. If the child's Tribe has not intervened as a party in the adoption proceeding, the social worker obtains a court order authorizing the release of copies of such documents and records prior to providing the copies to the child's Tribe.

## **08.115 RELEASE OF ADOPTION RECORDS TO ADOPTED INDIAN CHILDREN**

1. An adopted Indian person 18 years of age or older may petition the court that entered the final decree of adoption for information regarding the adoptee's Tribal affiliation. The adoptee may also obtain other information, such as the names and addresses of the adoptee's birth parents, as may be necessary to protect rights resulting from the child's tribal relationship. The court may order DSHS and child placing agencies to release to the adoptee information contained in the adoption records maintained by DSHS and child placing agencies.
2. On written request to the CA Adoption Program Manager or a child placing agency by an adopted person age 18 or older having reason to believe that the adoptee is Indian, an agency representative conducts a search of the agency adoption records. If the records verify the person is adopted, the agency representative:
  1. Tells the person which court entered the final decree of adoption;
  2. Advises the person of the potential right to obtain adoption record information; and
  3. Provides copies of information contained in the archived record that indicate the child's Indian status and tribal affiliation. Without a court order, however, the agency may not provide the names or other identifying information about the birth parents.
3. The CA Adoption Program Manager responds to all requests to CA for archived adoption file information.
4. The Adoption Program Manager refers the person to the Bureau of Indian Affairs in Washington, D. C.

## **08.120 ARCHIVING OF ADOPTION FILE**

Upon the entry of a final decree of adoption, the social worker records the finalization of the adoption in CAMIS, ends the placement episode, and prepares the child's files for archiving. The *CA Operations Manual*, chapter 13000, section 13930 contains instructions for the archiving of adoption records

## **08.125 PETITION TO VACATE ADOPTION DECREE**

1. If a parent, within one year, petitions the court under ICWA to vacate an adoption decree due to alleged fraud or duress in obtaining the consent to relinquishment/termination or adoption, the social worker:
  1. In cooperation with the social services program of the child's Tribe, examines the circumstances surrounding the consent;
  2. Where the child's Tribe was involved in obtaining the consent, consults with the Tribe and seeks to obtain the Tribe's concurrence in any information or testimony the social worker intends to give to the court;
  3. When the Tribe provides the social worker with a written statement regarding the consent to adoption, submits the Tribe's statement to the court;
  4. Notifies the child's Tribe of all scheduled hearings on the petition and sends a copy of the petition to the Tribe; and
  5. Notifies the child's Tribe and the non-petitioning parent of the child, or the child's prior Indian custodian, if the court grants the petition.
2. If the court orders the child's return to the custody of the birth parent(s), the social worker, in cooperation with the social services program of the child's Tribe, assists the child to make as successful a transition as possible to the parent(s). Assistance includes:
  1. Helping the child adjust emotionally and psychologically to the change in placement;
  2. Helping the parent(s) to understand and effectively meet the child's needs;
  3. Helping the adoptive family adjust to the loss of the child and in assisting the child to make a successful transition to the birth parent(s); and
  4. Using a qualified expert to help the parent(s), child, and adoptive family, if necessary. See Chapter 14 for the definition of "qualified expert."

## **08.130 TERMINATION OF ADOPTION**

When CA or a child placing agency is involved in a failed adoption, the assigned social worker for the department or child placing agency, as applicable, completes the following requirements.

1. The social worker notifies the child's Tribe and the child's birth parents or prior Indian custodian of what has occurred, using *Notice of Termination or Vacating Adoption Decree*, DSHS 09-773.
  1. The social worker sends the notice within five working days from the date of entry of any court order terminating parental rights of the adoptive parents or vacating or setting aside an adoption.
  2. The notice contains information about the right of the child's parent/Indian custodian to petition the court for return of custody of the child.
2. The social worker does not oppose the return of the child to the custody of the birth parent(s) or prior Indian custodian in the absence of a thorough investigation into and evaluation of the suitability of the parent(s) or Indian custodian to reassume custody. The social worker:
  1. Completes the investigation within 90 days after the termination of the adoptive parents' parental rights or the set aside of the final decree of adoption; and
  2. Invites the child's Tribe and a qualified expert to participate in the investigation. See Chapter 14 for the definition of "qualified expert."

3. The social worker develops an appropriate service plan in cooperation with the social services program of the child's Tribe if the social worker and the Tribe determine that remedial and rehabilitative programs designed to return custody of the child to the parent(s) or Indian custodian are in the child's best interests and are likely to result in successful reunification. The social worker develops the service plan with direct collaboration from the parent(s), the child if of sufficient age, and, when possible, a qualified expert.
4. The social worker does not oppose the return of the child to the parent(s) or prior Indian custodian unless the plan proves unsuccessful or unless the return is likely to cause emotional or physical harm to the child.
5. In cooperation with the social services program of the child's Tribe, the social worker assists the child to adjust emotionally and psychologically to the termination of the adoption and to any new placement. The social worker uses the services of a qualified expert to provide such assistance.
6. If the social worker's supervisor determines it is not appropriate to follow the recommendations of the child's Tribe or the qualified expert to develop a plan to return the child to the parent(s)/Indian custodian, the social worker:
  1. Documents in the service record and in a written report the reasons for the recommendations and the reasons for the determination that it is not appropriate to follow the recommendations of the Tribe;
  2. Requests a written report and recommendations from the Tribe; and
  3. Forwards the reports to the Area Manager and Regional Administrator for review and to comply with impasse procedures. The social worker must not present a recommendation to the court contrary to that of the Tribe or its designee until the department completes impasse procedures. See chapter 01, section 01.50, for impasse procedures.
7. When an adoptive placement ends, until such time, if any, as the child is returned to the custody of the birth parent(s) or Indian custodian, the social worker follows the requirements contained in chapters 6, 7 and 8 in making a foster care or adoptive placement for the child.

## **09.0 Interstate Compact on the Placement of Children**

### **09.01 INTRODUCTION**

1. Whenever a Children's Administration (CA) social worker considers placement of an Indian child in another state, the social worker must follow the provisions contained in chapters 04 and 07 and the federal Indian Child Welfare Act (ICWA) regarding placement of Indian children. The social worker must provide such consideration for all Indian children, including Canadian First Nations and Recognized Indian Children, whether under Tribal or state jurisdiction.
2. When supervising a placement from another state of an Indian child, the CA social worker must:
  1. Follow the provisions contained in chapter 07 of this manual regarding placement of Indian children; and
  2. Maintain contact with the supervising agency and/or Tribe from the sending state as well as the administrator for the Interstate Compact on the Placement of Children (ICPC).
3. Tribes have the option, at their discretion, of becoming members of the ICPC.

### **09.05 USE OF INTERSTATE COMPACT**

1. The CA social worker must follow the provisions of ICPC in the following situations:
  1. A dependent Indian child is placed across state lines without Tribal services;



2. The Tribe requests CA and ICPC involvement;
  3. There is no tribal court in Washington to take custody of an Indian child placed in Washington from another state;
  4. The Indian child, placed in another state, will remain a dependent under the jurisdiction of a Washington state court and in the custody of Children's Administration;
  5. CA will be paying for foster care or other services for a child in another state;
  6. The social worker and/or the Tribe determine that use of ICPC is in the best interest of the Indian child placed across state lines;
  7. The placement is with a relative when the Indian child is the responsibility of CA or if the Tribe requests CA's assistance.
  8. If an Indian child is placed by one Tribe to another Tribe, the ICPC process is not needed. However, if a Tribe wishes the CA to pay for the placement, the Tribe must use the ICPC process.
2. CA staff must give full faith and credit to complete home studies from other states or Tribes when approving out-of-state placement of an Indian child.

## 09.10 CA SOCIAL WORKER RESPONSIBILITIES

1. When the plan is to place an Indian child from Washington out of state through the compact, on request of the child's Tribe that is not a member of the ICPC, the CA social worker:
  1. Assists the Tribe to utilize the ICPC for placement of an Indian child in another state in a placement designated by the Tribe. In such an instance, the social worker must see that the requirements of chapter 26.34 RCW, Interstate Compact on Placement of Children, have been satisfied.
  2. Makes efforts to arrange visitation to build relationships between the child and the proposed placement following completion of satisfactory criminal history checks and a preliminary family assessment.
  3. Assists in arranging the placement of an Indian child through the Compact when the child is not in parental custody and is the subject of child custody proceedings in this state.
    1. The child's Tribe and the receiving agency/state designate the placement.
    2. Prior to sending the child to the child's designated placement, the CA social worker documents in the ICW section of the child's service file that the receiving state has determined that the proposed placement does meet the child's best interests.
    3. The social worker will not send the child for placement if the social worker has not received documentation or the home study indicates that the placement is contrary to the child's best interests.
  4. The CA social worker does not authorize and CA does not make foster care payment for an Indian child placed in another state through ICPC unless:
    1. A certified or licensed child placement agency arranged the placement; or
    2. A Washington State Tribe's ICW program placed the child under a tribal court order; or
    3. A court of competent jurisdiction granted custody of the child to CA or its Division of Children and Family Services (DCFS) prior to the child's out-of-state placement.
  5. When a Tribe uses the ICPC process, and CA makes payment for placement or related services, the social worker completes the *Interstate Compact Placement Request*, DSHS 15-92, showing the Tribe as having legal custody and showing CA/DCFS as having financial responsibility.
  6. When a child's Tribe informs the CA social worker that the Tribe objects to ICPC placement of the child in another state, the social worker must not arrange for ICPC placement.
  7. The CA social worker must evaluate proposed placement in cooperation with the social services program of the child's Tribe.
2. When another state's child welfare agency plans to place an Indian child into Washington state through ICPC:

1. The CA social worker must follow the same procedures for the placement of Indian children as outlined in this chapter 04 of this manual.
  2. The CA social worker must evaluate the proposed in-state placement in cooperation with the social services program of the child's Tribe and the sending agency social worker.
  3. The CA social worker must share the home study and recommendations concerning placement of a child in a family in Washington State with both the sending state agency and the child's Tribe.
- 3. Child in Another State under Tribal Jurisdiction – Placement in Washington State**
1. When an Indian Tribe in another state has jurisdiction over an Indian child in another state and wishes to place that child in Washington State, the Tribe has the option of:
    1. Working directly with the local DCFS office in whose geographical area the child is being placed, or
    2. Working through the state ICPC program manager in CA headquarters.
  2. If the Tribe chooses to work directly with the local DCFS office, the CA social worker and the Tribe must enter into a mutual agreement as to the specific services the CA social worker will provide to the Tribe and the Indian child.
    1. After placement, CA will offer services to the Indian child to the same degree that it offers services to children placed through another state's child welfare agency.
    2. The Tribe retains its custody of the child placed and makes all case plan decisions.
  3. If the Tribe chooses to work through the state Interstate Compact program manager in Olympia, the program manager, in consultation with the local CA office, and the Tribe must enter into a mutual agreement as to the specific services CA will provide to the Tribe and the Indian child. The local CA office will then provide those services.
  4. Indian children placed by Tribes from outside of Washington State are eligible for the same services provided to Washington State Indian children, including, but not limited to:
    1. Notification of the Tribe if the CA social worker becomes aware that the Tribe's court orders and case plan are not being followed;
    2. Reports as requested by the Tribe; and
    3. Participation in case staffings if requested by the Tribe.

## **09.15 STATE INTERSTATE COMPACT ADMINISTRATORS**

To obtain the name, address, and telephone number of the ICPC Administrator for a specific state or states, the CA social worker or the Tribe may contact the ICPC program manager in Olympia at e-mail [ICPC300@dshs.wa.gov](mailto:ICPC300@dshs.wa.gov) or (360) 902-7984 or fax (360) 902-7903.

## **10.0 Local Indian Child Welfare Advisory Committee**

### **10.01 INTRODUCTION**

1. The requirements of this chapter apply only to staffing of Indian children whose Tribe, Band, or Canadian First Nations is unavailable by a Non-Tribal Local Indian Child Welfare Advisory Committee (LICWAC). The Indian child's own Tribe, Band, or Canadian First Nations is always the first resource for case planning for the child. See chapter 03, section 03.10, for the definitions of "Indian Child," "Canadian Indian Child," and "Recognized Indian Child."
2. **Definition of LICWAC**

1. A LICWAC is a body of volunteers, approved and appointed by Children's Administration (CA), who staff and consult with the department on cases of Indian children who:
2. Are members of a Tribe, Band, or First Nations but for whom the Tribe, Band, or First Nations has not responded, or has chosen not to be involved, or is otherwise unavailable; or
3. For whom the child's Tribe, Band, or First Nations has officially designated the LICWAC to staff the case; or
4. Are defined as Recognized Indian Child. See chapter 03 for the definition.
5. Staffing a child with LICWAC does not eliminate any CA notification requirements to the child's Tribe, and CA must continue efforts to involve the Tribe in planning.

### 3. **Policy/Procedure for LICWAC**

1. This policy implements the requirements of the
  - Federal Indian Child Welfare Act, (ICWA), 25 USC 1901, et. seq.;
  - Title IV-E of the Social Security Act;
  - The Tribal/State Agreement;
  - RCW 13.04.030;
  - RCW 13.34.240;
  - RCW 13.34.245;
  - RCW 13.34.250;
  - RCW 13.70.150;
  - CA's Washington Administrative Code chapter on Indian Child Welfare (ICW);
  - The CA *Case Services Policy Manual*; and
  - The CA *Practices and Procedures Guide*.

### 4. **Purpose**

5. The purposes of a LICWAC are to:
  1. Advise CA on case planning and services for Indian children and their families when the child or family's Tribe, Band, or Canadian First Nations is unavailable.
  2. Encourage the preservation of Indian families and Tribes by ensuring CA and private agency compliance with ICWA, state law, ICW WAC requirements, and the Tribal-State agreement.
  3. Encourage involvement by Tribal governments and Indian Organizations in case planning for Indian children.
  4. Ensure culturally relevant resources are offered to Indian children and their families to prevent out-of-home placement or expedite reunification efforts, including in-home family support services whenever possible; and to identify gaps in services for Indian children to the DCFS Regional Administrator.
  5. Ensure increased participation of families, foster parents, and children in the review process.
  6. Support the efforts of Tribes to exercise self-determination in Indian Child Welfare matters.
  7. Advocate for the needs of Indian children in the development and monitoring of all CA/private agency case plans involving Indian children.
  8. Provide case planning advice and consultation when the Indian child's Tribe, Band, or Canadian First Nations declines involvement, withdraws from involvement, or requests that the LICWAC be involved with the case in behalf of the Tribe, Band, or Canadian First Nations.

### 6. **Amendments, Addenda, and Alternate Agreements**

7. The DCFS Regional Administrator, in consultation with all Tribes and Indian organizations in the region, may develop amendments, addenda, and/or alternate agreements related to LICWAC procedures.
  1. The Regional Administrator may develop these agreements through the DSHS Administrative Policy 7.01 plan update process.
  2. A regional change to LICWAC procedures must not be contrary to a specific WAC, state law, or federal requirement.
  3. Each affected Tribes and Indian organizations must approve amendments, addenda, and alternate agreements for them to take effect with respect to that individual Tribe or Indian organization.
  4. The CA Assistant Secretary must approve all regional addenda, amendments, and alternate agreements.

5. The DCFS Regional Administrator must provide notice of changes to all Tribes and off-reservation organizations as well as to other CA regions in the state.

## **10.05 CRITERIA FOR LICWAC INVOLVEMENT**

1. The social worker must staff the case in the following preferential order:
  1. With representatives designated by the child's Tribe to staff the case with the social worker;
  2. With a tribal LICWAC designated by the child's Tribe to staff the cases of all tribal children with the social worker;
  3. With the CA LICWAC designated to staff cases involving Indian children in the custody of the CA and meeting the criteria of this section, when the child's Tribe is unavailable.
2. The social worker must not involve the CA LICWAC in activities related to a specific case unless:
  1. The child's Tribe is unavailable; or
  2. The Tribe has requested LICWAC involvement; or
  3. The case requires a Child Protective Team (CPT) staffing and the procedures in chapter 05, section 05.30, have been followed; or
  4. The case involves an Canadian First Nations or Recognized Indian child and requires an administrative review.
3. The social worker may consider a child's Tribe unavailable if, after efforts, including telephone, fax, e-mail, and regular mail, to contact have been unsuccessful:
  1. The child's Tribe has indicated in writing or by a telephone call documented in the CAMIS Service Episode Record (SER) that the Tribe does not wish to actively participate in the case; or
  2. The child's Tribe has failed to respond within 10 working days from the date post-marked to a written request for involvement; or
  3. The child meets the definition of "Recognized Indian Child" as defined in chapter 3, section 3.10; or
  4. There is reason to believe a child may be Indian, but the social worker has not yet verified the child's membership status.
4. If the child's Tribe is unavailable and the social worker knows the identity of the child's Tribe, the CA or private agency social worker documents the request for the Tribe's involvement and the Tribe's response in the ICW section of the client service record.
5. The DCFS or private agency social worker continues on a monthly basis to seek tribal involvement even if the Tribe does not respond or does not wish to actively participate in the case.
6. If the child's Tribe, after being unavailable, subsequently indicates that the Tribe wishes to actively participate in the case, the DCFS or private agency social worker does not further involve LICWAC in the case.
7. If the child's Tribe, after requesting LICWAC involvement, subsequently asks that LICWAC not be involved, the DCFS or private agency social worker does not further involve LICWAC unless the criteria in section 10.05(A), above, become applicable.
8. If the child's Tribe does not formally intervene, the social worker provides case planning and service information to the child's Tribe as provided in chapter 04, Confidentiality and Information Disclosure.

## **10.10 DEFINITION OF INDIAN CHILD**

See chapter 03, section 03.10, regarding definitions of "Indian Child," "Canadian First Nations Indian Child," and "Recognized Indian Child" and chapter 03, section 03.20, regarding inquiry into a child's Indian status.

## **10.15 FUNCTIONS OF LICWAC**

Subject to the criteria in section 10.05, above, a CA LICWAC performs the following functions:

1. Reviews the case of each Indian child receiving services from a CA program or private child placing agency unless the Tribe has accepted jurisdiction or is involved in planning for the case.
  1. If a Tribe chooses to refer a case to the CA LICWAC, the social worker must make and document active efforts to obtain representation, from the Tribe at all LICWAC staffings. Representation includes, but is not limited to:
    1. Tribal representative in attendance;
    2. Teleconferencing; and/or
    3. Written recommendations.
  2. The social worker must document such efforts in the CAMIS Service Episode Record (SER).
  3. Documentation must include copies and return receipt of certified letter(s) that have been sent to the tribe.
2. Acts as a multi-disciplinary team for CA and private agency workers in the development of culturally relevant case plans.
3. Reviews the CA or private agency social worker's assessment of potential risk factors and makes appropriate recommendations to ensure the safety of each Indian child.
4. Reviews potential placements of Indian children in non-Indian homes when the child's Tribe is unavailable. (See section 10.30 regarding non-Indian placements).
5. Acts as the Administrative Review Team for Indian cases requiring an administrative review.
6. Acts as the Child Protective Team (CPT) for all Indian cases meeting the criteria for a CPT staff. See Section 10.30 for criteria.
7. Conducts permanency planning staffings for all Indian children whose permanency planning staffings are not being conducted by the Indian child's Tribe.
8. Requests the Regional Administrator to initiate reviews of case plans that the LICWAC believe are detrimental to the best interests of Indian children.
9. Acts in an advisory capacity to the Regional Administrator regarding the region's development, implementation, and monitoring of procedures related to FRS, CWS, CPS, and adoption services to Indian children and their families.
10. Acts as an expert witness, but only with the Tribe's knowledge and approval and only in cases involving Indian children whose Tribes are unavailable. See section 10.05, paragraph C.
  1. In other cases where the child's Tribe is available but cannot provide a representative to act as an expert witness, LICWAC members may act as an expert witness, but only with the Tribe's knowledge and approval. However, the department's legal representative must concur with use of the person identified to serve as the expert witness.
  2. The social worker must seek the Tribe's approval in any case in which the LICWAC acts as an expert witness and shall document it in the CAMIS SER.
11. Assists CA and private agency staff to research and identify the potential tribal affiliation of children whose Indian status is in question, utilizing the following criteria:
  1. When any party to the case, an Indian Tribe, Indian organization, or public or private agency informs CA or the private agency that the child is an Indian child.
  2. CA, or the private agency, makes diligent inquiry and discovers information that suggests that the child is Indian.
  3. Any child involved in a child custody proceeding gives reason to believe that the child is an Indian.
  4. The residence or domicile of the child, the child's biological parents, grandparents, great grandparents, or Indian custodian, if any, is known to have been within a predominantly Indian community.
  5. The child or the child's parents or relatives are receiving per capita payments or attended an Indian boarding school.
  6. CA, or the private agency, upon inquiry, is informed that the child is or has been a ward of the tribal court.

12. If CA or the child placing agency obtains actual or constructive knowledge that a child may be an Indian child, the provisions of this policy apply unless CA, or the child placing agency, later establishes with reasonable certainty that the child is not an Indian child. See chapter 03 regarding determination of a child's Indian status. Also see chapter 03, section 03.40, and chapter 11, section 11.104, regarding when children may be considered non-Indian.
13. If a social worker closes a case after it has been staffed with the LICWAC, and the LICWAC has not recommended closing the case, the social worker must nevertheless staff the case with the LICWAC unless the case was closed within 30 days of intake. In either event, the social worker must send notice to the Tribe that CA or the child placing agency has closed the case.
14. Participate in ICW staff hiring in accordance with chapter 01, section 01.35.

## 10.20 LICWAC MEMBERSHIP

1. LICWAC members must be Native American/Alaskan Native people or non-Indian people designated by a Tribe or an off-reservation Indian organization who are familiar with the special needs of Indian children residing within the particular catchment area.
  1. CA must formally register LICWAC members as volunteers of the department.
  2. CA will seek legal representation from the Office of the Attorney General for LICWAC members in all tort actions in which the members become involved as a result of their authorized participation in LICWAC. This representation will be limited to cases in which the LICWAC member is not opposing the department's position.
  3. LICWAC liaisons must conduct background checks on LICWAC members who may have unsupervised access to children or developmentally disabled adults. See the *CA Operations Manual*, chapter 5000, section 5500. The liaison will apply the requirements of sections 5563 and 5590 when determining the suitability of a person to serve on LICWAC.
  4. The DCFS Regional Administrator may appoint, upon recommendation by majority vote of the LICWAC, non-Indian resource persons as ex-officio, non-voting members.
  5. Members must be responsible community members who:
    1. Have a genuine interest in the welfare of Indian children;
    2. Do not abuse alcohol/drugs;
    3. Do not have any convictions relating to domestic violence or offenses against children;
    4. Are not employees of the Children's Administration;
    5. Do not regularly represent individuals in actions against the department; and
    6. Are not *guardians ad litem* (GAL) or Court Appointed Special Advocates (CASA).
2. The committee must consist of representatives appointed by the DCFS Regional Administrator from persons nominated by tribal governments and off-reservation Indian organizations. Each Regional Administrator must develop a protocol for appointing LICWAC members or use the following procedures:
  1. Persons nominated to serve on LICWAC by Tribes or off-reservation Indian organizations require only a letter of nomination from the respective Tribe or organization. The Tribe or organization needs to write the letter directly to the respective Regional Administrator to recommend appointment.
  2. In appointing members to LICWAC from among those individuals nominated by Indian authorities, the Regional Administrator must work toward achievement of a balanced membership that includes tribal designees and the designees of a variety of off-reservation Indian organizations in the service area.
3. Community persons interested in serving on the LICWAC, but have not been specifically nominated by a Tribe or off-reservation Indian organization must:
  1. Obtain an "Application for Advisory Body Appointment" from the LICWAC chairperson or the DCFS Regional LICWAC Liaison;
  2. Upon completion of the application, attach a current resume' and two reference letters; and

3. Return the application packet to the LICWAC Liaison.
4. The Liaison reviews the community person's application with the LICWAC, which must review all applications and may request to interview the applicants. If the LICWAC endorses the applicant for membership, the Liaison sends the recommendation to the Regional Administrator for appointment.
5. The Regional Administrator may appoint an applicant or nominee only if the background check does not indicate there are any issues.
  1. See the *CA Operations Manual*, chapter 5000, sections 5563 and 5560 for lists of criminal offenses.
  2. If the background check indicates that there is an issue, the Regional Administrator may still appoint the person if the Regional Administrator and the LICWAC believe the problems causing the issue have been resolved. For example, if a prospective LICWAC member had been convicted of a DUI 15 years before applying for membership and has had no subsequent legal problems, the Regional Administrator and LICWAC could approve the person for membership.
6. The Regional Administrator may decline to appoint a person nominated to serve as a member of LICWAC if the person would have conflicts of interest or for other documented good cause. Before declining to appoint a nominee, the Regional Administrator must discuss the reasons for the proposed action with the nominating Tribe or Indian Organization. If the Tribe or Indian organization disagrees with the Regional Administrator's decision, the Tribe or Indian organization may:
  1. Negotiate with the Regional Administrator to reconsider the decision; and then,
  2. If the Regional Administrator continues to decline to make the appointment, invoke the Impasse Procedures outlined in chapter 01, section 01.50.
7. Once the Regional Administrator appoints an individual to participate on a LICWAC, termination occurs only if:
  1. The member resigns;
  2. The member exceeds the unexcused absence limit set by that LICWAC; or
  3. The Regional Administrator determines that, with input from the LICWAC, Tribes, and off-reservation Indian organizations, an individual is not suitable to continue to serve on the committee.
    1. If the Regional Administrator finds that a member acting in a manner in contradiction to the intent and/or purpose of a LICWAC, the Regional Administrator must immediately vacate the seat.
    2. The Regional Administrator retains responsibility for the termination of LICWAC members.

## 10.25 DCFS REGIONAL LICWAC LIAISON

1. The Regional Administrator, in collaboration with the LICWAC, must designate a Liaison to work with each LICWAC.
  1. The Liaison is responsible for providing staff support to the LICWAC, coordinating functions of the LICWAC, and assisting the LICWAC in obtaining policy clarification from the Regional Administrator and/or the DSHS Office of Indian Policy and Support Services (IPSS).
  2. The Liaison must document **active efforts** to recruit LICWAC members from Tribes and off-reservation Indian organizations.
2. The LICWAC Liaison must:
  1. In cooperation with the LICWAC members, provide mandatory training and orientation to new LICWAC members in the following areas:
    1. Registration process for all LICWAC members, including completion of the standard volunteer registration card;
    2. A verbal review of confidentiality issues as well as a written statement of the confidentiality policy on the registration card. The member's signature on the card indicates a commitment to the maintenance of confidentiality;

3. Mileage reimbursement process;
  4. Regional ICWAC expectations and procedures;
  5. Volunteer liability issues, including coverage through the Department of Labor and Industries (L&I) and Attorney General representation;
  6. CA programs and processes;
  7. Indian Child Welfare Act, including a copy of the *CA Indian Child Welfare Manual*.
  8. Requirements of Title IV-B of the Social Security Act, including:
    - Emphasis on the safety of children;
    - A statewide program addressing child abuse and neglect;
    - Diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed;
    - Child welfare services;
    - Family support;
    - Family preservation;
    - Time-Limited Family Reunification Services;
    - Adoption promotion and support services;
    - Independent living program;
    - Services in relation to permanency planning; and
    - Compliance with ICWA
  9. Washington State laws impacting Indian Child Welfare;
  10. Risk Assessment;
  11. Child Abuse Reporting Law, RCW 26.44.030.
  12. State ICW regulations, chapter 388- WAC.
2. Schedule and coordinate LICWAC staffing, Indian CPT reviews, administrative reviews, prognostic reviews, and any other case planning staffing.
  3. With administrative support, ensure recording and distribution in a timely manner of minutes on all cases reviewed by LICWAC. Distribution includes one copy for the ICW section of the client service record and one copy in a central file readily available for LICWAC review.
  4. Identify training opportunities and ensure inclusion of LICWAC members, tribal representatives, and private agency staff in CA and other ICW training related to the delivery of Indian child welfare services; i.e., CA Training Academy, Risk Assessment, and training sponsored by Indian programs.
  5. Ensure that DCFS support staff mail appropriate material to all LICWAC members and designated private agency staff.
  6. Coordinate the authorization and payment of mileage for LICWAC members.
  7. Identify, advocate, and assist in the development of resources to meet the special unmet needs of Indian children and their families.
3. If a LICWAC also serves as a CPT, the LICWAC Liaison carries out the following responsibilities:
    1. Coordination and management of membership recruitment, training, scheduling, record keeping, including LICWAC/CPT recommendations, reporting, and communication for the LICWAC/CPT.
    2. Provision of written staffing recommendations to the assigned social worker and supervisor following the staffing.
    3. Maintenance of a tracking system to document the results of the staffing and recommendations.
    4. If the CA social worker and the worker's supervisor disagree with the CPT/LICWAC recommendations, follow impasse procedures.

## **10.30 CASES MANDATED FOR LICWAC REVIEW**



1. The LICWAC must review all CA and private agency Indian cases meeting the criteria in section 10.05, above.
  1. In cases where a Tribe has its own CPT/LICWAC, and an Indian child of that Tribe is in the custody of the CA and the Tribe has declined jurisdiction, the social worker must staff the child's case with the Tribe's CPT/LICWAC if the Tribe agrees. If the Tribe does not agree to staff the case, then the social worker must staff the case with the non-tribal LICWAC.
  2. If an Indian Tribe requests the LICWAC to staff the case, the LICWAC Liaison must document the specific efforts the Liaison made prior to the LICWAC staffing to obtain representation from the child's Tribe at the case review.
  3. In cases where a Tribe does not have jurisdiction over an Indian child, or has declined jurisdiction over an Indian child who is in the custody of the CA, the social worker must comply with all state and federal laws, department rules, and department policies.
2. **LICWAC/CPT Staffing -- Purpose, Policy, Priorities and Procedures**
  1. The Regional Administrator must formally designate a LICWAC as a CPT before it may function in that capacity.
  2. The LICWAC must conduct CPT staffings in accordance with the procedures and time frames identified in the *CA Practices and Procedures Guide*, chapter 2000, section 2562.
  3. Once the social worker or the worker's supervisor identifies a case as needing to be staffed by a CPT, the supervisor within two business days contacts the LICWAC/CPT Liaison to schedule a review.
  4. After notification by the supervisor, the Liaison gives immediate verbal notice to LICWAC/CPT members followed by immediate written notice.
  5. Once the LICWAC/CPT has conducted the initial review, the social worker implements the LICWAC/CPT recommendations unless the Regional Administrator decides not to implement the recommendations. If this occurs, the LICWAC follows impasse procedures in section 10.55.
  6. Unless subsequent CPT staffings are necessary, the LICWAC/CPT conducts further reviews only if the child's Tribe is unavailable or requests further LICWAC involvement. See section 10.05, above. In such cases, the committee will schedule future reviews at the initial staffing, and the committee will review progress on an on-going basis, at a minimum of every six months, until CA or the child placing agency closes the case or the criteria for LICWAC involvement cease to exist.
  7. A quorum for a LICWAC/CPT case consists of no less than four LICWAC members representing medical, legal/law enforcement, drug/alcohol, social service, and other disciplines that provide services to children and their parents in compliance with RCW 74.14B.030.
  8. If the LICWAC/CPT does not include sufficient membership to serve as a CPT in accordance with the CA requirements, the Liaison must, with the concurrence of the LICWAC, request that local CPT members participate with the LICWAC to staff the cases.
3. **Administrative Reviews**
  1. Subject to the criteria in section 10.05, above, an administrative review must occur for any child residing in an out-of-home placement and for whom a review meeting federal requirements for periodic reviews has not occurred. See the *CA Practices and Procedures Guide*, chapter 4000, Section 4630.
  2. The social worker must provide notification to all interested parties:
    1. The child's parent(s);
    2. The child's Indian custodian, if any;
    3. The child if age 12 or older;
    4. *Guardian ad litem* /CASA;
    5. The child's foster parents;
    6. Attorneys representing any party to the case;
    7. Therapists involved with the child or family;
    8. The child's Tribe(s); and
    9. The LICWAC Liaison.

3. The Liaison must notify LICWAC members in writing 14 days in advance. In an emergency, the social worker may provide notice through personal contact.
4. A quorum consists of three LICWAC members for administrative staffings.
4. **Staffing for Non-Indian Placements** Subject to the criteria in section 10.05, above, all Indian cases where an Indian child is placed in a non-Indian placement resource require a staffing with LICWAC if the child's Tribe is unknown or unavailable. This requirement does not apply to non-Indian relative placements.
  1. Prior to placing an Indian child in a non-Indian foster home the social worker must follow the requirements of chapter 07, sections 07.30 and 07.35.
  2. If a child's Tribe is unavailable to provide review and approval of the placement, the social worker notifies the LICWAC Liaison. The Liaison schedules a staffing to be held as soon as possible and no later than the next regularly scheduled LICWAC following the notification by the social worker. See section 10.01.
  3. The LICWAC must conduct the initial staffing as a regular review. The worker's presentation will include a summary of efforts to obtain permission from the Tribe for the non-Indian placement.
  4. If LICWAC approves a non-Indian placement, the social worker must document the worker's continuing efforts to obtain an Indian placement.
  5. LICWAC must review non-Indian placements on a monthly basis or an alternative timeframe recommended by the LICWAC. The social worker may extend the placement on a month-to-month basis with LICWAC approval.
  6. If at any time a child's Tribe approves a placement, the social worker need not obtain LICWAC approval of the placement.
  7. A quorum for a non-Indian placement review consists of three LICWAC members.
5. **Permanency Planning Case Staffing**
6. All children in out-of-home care must have a permanency planning staffing to establish a permanency goal no later than 60 days from the Original Placement Date. The staffing shall occur prior to the in-court permanency planning review. The social worker must review the case at least every six months to comply with state and federal Indian Child Welfare mandates. The review must occur six months after the first permanency planning staffing.
  1. If the Tribe is available, the social worker must share information needed to allow the Tribe to properly review and monitor the case.
  2. If the Tribe is unavailable or delegates the permanency planning to the LICWAC, the social worker must staff the case with the LICWAC no later than 60 days from the Original Placement Date to establish a permanency goal.
  3. Prior to placing an Indian child with a family, the social worker shall follow the requirements of chapter 08, sections 08.40 and 08.45.
  4. The social worker must make active efforts to include representation from the Tribe at the staffing. Active efforts shall include:
    1. Sending the tribe a certified letter 15 days prior to the staffing. If the staffing is scheduled less than 15 days prior to the letter being sent, the social worker must document when the letter was sent; and
    2. Contacting the Tribe by phone, e-mail or fax.
  5. If the child's Tribe is unavailable to provide review and approval of the placement decision, or the Tribe delegates this to the LICWAC, the social worker must provide documentation of active efforts to contact the Tribe and obtain their approval. Documentation may include:
    1. Receipt of certified mail;
    2. Recording efforts to contact the Tribe in the CAMIS SER; and
    3. Copies of letters, faxes, e-mails.
  6. The social worker must continue to invite the Tribe to each LICWAC staffing.
  7. The LICWAC must review a prospective adoptive or foster-adoptive placement as provided in chapter 08, section 08.50, to assess the suitability of the placement, when the child's Tribe is

unavailable or delegates to the LICWAC. The LICWAC and the social worker must encourage non-Indian adoptive parents to seek out resources from the child's Tribe or LICWAC to assist the parents in meeting their adoptive Indian child's needs at any age.

8. A quorum consists of three LICWAC members for permanency planning cases.
7. **Non-Tribal Private Agency Access to LICWAC Staffing**
8. Private agency cases are subject to all provisions in this manual. Non-tribal private child placing agencies must staff all Indian children with LICWAC subject to the criteria in section 10.05, above. The CA Assistant Secretary may exempt off-reservation Indian child placing agencies from this requirement.
  1. The private agency worker notifies the CA LICWAC Liaison immediately upon identifying a child who is or may be an Indian child and who meets the criteria of section 10.05, above.
  2. The liaison schedules the case for LICWAC review at the next regular LICWAC meeting at which there is time available for the staffing.
  3. The LICWAC reviews each private agency case at least every six months or more often if the LICWAC determines necessary.
9. **Voluntary Placement Staffing Priorities**
10. The assigned social worker must staff with LICWAC all Indian cases in which the parent(s) have voluntarily placed their child in the custody of DCFS or a private child placing agency, subject to the criteria in section 10.05, if the child's Tribe is unavailable.
  1. The social worker schedules Indian voluntary placement cases for LICWAC review at the next regularly scheduled meeting from the point of intake.
  2. If the placement is a non-Indian placement, the staffing provisions for non-Indian cases apply. See section 10.30, above.
  3. If the placement is an Indian placement and meets the criteria of section 10.05, above, the social worker schedules the case for review at least every six months, or more often if determined necessary by the LICWAC or if required by the provisions of this manual.
  4. A quorum for a voluntary placement review consists of three LICWAC members.
11. **Staffing Priorities for Other Indian Cases**
12. If a case meets the criteria of section 10.05, above, and a significant change occurs in the plan or with the case in any of the identified staffing categories, the LICWAC must re-staff the case at the next LICWAC review prior to any court hearings. If the court order differs significantly from the recommendations of the LICWAC, the social worker must provide a copy of the court order to the LICWAC liaison upon receipt of the written order.

## **10.35 WHO MAY REQUEST A STAFFING**

1. The social worker must initiate a case staffing as required by this manual or at the request of members of tribal councils and/or their designees and/or off-reservation Indian organizations, or members of the LICWAC committee, the social worker's supervisor, or the LICWAC Liaison. The child's Tribe, parent, relative, foster parent, or others involved with the child may contact the LICWAC Liaison to request a staffing.
2. For CA cases, the DCFS supervisor screens all Indian cases meeting the criteria in section 10.05, above, and requests the appropriate type of LICWAC staffing for each case.

## **10.40 STAFFING ATTENDANCE**

1. The social worker assigned to the case must always be the primary presenter and must attend the staffing.
2. CA expects all appointed and registered LICWAC members to attend and participate in LICWAC staffings.

3. The LICWAC determines who may participate and to what extent in LICWAC deliberations, with the level of participation in compliance with confidentiality requirements. Consistent with these limitations, the following persons may participate:
  1. Parents, guardians and Indian custodians.
  2. Child(ren) being staffed - usually over 12 years of age.
  3. Foster parents, relatives, or support persons upon agreement by the social worker and the LICWAC chairperson.
  4. Tribal representatives or their designees.
  5. Attorneys and *guardians ad litem*/CASA, upon agreement by the social worker and LICWAC chairperson.
  6. Other resource persons necessary for additional information.

## **10.45 RELATIONSHIPS OR CONFLICTS OF INTEREST**

1. Any LICWAC member who is expressly familiar, related, or involved in another capacity with the parties being reviewed must state the role/relationship prior to the review. Such a member may give input on the situation but must leave the room while the LICWAC determines its recommendations if the member:
  1. Is related to the child or family being staffed, up to the specified degree of 2nd cousin;
  2. Works for a private agency providing placement or services to the family; or
  3. Is in an advocacy role with one or more individuals in the family;
2. The LICWAC may determine that a conflict exists for a member in a specific case and will exclude the member from discussion and recommendation on the specific case.

## **10.50 STAFFING PROTOCOL**

1. The social worker gives a current ISSP to the LICWAC liaison 10 working days in advance of the staffing. For CPT cases, the social worker may use the police report in lieu of the ISSP for the initial staffing.
2. The child's social worker must bring at least three copies of the following to the LICWAC staffing:
  1. An ISSP signed by the social worker's supervisor;
  2. The child's ancestry chart;
  3. Section A of the LICWAC staffing form; and
  4. LICWAC's most recent recommendations if the case has been previously staffed with the committee.
3. The child's social worker must bring the child's entire service record to the staffing, including:
  1. All psychological reports;
  2. All medical reports;
  3. Counseling reports;
  4. Professional correspondence;
  5. Police reports;
  6. Pictures;
  7. *Verification of Indian Status*;
  8. *Indian Identity Request* form, DSHS 09 761; and
  9. All court reports.
4. The LICWAC chairperson opens each meeting with an explanation of LICWAC, introductions, confidentiality requirements, and an announcement that members must declare relationships or involvement as cases are presented.

5. The LICWAC reviews the ISSP or police report along with any other pertinent material. The committee discusses the facts of the case and asks questions regarding the history of the case placement, services being offered and approved, progress being made, barriers to reunification, and timeframes as to when the permanent plan is most likely to be accomplished.
6. The LICWAC Liaison takes complete minutes for each staffing and documents all recommendations clearly on the *Administrative Review* form, DSHS 05-203, or a LICWAC Staffing Form that documents all recommendations.
7. G. The LICWAC chairperson or secretary reads the recommendations, and all LICWAC members vote or otherwise concur with the recommendations made. The committee incorporates these recommendations into the case plan, and the members sign the form.
8. The social worker reviews the written LICWAC recommendations at that point. If the social worker agrees with the LICWAC recommendations and plans to implement those recommendations as part of the case plan, the social worker signs the form. The worker then updates the ISSP to state that LICWAC conducted the mandatory staffing and concurred with the plan.
9. If the social worker does not agree with the LICWAC recommendations, the social worker:
  1. Does not sign the form;
  2. Must advise the LICWAC at that time of the social worker's points of disagreement; and
  3. May undertake further discussion and mediation with the LICWAC regarding the disputed recommendations.
10. If after mediation and discussion the committee and the social worker cannot resolve the disagreement, and the majority of LICWAC members vote to pursue the impasse, CA initiates impasse procedures.

## **10.55 IMPASSE PROCEDURES**

If impasse occurs, CA initiates the impasse procedures outlined in chapter 01, section 01.50.

## **10.60 DISCIPLINARY AND CORRECTIVE ACTION**

Any CA employee who willfully fails to comply with the LICWAC's recommendations is subject to the provisions of DSHS Personnel Policies No. 545, *Investigation of Suspected Employee Misconduct*, and 546, *Disciplinary and Corrective Action*.

## **10.65 AGREEMENTS WITH PRIVATE CHILD PLACING AGENCIES**

The DCFS Regional Administrator or designee must develop, update, and approve working agreements every two years with private child placing agencies within the region regarding the provision of Indian child welfare services. The Regional Administrator's designee also monitors agreements for compliance with state and federal Indian child welfare mandates and notifies the appropriate Division of Licensed Resources (DLR) Regional Licensor of agencies that are out of compliance and in need of a corrective action plan.

## **11.0 Canadian First Nations and Recognized Indian Children**

## 11.01 INTRODUCTION

1. The social worker follows the procedures in this chapter when providing casework or placement services to Recognized Indian Children, including Canadian First Nations Indian children. In addition, the social worker also follows the requirements of the Children's Administration (CA) *Case Services Policy Manual* and the *CA Practices and Procedures Guide*.
2. If there is a conflict between the provisions of this chapter and the provisions of the *Practices and Procedures Guide*, the social worker follows the procedures in this chapter.
3. The requirements of this chapter pertaining to a "child's Tribe" do not apply to cases involving Recognized Indian Children who are not members or eligible for membership in a non-federally recognized Tribe because they have no Tribe.

## 11.05 DEFINITIONS

For purposes of this chapter, see the definitions for the following terms in the referenced chapters:

- **“Canadian First Nations Indian Child”** – See chapter 14, Definitions. See Chapter 12 for Canadian First Nation contact information.
- **“Child's Tribe”** – See chapter 14, Definitions.
- **“Recognized Indian Child”** - see chapter 03, section 3.10, and chapter 14.

## 11.10 VERIFICATION OF CHILD'S INDIAN STATUS

### 11.101 Inquiry Into Child's Indian Status

Upon acceptance of a case for service, the social worker follows the requirements of Chapter 03, section 03.20 in seeking to discover whether the involved child is of Indian ancestry. The social worker must do this in every case. The social worker must document verification of Indian ancestry each time the case is transferred from one worker or program to another

### 11.102 Verification of Child's Canadian First Nations Or Recognized Indian Status

The social worker follows the requirements of Chapter 03, section 03.30, regarding verification of a child's Indian status.

### 11.103 Determination of Canadian First Nations Or Recognized Indian Status

1. **Canadian Children**
  1. The Canadian First Nation or community determines a child's membership status in a Canadian First Nation, Metis community, or non-status Indian community. A determination by the First

Nation or community regarding membership is final. The CA or private agency social worker does not determine a Canadian First Nations child's membership status.

2. CA considers a Canadian child to be an Indian Child if any of the following circumstances exist:
  3. The child is listed as a status Indian on the Canadian Federal Indian Register.
  4. The child is a member or eligible for membership in a non-federally recognized Indian Tribe. The child's Tribe determines a child's tribal membership status. A tribal determination of membership or eligibility for membership is final. The CA or private agency social worker does not determine an Indian child's membership status.
  5. A Canadian First Nation or a federally or non-federally recognized Indian Tribe verifies that the First Nation/Tribe considers the child to be Indian.
  6. An off-reservation Indian/Alaska native community organization verifies that the organization considers the child to be Indian.
2. **Other Children**
3. If a child is a member of more than one Canadian First Nation, Metis, or non-status Indian community or if a child is a member or eligible for membership in more than one non-federally recognized Tribe, the social worker:
    1. Provides notification to each of the Tribes or communities; and
    2. With respect to each Tribe or community, follows all other applicable procedures in this chapter. See section 11.05 for definition of "child's Tribe."

## **11.104 When The Child May Be Considered Non-Indian**

1. The CA or private agency social worker must follow the provisions of this chapter until the worker verifies with reasonable certainty that the child does not meet the definition of a Canadian First Nations or Recognized Indian child found in section 11.05 by following the steps in chapter 03, section 03.40. If the child does not meet one of the definitions, CA does not consider the child to be an Indian child, and the provisions of this chapter do not apply.
2. The social worker documents in the service record the actions taken to identify the child's status in accordance with the requirements of this chapter and the basis for concluding that none of the definitions of Indian child apply.
3. In cases where the social worker has requested verification of a child's Indian status and has not received a response to such request(s), the social worker may consider a child non-Indian and need not follow the provisions of this chapter if the worker has satisfied all of the following requirements:
  1. The social worker has followed the procedures in section 11.102 regarding verification of the child's Canadian, Metis, non-status Indian, or Recognized Indian status.
  2. If the social worker did not receive verification within 60 calendar days following the date the worker sent the written request for verification, the social worker has sent a second request and has contacted the First Nation, Metis, or non-status community, and/or Tribe or Indian/Alaska native community organization by telephone.
  3. The social worker has not received verification within 30 calendar days following the date of the second request and neither a First Nation, Metis, or non-status community nor an Indian/Alaska native community organization or Tribe has requested additional time for verification.
  4. If a First Nation, Metis, or non-status community /Tribe or an Indian/Alaska native community organization has requested additional time for verification, the First Nation/Tribe or Indian/Alaska native community organization has not provided verification within 90 calendar days after the social worker sent the first written request for verification.
  5. The social worker has provided all available information regarding the child's family history to the First Nation, Metis, or non-status community/Tribe or an Indian/Alaska native community

organization/ Tribe and has taken reasonable steps to obtain and provide any additional information requested.

6. The child is not an Indian child, as defined in any of the definitions in Chapter 03, section 03.10. See Chapter 03 regarding verification of a child's Indian status.
7. The social worker has documented in the ICW section of the service record all information necessary to demonstrate compliance with the preceding requirements, including the name, address, and telephone number of the person(s) contacted to verify the child's Indian status.
4. If a child has been identified as non-Indian in accordance with this section, and the social worker subsequently verifies that the child does meet either of the definitions in section 11.05, the social worker follows the requirements of this chapter in performing casework or placement activities after verifying the child's status.
5. E. A First Nation, Metis, or non-status community or Tribe and/or Indian/Alaska native community organization may verify a child's status as a Canadian First Nations or Recognized Indian orally or in writing. If the verification is oral, the social worker documents in the ICW SER of the service record the date the social worker received verification and the name, address, and phone number of the person who provided the verification.

## **11.15 GUIDELINES REGARDING DISCLOSURE OF CONFIDENTIAL RECORDS/INFORMATION**

The guidelines in chapter 04 apply to the disclosure of confidential records/information pertaining to Canadian First Nations or Recognized Indian Children.

## **11.20 CASEWORK SERVICES PRIOR TO SUPERIOR COURT INVOLVEMENT**

### **11.201 Provision of CPS Case Record Material To Indian Tribes**

In cases involving Canadian First Nations, Metis, or non-status Indian Children or children who are members or eligible for membership in a non-federally recognized Tribe, the social worker furnishes to the child's Tribe information specified in chapter 05, section 05.05.

### **11.202 Indian Interpreter - CPS Cases**

The social worker follows the requirements of Chapter 05, section 05.10, regarding involvement of an Indian interpreter following receipt of a screened-in child abuse/neglect complaint or referral.

### **11.203 Services for Indian Families Prior to Court Action**



1. Before filing a dependency, guardianship, or involuntary termination petition, the social worker provides social services to the family for the protection of an Canadian First Nations, Metis, or non-status Indian Child or Recognized Indian child when:
  1. The circumstances of the family, viewed in light of prevailing social and cultural conditions and the way of life of the Indian community, require the provision of social services for the child and to support the relationship between the child and the parent(s).
  2. The social worker actively provides services of a remedial nature designed to rehabilitate and prevent the breakup of the family.
  3. If a child is a Canadian First Nations, Metis, or non-status child or is a member or eligible for membership in a non-federally recognized Tribe, the social worker jointly develops and, whenever possible, provides services in consultation with the social services program of the child's Tribe.

## **11.204 Remedial and Rehabilitative Services Plan**

The social worker provides services based on a remedial and rehabilitative service plan designed to effectively address and eliminate problems destructive to the family. The social worker designs a plan:

1. Ensuring **active efforts** to prevent or eliminate the need for removal of the child from the family home.
2. Formulated with the direct collaboration of the child's parent(s) and the child (if of sufficient age), extended family (when appropriate), and the child's Tribe.
3. Taking into account the prevailing social and cultural conditions in the child's Indian community.
4. Encouraging a family relationship between the parent(s) and the child, as well as between the child, the child's siblings, and other members of the child's extended family throughout the time that the social worker engages in efforts to prevent family breakup.
5. Encouraging maintenance of the child in the child's own family residence if safe and appropriate.

## **11.205 Child Protective Team Staffing**

Whenever a CPT staffing is necessary for a case involving an Canadian First Nations or Recognized Indian Child, the social worker arranges for a CPT staffing with the LICWAC. See Chapter 10 regarding LICWAC procedures.

## **11.206 Implementation of the Service Plan**

The social worker's implementation of the plan stresses using and involving, where available, community services and resources specifically for Indian families. These include:

1. Extended family.
2. Tribal social services and other programs.
3. Indian organization programs. See chapter 14 for the definition of "Indian organization."
4. Traditional Indian therapy administered by traditional practitioners, when appropriate.
5. Individual Indian caregivers having skills to help the family.

## **11.25 JURISDICTIONAL/TRIBAL INTERVENTION**

## **11.251 Jurisdiction**

1. Indian Tribes, whether located in the United States or Canada, generally do not have jurisdiction over child custody proceedings involving Canadian First Nations or Recognized Indian Children. If the circumstances of a particular case require court involvement, the social worker files the proceeding in the juvenile court for the county in which the child resides or in which the child is located. However, an exclusive or concurrent jurisdiction Tribe may, by action of the tribal government, exercise jurisdiction over all Indian children residing on the reservation, even if the child is not a member of the particular Tribe.
2. A child's residence is that of the parent(s) or legal custodian or, if the parents' whereabouts are unknown, the home in which the child resides or from which the child was removed.

## **11.252 Tribal Intervention In State Court Proceedings**

1. Indian Tribes do not have a right under ICWA to intervene as a party in state court proceedings involving Canadian First Nations or Recognized Indian Children. However, in such cases, the Tribe may file a motion for intervention under Civil Rule 24 of the Rules for Superior Court (CR 24). If the court determines the Tribe has a sufficient legal interest in the proceeding, the court may allow the Tribe to intervene as a party.
2. The social worker does not oppose a request for intervention filed by:
  1. A Canadian First Nations, Metis, or non-status Indian community in which the child is a member or eligible for membership; or
  2. A non-federally recognized Tribe in which the child is a member or eligible for membership; or
  3. A federally recognized Tribe when the child is not eligible for membership in the Tribe.

## **11.30 VOLUNTARY CONSENTS**

### **11.301 Voluntary Consent to Foster Care Placement/Relinquishment/Termination or Adoption**

1. Except as required in this chapter, when the social worker assists the parent of a Canadian First Nations, Metis, or non-status Indian or Recognized Indian Child to execute a voluntary consent, the social worker complies with the requirements applicable to non-Indian cases in the following manuals:
  1. *CA Case Services Policy Manual*, chapter 3000, section 3240; and
  2. *CA Practices and Procedures Guide*, chapter 4000, section 4306.
2. If the social worker has not verified the child's status as an Indian child, the social worker must obtain court validation of voluntary consents to placement until status is verified.
3. When a parent seeks to execute a voluntary consent to foster care placement/relinquishment/termination of parental rights or adoption, the social worker:
  1. Informs the parent of:
    1. Placement preference requirements: and
    2. Requirements for notification of the child's Tribe and extended family members.
  2. Encourages the parent to contact an Indian interpreter or a representative of the social services program of the child's Tribe to assure that the consent is voluntary and that the parent

understands the consequences of signing the consent. See chapter 14 for the definition of "Indian interpreter."

3. Documents the encouragement in the ICW section of the case record. If the social worker refers the parent to an identified individual, the social worker documents the date of the referral and the name of the individual to whom the worker made the referral.
4. Prior to accepting a voluntary consent to placement, the social worker:
  1. Encourages the parent to contact the child's Tribe regarding available services to:
    1. Assist the parent to retain custody of the child;
    2. Maintain the parent-child relationship during any foster care placement; and
    3. Further the child's family and tribal relationship.
  2. Documents in the ICW section of the service record efforts to have the parent contact the child's Tribe regarding available services. If the social worker refers the parent to an identified individual within the child's Tribe, the social worker documents the referral date and the name of the individual to whom the worker made the referral.
  3. Follows up with the child's Tribe to verify that the parent has contacted the Tribe and to learn the Tribe's position on the action.

## 11.302 Explanation of Consent Form

1. If an attorney represents the parent, the social worker refers the parent to the attorney for explanation of the consequences of signing a consent
2. If an attorney does not represent a parent, the social worker fully explains the consent form to the child's parent prior to obtaining the parent's signature on the form. The social worker uses an Indian interpreter, whenever possible, to explain the form to the parent.
3. The social worker uses *Consent to Foster Care Placement and Court Certification*, DSHS 09-763, for cases involving foster care placement, and *Relinquishment, Consent to Termination/Adoption, and Court Certification – Indian Child*, DSHS 09-764, for cases involving voluntary relinquishment/termination of parental rights.
4. The social worker requires the parent to read the consent form prior to obtaining the parent's signature on the form.
  1. If the social worker has a doubt about the parent's ability to read and understand the consent form, the social worker reads the form to the parents.
  2. If there is any doubt about the parent's ability to understand English, the social worker arranges to have the form read and explained to the parent in the parent's primary language.
5. After obtaining the parent's signature on the form, the social worker gives the parent a copy of the signed consent form.

## 11.303 Court Proceedings - Voluntary Relinquishment/Termination

1. If the social worker files a petition for court approval of a parent's consent to relinquishment or for termination of parental rights under chapter 26.33 RCW, the social worker:
  1. Indicates on the petition that the child is of Canadian First Nations or Native American descent but does not meet the ICWA definition of "Indian child." See section 11.353 for further explanation.
  2. Completes and files with the court a *Declaration of Adoption Facilitator*, DSHS 09-765.
2. When filing a relinquishment/termination petition, the social worker notifies the child's Tribe by telephone of the date, time, and place of any court proceeding to obtain court approval of the

relinquishment or terminate parental rights. The social worker also sends written notice to the child's Tribe, *Notice To Federally Recognized Indian Tribe, Band, or Nation*, DSHS 09-541.

3. If the child's Tribe requests to intervene in the proceeding under Civil Rule 24, the social worker does not oppose intervention.

## **11.304 Placement/Post-Placement Activities**

1. The social worker follows the requirements of section 11.403 regarding notice to the child's extended family.
2. The social worker follows the placement preference requirements in section 11.402.
3. Following the placement of a Canadian First Nations or Recognized Indian Child pursuant to a voluntary consent, the social worker provides post-placement services as required in section 11.409.

## **11.305 Withdrawal of Consent to Foster Care Placement/ Relinquishment/Termination or Adoption**

1. If a parent of a Canadian First Nations or Recognized Indian Child withdraws a consent to foster care placement at any time or if a parent withdraws a consent to relinquishment/termination or adoption prior to entry of an order terminating parental rights, the social worker returns the child to the custody of the parent unless:
  1. A court order for foster care placement was previously entered and the order remains in full force and effect; or
  2. Return of custody would likely cause an emergency resulting in imminent physical harm to the child; and
  3. A law enforcement pickup has been initiated or a shelter care/pickup order has been entered. See section 11.352 regarding shelter care placement.
2. If the child is returned to the custody of the parent(s) following withdrawal of consent to relinquishment/termination or adoption, the social worker assists the child to make a successful return to the custody of the parent(s). Assistance includes:
  1. Helping the child adjust emotionally and psychologically to the change in placement;
  2. Helping the parent(s) understand and effectively meet the child's needs;
  3. Providing or arranging for appropriate social services.
  4. Helping the foster/pre-adoptive family or placement facility assist the child to make a successful transition back to parental custody.

## **11.306 Changing Voluntary Into Involuntary Placement**

1. Except in emergency circumstances, the social worker notifies the child's parents, including alleged father(s), and the child's Tribe of a decision to file a petition to request the court to order the foster care placement. In emergency situations, the social worker follows the procedures in section 11.352.
2. The social worker does not petition any court for an involuntary foster care placement when the petition is based solely on the parent's prior request for the child's placement.

# 11.35 INVOLUNTARY PROCEEDINGS

## 11.351 Preconditions for Filing a Dependency, Guardianship or Involuntary Termination Petition

1. Except in emergency situations, the social worker follows the requirements below before filing a dependency, guardianship, or involuntary termination petition in juvenile court:
  1. Makes **active efforts** to comply with the requirements of section 11.20, Casework Services Prior to Superior Court Involvement, to prevent the breakup of the Indian family.
  2. Consults with the social services program of the child's Tribe for purposes of service/placement resource identification and case plan development.
  3. Makes **active efforts** to agree to family service plans and legal arrangements designed to protect the child and eliminate the need for filing a petition in juvenile court.
2. The social worker does not file a dependency, guardianship or involuntary termination petition in juvenile court when the only grounds for such a petition are evidence of:
  1. Community or family poverty.
  2. Crowded or inadequate housing or homelessness.
  3. Alleged alcohol abuse or other nonconforming social behaviors on the part of the parent(s) unless such behaviors are directly connected to evidence of serious emotional or physical harm or risk of harm to the child.

## 11.352 Shelter Care Placement

1. The social worker may take steps to arrange for emergency pickup of a Canadian First Nations or Recognized Indian Child by law enforcement or to obtain a juvenile court order authorizing placement of the child in shelter care.
  1. The social worker does not seek shelter care placement or a shelter care order unless the placement is necessary to prevent imminent physical or emotional harm to the child or sexual abuse of the child.
  2. When law enforcement places a child in CA custody under an emergency pickup order, a hospital/medical hold, or a court order authorizing emergency shelter care placement, the social worker gives the child's parent(s)/caretaker a copy of the *Parent's Guide to CPS*, DSHS 22-484(X), and a copy of the *Temporary Custody Notification*, DSHS 09-731.
  3. Unless a child is returned to the parent(s) following shelter care placement, a juvenile court shelter care hearing must occur within 72 hours following the child's shelter care placement, excluding weekends and holidays.
2. Following placement, the social worker:
  1. Makes **active efforts** to return the child home.
  2. Takes necessary steps to ensure that when the shelter care placement ends, the placement is no longer necessary to prevent harm to the child.
  3. Immediately returns the child to the child's parent(s) or legal custodian when the legal authority for the placement ends.
3. The initial shelter care placement may not extend longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless the social worker obtains a juvenile court order approving a longer period of placement.
4. Upon learning of the need for an emergency shelter care placement of a Canadian First Nations or Recognized Indian Child, the social worker consults with the social services program of the child's Tribe to:

1. Identify placement;
  2. Develop a case plan; and
  3. Determine the availability of appropriate services including Tribal social services, Indian organization programs, and traditional Indian therapy.
5. The social worker staffs the case with LICWAC if the child's Tribe is unavailable. See Chapter 10 for LICWAC procedures.
  6. The social worker follows the foster care placement preferences found in section 11.402.
    1. The social worker may make an emergency shelter care placement that is not within the placement preferences found in section 11.402 if the social worker has made and documented **diligent efforts** to place the child within the placement preferences.
    2. When the social worker does not initially place a child in accordance with the placement preferences, the social worker continues **diligent efforts** to place the child in accordance with the preference requirements of section 11.402.
  7. Once a Canadian First Nations or Recognized Indian Child has been placed in shelter care, the social worker provides post-placement services in accordance with the requirements of section 11.409.

## 11.353 Dependency

1. To commence a dependency proceeding, the social worker or the agency's legal representative completes and files a dependency petition, DSHS 09-428(X), including the *Addendum to Petition* if the Tribe is known, with juvenile court.
  1. A Canadian First Nations or Recognized Indian Child does not fall within the federal ICWA definition of "Indian Child". For that reason, the federal ICWA does not apply to child custody proceedings involving these children, except in limited circumstances outlined in section 11.402.
  2. When the social worker files a dependency petition on a Canadian First Nations or Recognized Indian Child, the social worker indicates on the petition that the child is of Canadian First Nations or Native American descent but does not meet the federal Indian Child Welfare Act definition of "Indian child."
2. The social worker sends notice of the proceeding to the child's Tribe, using *Notice To Canadian First Nations Tribe or Band or to Non-Federally Recognized U.S. Tribe or Band*, DSHS 09-537.
3. If the child's Tribe requests to intervene in the proceeding, the social worker does not oppose intervention.
4. The social worker provides a copy of shelter care and dependency orders, including any order dismissing the proceedings, to the child's parents.
5. If the court allows the child's Tribe to intervene in the proceeding, the social worker also provides the Tribe a copy of any court orders.
6. If a Canadian First Nations or Recognized Indian Child is placed in out-of-home care under a shelter care or dependency disposition order, the social worker follows:
  1. The placement preference requirements in section 11.402.
  2. The requirements of section 11.403 regarding notice to the child's extended family.
7. Before preparing a social study/report to court and/or an ISSP, the social worker, in accordance with the confidentiality requirements of chapter 04:
  1. Consults with the social services program of the child's Tribe:
    1. To identify placement resources;
    2. To develop a case plan; and
    3. To determine the availability of appropriate services, including Tribal social services, Indian organization programs, and traditional Indian therapy appropriate to the child's needs.
  2. If the child's Tribe is unavailable, staffs the case with LICWAC. See chapter 10 regarding LICWAC.

3. Includes the recommendations of the child's Tribe and/or LICWAC in the report to court or ISSP.
8. The social worker notifies the child's Tribe of all hearings concerning the dependency involving Canadian First Nations or Recognized Indian Children, using *Notice to Canadian First Nations Tribe or Band or to Non-Federally Recognized U.S. Indian Tribe or Band*, DSHS 09-537.
9. If a Canadian First Nations or Recognized Indian Child is placed in foster care under a dependency proceeding, the social worker provides services following placement in accordance with section 11.409.

## 11.354 Child In Need Of Services

1. The social worker does not file a Child in Need of Services (CHINS) petition in juvenile court unless the social worker meets the following requirements:
  1. *CA Case Services Policy Manual*, chapter 5000, sections 5500 and 5600.
  2. The *CA Practices and Procedures Guide*, chapter 3000.
2. To commence a CHINS proceeding, the social worker completes and files a CHINS petition with the juvenile court or assists the child or parent to file the petition.
3. The social worker follows the notification procedures below:
  1. After the social worker files the CHINS petition, the social worker immediately sends notice of the proceeding to the child's Tribe, *Notice to Canadian First Nations Tribe or Band or to Non-Federally Recognized U.S. Indian Tribe or Band*, DSHS 09-537.
  2. The social worker sends notice to the Tribe when the social worker becomes involved in the proceeding; i.e., responsible for case plan development/placement recommendations:
    1. If the Indian child or the child's parent(s) files the CHINS petition; and
    2. The child's Tribe has not been previously notified of the CHINS proceeding.
4. In arranging foster care placement for the child, the social worker follows the foster care placement preferences found in section 11.402.

## 11.355 Dependency Guardianship

1. In developing the plan for dependency guardianship, the social worker follows the placement preferences found in Chapter 11.402. In addition, the social worker must comply with the provisions of the *CA Case Services Policy Manual*, chapter 5000, section 5770, and the *CA Practices and Procedures Guide*, chapter 4000, sections 4340 and 4534.
2. Prior to filing the dependency guardianship petition, the social worker consults with the social services program of the child's Tribe. If the child's Tribe is unavailable, the social worker consults with LICWAC. See chapter 10 regarding LICWAC procedures.
3. To commence a dependency guardianship proceeding, the social worker or the social worker's legal representative completes and files a guardianship petition, along with the *Addendum to Petition*, with the juvenile court. The social worker indicates on the petition that the child is of Canadian or Native American descent but does not meet the federal ICWA definition of "Indian child."
4. The social worker sends notice of the proceeding to the child's Tribe, using *Notice to Canadian First Nations Tribe or Band or to Non-Federally Recognized U.S. Indian Tribe or Band*, DSHS 09-537.
5. If the child's Tribe requests to intervene in the proceeding, the social worker does not oppose intervention.
6. The social worker provides a copy of the dependency guardianship order and a copy of any subsequent order dismissing dependency guardianship to the child's parents and the dependency guardian. If the court allows the child's Tribe to intervene in the proceeding, the social worker also provides to the Tribe a copy of the dependency guardianship order and a copy of any subsequent order dismissing dependency guardianship.

7. When the court establishes a dependency guardianship, the social worker provides services following placement as required in section 11.409.

## 11.356 Involuntary Termination of Parental Rights

1. Prior to filing a termination petition, the social worker consults with the social services program of the child's Tribe. If the child's Tribe is unavailable, the social worker consults with LICWAC. See chapter 10 regarding LICWAC procedures.
2. When seeking termination of parental rights, the social worker must comply with the requirements of the *CA Case Services Policy Manual*, chapter 4000, section 4130, and chapter 5000, section 5762. In addition, the social worker must comply with the *CA Practices and Procedures Guide*, chapter 4000, sections 43052 and 4320.
3. To commence a termination proceeding, the social worker or the agency's legal representative completes and files a *Petition to Terminate Parental Rights*, DSHS 09-766, along with an *Addendum to Petition*, with the juvenile court. The social worker indicates on the petition that the child is of Canadian or Native American descent but does not meet the federal ICWA definition of "Indian child."
4. The social worker sends notice of the proceeding to the child's Tribe, using *Notice to Canadian First Nations Tribe or Band or to Non-Federally Recognized U.S. Indian Tribe or Band*, DSHS 09-537.
5. If the child's Tribe requests to intervene in the proceeding, the social worker does not oppose intervention.
6. The social worker provides a copy of the court's order on the petition to the child's parents, or their legal representative. If the court allows the child's Tribe to intervene in the proceeding, the social worker also provides to the Tribe a copy of the court's order on the petition.
7. Whenever the court involuntarily terminates parental rights, the social worker provides services following the child's placement as required in section 11.409.

## 11.40 PLACEMENT ACTIVITIES

The requirements of the federal **Adoption and Safe Families Act** (ASFA), [42 USC 629 – 629b and 42 USC 671a] apply to Recognized Indian Children, including Canadian First Nations children. See the *CA Practices and Procedures Guide*, chapter 4000, section 42673, for requirements relating to these children.

### 11.401 Efforts to Avoid Placement

1. Prior to placing a Canadian First Nations or Recognized Indian Child in the home of a person other than the child's parent(s), the social worker makes **active efforts** to prevent or eliminate the need for removal of the child from the family home.
2. When making case planning or placement decisions for the child, the social worker considers the child's parent(s) as the primary resource for the child. If out-of-home placement is necessary, the social worker places the child in accordance with the order of preference listed in section 11.402, below.

### 11.402 Placement Preferences - Foster Care

1. Non-federally recognized Indian children, including Canadian First Nations and Recognized Indian children, are not covered by ICWA.
2. It is imperative that CA social workers exert **active and diligent efforts** to immediately place Canadian First Nations and Recognized Indian Children within the following placement preferences, without



discriminating against any potential placement on the basis of race, color, or national origin. See the *CA Operations Manual*, chapter 4000, section 4510 for MEPA/IEAP requirements.

3. In any foster care placement of a Canadian First Nations or Recognized Indian Child, the social worker places the child in the following order of preference:
  1. A member of the child's extended family. See chapter 14 for the definition of "extended family."
  2. An Indian foster family of the same Tribe as the child.
  3. Another Indian foster family.
  4. A non-Indian foster home specifically recruited and trained to meet the special needs of Indian foster children.
4. For purposes of applying the above preferences, an "Indian foster family" means that at least one of the foster parents is:
  1. A member of a federally recognized Indian Tribe, including Eskimo, Aleut, or other Alaska Native. See chapter 12 for a list of federally recognized Tribes in the United States;
  2. A member of a First Nation, treaty Tribe, Metis community, or a non-status Indian community from Canada; or
  3. Considered Indian by a federally or non-federally recognized Tribe or off-reservation Indian organization.
5. When applying the above placement preferences, the social worker, whenever possible:
  1. Uses the social and cultural standards prevailing in the child's tribal or Indian community;
  2. Places the child in the least restrictive setting which most approximates a family setting and in which the child's special needs will be met;
  3. Places the child within reasonable proximity to the child's home taking into account any special needs of the child, safety of the child, and CA's ability to facilitate visitation with the parents, siblings, and extended family;
  4. When placing more than one sibling, place siblings together or in close proximity unless the placement would cause serious physical or emotional harm to one or more of the children; and
  5. Locate the child where the parent has the opportunity to have regular access to the child without undue economic, physical, or cultural hardship.
6. In making a foster care placement, the social worker consults with the social services program of the child's Tribe to identify service and placement resources and to develop a case plan. If the child's Tribe is unavailable, the social worker consults with the LICWAC. See chapter 10 regarding LICWAC procedures.
7. The social worker makes a diligent search for a suitable placement using the order of preference before considering a placement outside the preferred placement categories. The social worker follows the requirements of chapter 07, section 07.15, in making a diligent search.
8. The social worker does not place the child outside of the above preference categories except as provided in section 11.404.

## **11.403 Notice To Child's Extended Family**

1. The social worker follows the requirements of Chapter 07, section 07.20, for a Canadian First Nations or Recognized Indian Child regarding notification of the child's extended family members, using *Notice to Extended Family Members*, DSHS 09-772, when:
  1. Placing the child in a non-relative foster care placement pursuant to parental consent, dependency disposition, or termination of parental rights; or
  2. Moving the child from a relative placement to a non-relative foster care placement.
2. If the child's parent(s) objects to notification of a particular extended family member, the social worker discusses the basis for the objection with the parent(s).
  1. If the child's parent(s) is concerned that the child could be harmed by contact with the extended family member, the social worker does not notify the family member if, after consultation with the child's Tribe, the social worker determines the concerns of the parents(s) are reasonable.

2. If the parent(s) base the objection on a desire for anonymity or other reasons, the social worker determines, in consultation with the child's Tribe whether notice to the family member is in the child's best interests. If the social worker determines family notification is in the child's best interests, the social worker notifies the child's extended family member as required in Chapter 07, section 07.20.
3. When the social worker does not provide notification to an extended family member, the social worker documents, in the ICW section of the child's service record, the reason(s) for not giving notification, along with the Tribe's position regarding notification. The social worker also asks the Tribe provide a written statement of the Tribe's position.

## 11.404 Placement Outside Preference Categories

1. The social worker may place a Canadian First Nations or Recognized Indian Child outside of the preference categories found in this chapter under one of the following circumstances:
  1. The child's Tribe or the LICWAC, if the Tribe is unavailable, concurs that the child's best interests require placement with a non-Indian family or other placement not within the categories.
  2. The child has extraordinary physical or emotional needs and a placement within the categories cannot be found to meet the child's needs.
  3. The social worker has completed a **diligent search** for a placement within the preference categories and identified no suitable and available placement within the categories.
  4. In determining the suitability of a family, the social worker evaluates the family in accordance with the social, economic, and cultural standards prevailing in the Indian community:
    1. In which the child's parent(s) or extended family members reside; or
    2. With which the parent(s) or extended family members maintain social or cultural ties.
  5. The social worker is unable to place the child in accordance with the placement preferences due to emergency circumstances.
2. When the social worker places an Indian child in a placement outside the preference categories due to the above circumstances, the social worker, in consultation with the social services program of the child's Tribe or LICWAC, if the Tribe is unavailable:
  1. Continues to diligently seek a suitable placement within the preference categories; and
  2. Places the child within the preference categories at the earliest possible time.

## 11.405 Parental and Child Placement Preferences

The social worker follows the requirements of Chapter 07, section 07.40, in considering parental or child preferences regarding placement of a Canadian First Nations or Recognized Indian Child.

## 11.406 Documenting Reasons for Placement Choice

For each foster care placement, the social worker documents in the ICW section of the child's service record:

1. **Active efforts** made to comply with the placement preference requirements of this chapter. The social worker documents in the service record the homes contacted in the course of compliance efforts, including the names and addresses of extended family members and of tribally approved homes contacted.
2. Reasons for not choosing an available home of a higher placement preference than the home of lesser preference chosen for placement.

3. If the social worker does not place siblings together, the reasons justifying separation of siblings and the steps taken to maintain the sibling relationship following placement.

## 11.407 Change of Foster Care Placement

1. Using the *Notice of Placement Change*, DSHS 09-760, the social worker notifies the child's Tribe and, if parental rights have not been terminated, the parent(s) whenever the social worker decides to change the foster care placement of a Canadian First Nations or Recognized Indian Child.
2. When the social worker changes the child's foster placement, the worker must place with a new care provider in accordance with the placement preference requirements of this chapter.
3. If the social worker moves the child from a relative placement to a non-relative placement, the social worker follows the requirements of section 11.403 regarding notice to the child's extended family, using the *Notice of Placement Change*, DSHS 09-760.

## 11.408 Thirty-Day Individual Service and Safety Plan/Administrative Review

1. On or before the 30<sup>th</sup> day following the out-of-home placement of an Indian child, the social worker consults with the social services program of the child's Tribe, if available, in developing the ISSP, revealing information as authorized in chapter 04. Thereafter, the social worker consults with the social services program of the child's Tribe in developing any ISSP updates.
2. Prior to preparing an ISSP, social study, or report to court, the social worker also follows the requirements of section 11.353.
3. When an administrative review is necessary for a case involving a Canadian First Nations or Recognized Indian Child, the social worker arranges for a review by the LICWAC. See chapter 10 for LICWAC procedures.

## 11.409 Services Following Placement

1. The social worker provides services following placement, as required below, when placing a Canadian First Nations or Recognized Indian Child in shelter care or foster care. In providing services, the social worker consults with the social services program of the child's Tribe to identify service and placement resources and to develop a case plan. If the child's Tribe is unavailable, the social worker consults with LICWAC. See chapter 10 regarding LICWAC procedures.
2. **Shelter Care**
  1. Following the placement of a Canadian First Nations or Recognized Indian Child in shelter care, the social worker provides reasonably available remedial and rehabilitative programs designed to safely return the child to the custody of the child's parent(s).
  2. Such remedial and rehabilitative programs must focus on eliminating the problems that necessitated the child's placement and reducing the risk to the child of abuse or neglect if returned to the custody of the parent(s).
3. **Foster Care - Parental Rights Not Terminated**
  1. When a Canadian First Nations or Recognized Indian Child has been placed in foster care and parental rights have not been terminated, the social worker actively provides reasonably available remedial and rehabilitative programs designed to safely and appropriately return the child to the custody of the parent(s).
  2. The social worker provides remedial and rehabilitative services designed to:
    1. Address and eliminate problems that necessitated the child's placement; and

2. Take into account the prevailing social and cultural conditions in the child's Indian community.
3. At a minimum, the plan includes services for the family ordered by the juvenile court, as well as the other appropriate services the agency is able and willing to provide.
4. The social worker develops the plan with the direct collaboration of:
  1. The parent/Indian custodian.
  2. The child, if of sufficient age.
  3. Grandparents, when appropriate.
  4. The child's Tribe or the LICWAC, if the child's Tribe is unavailable.
5. The plan encourages maintenance of an ongoing familial relationship and maximum visitation between the parent(s) and the child, as well as between the child, the child's siblings, and other members of the child's extended family.
6. When safe and appropriate, visitation takes place in the home of the parent(s), home of other family members or a non-institutional setting permitting the child and the visitors to have natural and unsupervised interaction.
7. The plan stresses the use and involvement, where available, of community services and resources specifically for Indian families. These include:
  1. Extended family members.
  2. Tribal social services.
  3. Tribal organization programs.
  4. Traditional Indian therapy administered by traditional practitioners.
  5. Where available and appropriate, individual Indian caregivers with skills to help the family.
8. The social worker provides the foster care home or facility with information on the background and special needs, if any, of the child.
9. The social worker assists the child in adjusting emotionally and psychologically to the foster care placement.
10. The social worker provides the child and/or the foster care provider with help in resolving emotional and/or behavioral problems related to placement.
11. The social worker informs the foster care provider and the child, if of sufficient age, of available services and facilitates referrals to those services.
12. Where necessary, the social worker instructs or arranges for instruction of the foster care home or facility provider in:
  1. Foster parenting skills;
  2. How to best meet the child's special needs;
  3. How to best assist the child's adjustment to foster care;
  4. How to best meet the child's cultural needs.
13. The social worker complies with the requirements in the *CA Practices and Procedures Guide*, chapter 4000, section 4421, for contact with the child and foster care provider and for monitoring the child's health and safety.
14. When a child is eligible for membership in an Indian Tribe or First Nations, the social worker seeks to secure tribal membership for the child at the earliest possible time following placement.

#### 4. **Dependency Guardianship**

When the social worker believes that a dependency guardianship is the most appropriate legal permanent plan for a Canadian First Nations or Recognized Indian Child, and the juvenile court appoints a dependency guardian for the child, the social worker:

1. Assists the child and the dependency guardian in adjusting emotionally and psychologically to the dependency guardianship.
2. Offers other foster care support and services as may be appropriate.
3. CA does not require that the social worker regularly monitor the placement in the dependency guardian's home unless supervision is necessary or appropriate under the circumstances of a particular case and as provided in the order appointing the dependency guardian.

## 5. Parental Rights Terminated

1. When an Canadian First Nations or Recognized Indian Child is in foster care following termination of parental rights, the social worker develops a plan for the child's care, custody and control consistent with:
  1. The best interests of the child;
  2. Any special needs of the child; and
  3. The culture and customs of the child's Indian community.
2. The social worker develops the plan with direct collaboration of:
  1. The child, if of sufficient age;
  2. Members of the child's extended family, when possible and appropriate;
  3. The child's Tribe or LICWAC, if the child's Tribe is unavailable. See Chapter 10 regarding LICWAC procedures.
3. The principal focus of the plan is to identify the most suitable permanent living arrangement for the child. Unless the social worker, in consultation with the child's Tribe or the LICWAC, if the child's Tribe is unavailable, identifies and documents compelling reasons to the contrary, the social worker must search for an appropriate adoptive placement.
4. The plan encourages maintenance of an ongoing familial relationship between the child, the child's siblings, and other members of the child's extended family if safe and appropriate.
5. If the social worker has not identified an appropriate adoptive placement, and the child's parents' rights were terminated through voluntary relinquishment, the plan explores whether, despite the termination, return of the child to the parent(s) custody is a suitable living arrangement for the child.
  1. If the child's return to parental custody is safe and appropriate, the plan explores the remedial and rehabilitative services available to assist in return of custody of the child to the parent(s).
  2. The social worker provides the identified services to the parents with the goal of returning the child to parental custody.
  3. When appropriate or necessary, the social worker obtains a court order vacating the termination of parental rights.
  4. When the plan for the child does not include the possibility of return to parental custody, the social worker provides services to the child and foster care provider as required in this section.
6. The social worker provides the foster care provider with information on the child's background and special needs, if any.
7. The social worker assists the child and the birth parents to adjust emotionally and psychologically to the termination of parental rights. The social worker assists the child to adjust emotionally and psychologically to the placement.
8. The social worker provides the child and foster care provider with help in resolving socio-psychological problems related to placement. The social worker informs the foster care provider and the child, if of sufficient age, of available services.
9. When necessary, the social worker instructs or arranges for instruction of the foster care provider in:
  1. Foster parenting skills;
  2. How to best meet the child's special needs;
  3. How to best assist the child's adjustment to foster care;
  4. How to prepare the child for adoptive placement;
  5. How to meet the child's cultural needs.
10. The social worker complies with the requirements in the *CA Practices and Procedures Guide*, chapter 4000, section 4421, for contact with the child and foster care provider and for monitoring the child's health and safety.
11. When a child is eligible for membership in an Indian Tribe or First Nations, the social worker seeks to secure tribal membership for the child at the earliest possible time following placement.

# 11.45 ADOPTION

For adoption of an Indian child, the social worker must comply, as applicable, with the requirements of:

- A. The *CA Case Services Policy Manual*, chapter 5000, section 5800; chapter 8000, section 8300; and chapter 9000.
- B. The *CA Practices and Procedures Guide*, chapter 4000, sections 4330, 4535, and 4540; and chapter 5000, sections 5300 and 5700.
- C. For Canadian First Nations and Recognized Indian Children, the requirements of section 11.402.
- D. For Canadian First Nations and Recognized Indian Children, the requirements of the federal **Adoption and Safe Families Act (ASFA)**, [42 USC 629 – 629b and 42 USC 671a]. See the *CA Practices and Procedures Guide*, chapter 4000, section 42673, for requirements relating to these children.

## 11.451 Indian Status of Adoptive Families

1. The social worker requests that all adoptive applicants complete a copy of *Verification of American Indian Status*, DSHS 15-128(X). If an applicant indicates the applicant is Indian, the social worker requests that applicant provide documentation, as defined below.
2. The social worker considers an adoptive family to be Indian if at least one of the parents is:
  1. A member of a federally recognized Indian Tribe, including Eskimo, Aleut, or Other Alaskan Native. See Chapter 12 for a list of federally recognized Indian Tribes in the United States; or
  2. A member of a treaty First Nation, Tribe, Metis community, or a non-status Indian community from Canada; or
  3. Considered Indian by a federally or non-federally recognized Tribe or off-reservation Indian Alaska Native community organization.
3. If an applicant claiming Indian status is unable to provide documentation that the applicant meets the criteria above, the social worker consults, to assess suitability of the applicant to be an adoptive parent for a specific child, with:
  1. A representative of the Indian child's Tribe, if the social worker is considering the applicant as an adoptive placement for a specifically identified Indian child; or
  2. The LICWAC, if the child's Tribe is unavailable. See Chapter 10 regarding LICWAC procedures.
4. If the family is native but not in touch with the family's tribal culture, the social worker will arrange for training to meet the cultural needs of the child.

## 11.452 Foster Parent Adoptions

1. The child's social worker follows the procedures in sections 11.401 through 11.407 in the selection of a foster care placement for the child.
2. As part of the total evaluation in approving any foster parent adoption of a Canadian First Nations or Recognized Indian Child, the social worker:
  1. Follows the procedures in sections 11.40 through 11.405 in the selection of a foster care placement for the child.
  2. Documents in the case record the foster family's past performance and future commitment to exposing the child to the child's Indian tribal and cultural heritage.
  3. Documents the child's wishes regarding involvement in the child's Indian culture.
  4. Documents the tribal affiliation, if any, of the foster parents and the extent to which the parents are active in tribal and Indian cultural activities.

5. Documents whether the foster family is within the placement preference categories set forth in section 11.402.
  6. Documents that the social worker has followed the procedures regarding tribal or LICWAC review and approval of placement, as set forth in section 11.457.
  7. Communicates with social workers for other children placed in the home for foster care or adoption as part of the home assessment.
3. CA may not consider the foster care placement an adoptive placement until the child's Tribe has approved the plan of adoption by the foster family.

## 11.453 Placement Preferences - Adoptive Placement

For Canadian First Nations and Recognized Indian Children, it is imperative that CA social workers exert **active and diligent efforts** to immediately place such children within the following placement preferences, without discriminating against any potential placement on the basis of race, color, or national origin. See the *CA Operations Manual*, chapter 4000, section 4510, for MEPA/IEAP requirements.

1. In any adoptive placement of a Canadian First Nations or Recognized Indian Child, the social worker places the child in the following order of preference:
  1. A member of the child's extended family. See chapter 14 for the definition of "extended family."
  2. Other members of the child's Tribe.
  3. Other families of similar Indian heritage.
  4. Other Indian families.
2. For purposes of applying the above preference, CA considers a family an "Indian family" if at least one of the prospective adoptive parents is:
  1. A member of a federally recognized Indian Tribe, including Eskimo, Aleut, or other Alaska Native. See chapter 12 for a list of federally recognized Indian Tribes in the United States;
  2. A member of a treaty, First Nations, Tribe, Metis community, or a non-status Indian community from Canada; or
  3. Considered Indian by a federally or non-federally recognized Tribe or off-reservation Indian/Alaska Native community organization.
3. When applying the above placement preference, the social worker:
  1. Uses the social and cultural standards prevailing in the child's tribal or Indian community; and
  2. Gives priority to suitable adoptive families within a tribal or Indian community, with families within the child's tribal or Indian community having the first preference.
4. When applying the preferences, the social worker, whenever possible:
  1. Places the child with a suitable adoptive family that lives in the child's tribal or Indian community.
  2. Places the child in a manner assuring maximum opportunity for the child to maintain and nourish a relationship with the child's Tribe.
  3. When more than one sibling is to be placed, places siblings together or in close proximity, unless the placement would cause serious physical or emotional harm to one or more of the children.
  4. Places the child in a manner assuring maximum opportunity for maintenance of a sibling relationship.
5. The social worker does not place the child outside the preference categories, except as provided in section 11.457.
6. In exploring the suitability of families within the preference categories, the social worker informs families about the Adoption Support Program and the eligibility requirements for the program.
7. The social worker encourages and assists families to apply for Adoption Support. Only the Adoption Support program manager may determine eligibility for the program.

## 11.454 Placement by the Social Services Program of the Child's Tribe

1. The social worker uses the social services program of the child's Tribe as the primary resource to help identify and evaluate the suitability of possible preference order placements.
2. The social worker makes a written adoption placement referral to the social services program of the child's Tribe. The referral includes the information required in chapter 08, section 08.15.
3. If the social services program of the child's Tribe does not want to be involved in the adoptive placement, the social worker documents the placement referral and tribal response in the ICW section of the service record and proceeds with the adoptive placement in accordance with sections 11.457, 11.458, and 11.459.
  1. If the social services program of the child's Tribe does not respond within 30 days following receipt of an adoption placement referral, the social worker must:
    1. Follow up by telephone with the social services program; and
    2. Document the name, address, and telephone number of the person at the tribal social services program with whom the social worker speaks and the results of the conversation in the ICW section of the case file.
  2. If the social worker still receives no response from the tribal social services program, the worker sends another adoption placement referral by certified mail, return receipt requested. This referral must include an explanation of the need to proceed with an adoptive placement and that CA will identify a placement through another source if CA receives no response within 30 days.
  3. The social worker consults with LICWAC if the Tribe's social services program does not become involved in adoptive placement planning. See Chapter 10 regarding LICWAC procedures.
4. If the child's Tribe decides to undertake the task of identifying a placement and does not find a suitable placement for the child within 90 days, the social worker, in consultation with the Tribe, finds a suitable placement.
5. On request, the social worker assists the child's Tribe to identify a suitable adoptive placement for the child.

## 11.455 Direct Placement By CA Or Licensed Child Placing Agency - Diligent Search For Placement

1. The social worker conducts a **diligent search** for a suitable placement within the order of preference before considering a non-preferred placement when the child's Tribe:
  1. Notifies the social worker that it will not undertake identification of an adoptive placement; or
  2. Has been unable to identify a suitable placement for the child; or
  3. Has not responded to an adoption placement referral.
2. In conducting a **diligent search** for placement, the social worker follows the requirements of Chapter 08, section 08.25.
3. As part of a **diligent search** for placement, the social worker also provides written notification to the child's extended family as required in chapter 07, section 7.20 and section 11.403.

## 11.456 Tribal And LICWAC Consultation

1. The social worker **does not** make an adoptive placement of a Canadian First Nations or Recognized Indian Child prior to consultation with the social services program of the child's Tribe.



2. If the child's Tribe is not available for consultation, the social worker staffs the case with the LICWAC. See Chapter 10 for LICWAC procedures.

## 11.457 Placement Outside Preference Categories

1. The social worker may place a Canadian First Nations or Recognized Indian Child outside of the preference categories found in this chapter when one or a combination of the following exists:
  1. The child's Tribe or LICWAC, if the Tribe is unavailable, concurs that the child's best interests require placement with a non-Indian family or other placement not within the categories.
  2. The child has extraordinary physical or emotional needs, and the social worker cannot find a placement within the categories that can meet the child's needs.
  3. The social worker has completed and documented a **diligent search** for a placement within the preference categories, and no suitable placement within the categories is available.
  4. In determining the suitability of a family, the social worker evaluates the family in accordance with the social, economic, and cultural standards prevailing in the Indian community:
    1. In which the child's parent(s) or extended family members reside; or
    2. With which the parent(s) or extended family members maintain social or cultural ties.

## 11.458 Parental and Child Adoption Placement Preferences

The social worker follows the requirements of chapter 08, section 08.35, in considering parental or child placement preferences regarding placement of a Canadian First Nations or Recognized Indian Child.

## 11.459 Documentation of Selection of an Adoptive Placement

1. When the social worker, in accordance with regional procedures, selects an adoptive placement, the social worker documents in the ICW section of the child's service record:
  1. Efforts made to comply with the placement preferences.
  2. The bases for the adoptive placement decision.
  3. If siblings are not placed together, the reasons justifying separation of the siblings and the steps taken to maintain the sibling relationship following placement.
2. The social worker documents in the ICW section of the service record the homes contacted in the course of compliance efforts, including the names and addresses of extended family members and of tribally approved homes contacted.

## 11.4510 Services Following Placement - Adoptive Placement

1. The social worker provides services following placement, as required below, when the worker places a Canadian First Nations or Recognized Indian Child for adoption. In providing services, the social worker consults with the social services program of the child's Tribe. If the child's Tribe is unavailable, the social worker consults with LICWAC.

2. When CA places an Indian child eligible for membership in an Indian Tribe or First Nations for adoption, the social worker must make and document **active efforts** to secure membership for the child prior to entry of a final decree of adoption.
3. When CA places a Canadian First Nations or Recognized Indian Child for adoption, until entry of a final decree of adoption, the social worker regularly evaluates the overall suitability of the placement and monitors the placement as required in the *CA Practices and Procedures Guide*.
4. The social worker assists the child and the prospective adoptive parents and, in the case of a voluntary consent to adoption, the birth parents to adjust emotionally and psychologically to the adoptive placement.
5. The social worker provides the prospective adoptive parents with information on the background and special needs, if any, of the child. The social worker must gather information and share it with the adoptive parents in accordance with:
  1. The *CA Case Services Policy Manual*, chapter 4000, section 45403, and chapter 5000, section 5840; and
  2. The *CA Practices and Procedures Guide*, chapter 5000, section 5361.
6. The social worker instructs or arranges for instruction of the prospective adoptive parents in:
  1. How to best meet the child's special needs;
  2. How to best assist the child's adjustment to the adoptive placement;and
  3. How to meet the cultural needs of the child.
7. The social worker provides training to the prospective adoptive parents in inter-cultural or special needs parenting skills when an Indian child is the first child of the prospective adoptive parents.

## **11.4511 Agency Consent To Adoption**

1. When CA or a licensed or certified child care agency has permanent custody of an Indian child following termination of parental rights, the social worker consults with the child's Tribe in decisions about whether the agency should consent to the child's adoption. The social worker requests that the Tribe provide the recommendation in writing.
2. If the child's Tribe is unavailable, the social worker consults with LICWAC. See Chapter 10 for LICWAC procedures.

## **11.4512 Release Of Birth Record Information To The Child's Tribe**

1. Prior to the entry of a final decree of adoption, the social worker provides the child's Tribe with a copy of the Canadian or Recognized Indian Child 's original birth certificate.
2. If the child's Tribe intervened as a party in the adoption proceeding, the social worker provides the Tribe a copy of the final decree of adoption, a copy of the child's amended birth certificate, and other records of the proceedings as the Tribe may request.
3. If the child's Tribe has not intervened as a party in the adoption proceeding, the social worker obtains a court order authorizing the release of copies of such documents and records prior to providing the copies to the child's Tribe.

## **11.4513 Parental Withdrawal of Consent to Relinquishment /Termination or Adoption**

1. The parent(s) of a Canadian First Nations or Unenrollable Indian Child may withdraw the parent's consent to relinquishment /termination or adoption at any time before entry of an order terminating parental rights.
2. If a parent withdraws a voluntary consent prior to entry of a termination order, the social worker follows the requirements of section 11.305.

## **12.0 Tribal and Bureau of Indian Affairs Information**

### **12.01 INTRODUCTION**

This chapter contains the most frequently used addresses for giving notice to Indian Tribes and the Department of the Interior, Bureau of Indian Affairs (BIA).

## **12.05 ADDRESSES FOR FEDERALLY RECOGNIZED TRIBES IN WASHINGTON STATE**

### **CHEHALIS CONFEDERATED TRIBES**

Indian Child Welfare

P.O. Box 536

Oakville, WA 98568

(360) 273-5911

### **COLVILLE CONFEDERATED TRIBES**

Indian Child Welfare

P.O. Box 150

Nespelem, WA 99155

(509) 634-4711

### **COWLITZ TRIBE\***

Indian Child Welfare

P. O. Box 2547

Longview, WA 98632

(360) 577-8140

\*BIA recognized but appeal pending.

**HOH TRIBE**

Indian Child Welfare Matter

2464 Lower Hoh Road

Forks, WA 98331

(360) 374-6582

**JAMESTOWN BAND OF S'KLALLAM INDIANS**

Indian Child Welfare

1033 Old Blyn Highway

Sequim, WA 98382

(360) 683-1109

**KALISPEL TRIBE**

Indian Child Welfare

P.O. Box 39

Usk, WA 99180

(509) 445-1147

**LOWER ELWHA KLALLAM TRIBE**

Indian Child Welfare

2851 Lower Elwha Rd.

Pt. Angeles, WA 98362-0298

(360) 452-8471

**LUMMI NATION**

Indian Child Welfare

P.O. Box 1024

Ferndale, WA 98248

(360) 384-2324

**MAKAH TRIBE**

Indian Child Welfare

P.O. Box 115

Neah Bay, WA 98357

(360) 645-2201

**MUCKLESHOOT TRIBE**

Indian Child Welfare

39015 172nd Ave. S.E.

Auburn, WA 98092

(253) 939-3311

**NISQUALLY TRIBE**

Indian Child Welfare

4820 She-Nah-Num Dr., S.E.

Olympia, WA 98513

(360) 456-5221

**NOOKSACK TRIBE**

Indian Child Welfare Matter

P.O. Box 157

Deming, WA 98244

(360) 592-5176

**PORT GAMBLE S'KLALLAM TRIBE**

Judicial Office

Indian Child Welfare

31912 Little Boston Rd NE

Kingston, WA 98346

(360) 297-2646

**PUYALLUP TRIBE**

Indian Child Welfare

2002 E 28th. St.

Tacoma, WA 98404

(253) 573-7800

**QUILEUTE TRIBE**

Indian Child Welfare

P.O. Box 69

LaPush, WA 98350

(360) 374-6163

**QUINAULT NATION**

Indian Child Welfare

P.O. Box 189

Taholah, WA 98241

(360) 276-8211

**SAMISH NATION**

Indian Child Welfare

P.O. Box 217

Anacortes, WA 98221

(360) 293-6404

**SAUK-SUIATTLE TRIBE**

Indian Child Welfare

5318 Chief Brown Lane

Darrington, WA 98241

(360) 436-0131

**SHOALWATER BAY TRIBE**

Indian Child Welfare

P.O. Box 130

Tokeland, WA 98590

(360) 267-6766

**SKOKOMISH TRIBE**

Office of Reservation Council

Indian Child Welfare

N 80 Tribal Center Rd.

Shelton, WA 98584

(360) 426-4232

**SNOQUALMIE TRIBE**

Indian Child Welfare Matter

P. O. Box 670

Fall City, WA 98024

(425) 222-6900

**SPOKANE TRIBE**

Indian Child Welfare

P.O. Box 84

Wellpinit, WA 99040

(509) 258-4581

**SQUAXIN ISLAND TRIBE**

Indian Child Welfare

S.E. 70 Squaxin Lane

Shelton, WA 98584

(360) 426-9781

**STILLAGUAMISH TRIBE**

Indian Child Welfare

P. O. Box 277

Arlington, WA 98223

(360) 652-7362

**SUQUAMISH TRIBE**

Indian Child Welfare

P.O. Box 498

Suquamish, WA 98392

(206) 598-3311

**SWINOMISH TRIBE**

Child Welfare Committee

P. O. Box 388

LaConner, WA 98257

(360) 466-3163

**THE TULALIP TRIBES**

Indian Child Welfare

6700 Totem Beach Road

Marysville, WA 98271

(360) 651-4000

**UPPER SKAGIT TRIBE**

Indian Child Welfare

25944 Community Plaza

Sedro Woolley, WA 98284



(360) 856-5501

**YAKAMA NATION**

Indian Child Welfare

P.O. Box 151

Toppenish, WA 98948

(509) 865-5121

## **12.10 ADDRESSES FOR NON-FEDERALLY RECOGNIZED TRIBES IN WASHINGTON STATE**

**CHINOOK TRIBE\***

Indian Child Welfare

P.O. Box 228

Chinook, WA 98614

(360) 777-8303

**DUWAMISH TRIBE\***

Indian Child Welfare

4928 Cooper Point Road #3

Olympia, WA 98502

**KIKIALLUS INDIAN NATION**

Indian Child Welfare

3933 Bagley Avenue North

Seattle, WA 98103

**MARIETTA BAND OF NOOKSACK INDIANS**

Indian Child Welfare

1827 Marine Dr.

Bellingham, WA 98226

**SNOQUALMOO TRIBE**

ICWM

P.O. Box 463

Coupeville, WA 98239

(360) 221-8301

**SNOHOMISH TRIBE**

Indian Child Welfare

144 Railroad Ave.

Suite 201

Edmonds, WA 98020

**STEILACOOM TRIBE\***

Indian Child Welfare

P.O. Box 88419

Steilacoom, WA 98388

(253) 584-6308

\*Tribe has an application for federal recognition before the BIA.

## **12.15 WASHINGTON STATE INDIAN ORGANIZATIONS**

**ABORIGINAL SWINOMISH TRIBE**

Indian Child Welfare

P. O. Box 305

LaConner, WA 98257

**AMERICAN INDIAN CENTER**

East 905 3 rd Avenue

Spokane, WA 99202

(509) 535-0886

Fax 534-7210

**THE NATIVE PROJECT**

W 1803 Maxwell

Spokane, WA 99201

(509) 325-5502

Fax 325-9839

**SAN JUAN INDIAN TRIBE**

Indian Child Welfare

P. O. Box 202

Friday Harbor, WA 98250

**SMALL TRIBES ORGANIZATION OF WESTERN WASHINGTON**

3040 96 TH Street South

Tacoma, WA 98409

(253) 589-7101

Fax 589-7117

**SOUTH PUGET SOUND INTERTRIBAL PLANNING AGENCY**

SE 2750 Old Olympic Highway

Shelton, WA 98584

(360) 426-3990

Fax 427-8003

**UNITED INDIANS OF ALL TRIBES**

P. O. Box 99100

Seattle, WA 98199

(206) 285-4425

Fax 282-3640

## **12.20 BUREAU OF INDIAN AFFAIRS ADDRESSES**

Colville Agency

P. O. Box 111

Nespelem, WA 99155

Telephone: (509) 634-4901

Peninsula Area Agency

P. O. Box 120

Hoquiam, WA 98550

Telephone: (206) 533-9101

Bureau of Indian Affairs

Portland Area X Office

911 NE 11th Ave.

Portland, OR 97232

Telephone: (503) 231-6783

Puget Sound Agency

3006 Colby Avenue

Everett, WA 98201

Telephone: (206) 258-2651

Spokane Agency

P.O. Box 389

Wellpinit, WA 99040

Telephone: (509) 258-4561

Yakama Agency

POB 632

Toppenish, WA 98948

Telephone: (509) 865-2255

If the social worker cannot identify the BIA office that services the child's Tribe, the social worker should request consultation from the LICWAC.

Following is the web site address for the BIA. It may be used to contact the BIA directly to obtain information regarding Tribes and tribal addresses.

[www.doi.gov/bureau-indian-affairs.html](http://www.doi.gov/bureau-indian-affairs.html)

Following is the BIA website that contains BIA regional and area office addresses as well as federally recognized Tribes' addresses and Tribal Chairpersons:

[www.doi.gov/bureau-indian-affairs.html](http://www.doi.gov/bureau-indian-affairs.html)

## **12.25 ALPHABETICAL LISTING OF FEDERALLY RECOGNIZED INDIAN TRIBES OTHER THAN ALASKAN**

Created on:  
Aug 18 2014

### **ALABAMA AND COUSHATTA TRIBES OF TEXAS**

#### **APACHE**

- Apache Tribe of Oklahoma
- Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
- Ft. McDowell Mohave-Apache Indian Community, Fort McDowell Band of Mojave-Apache Indians of the Fort McDowell Indian Reservation, Arizona
- Ft. Sill Apache Tribe of Oklahoma
- Jicarilla Apache of the Jicarilla Apache Reservation, New Mexico
- Mescalero Apache of the Mescalero Apache Reservation, New Mexico
- San Carlos Apache of the San Carlos Reservation of Arizona
- Tonto Apache Tribe of Arizona
- White Mountain Apache of the Fort Apache Reservation, Arizona

#### **ARAPAHO**

- Arapaho Tribe of the Wind River Reservation, Wyoming
- Cheyenne-Arapaho Tribe of Oklahoma

## **ASSINIBOINE-SIOUX**

- Assiniboine-Sioux of the Ft. Peck Reservation, Montana
- Ft. Belknap Indian Community of the Ft. Belknap Reservation, Montana

## **BANNOCK (SHOSHONE-BANNOCK)**

- Shoshone-Bannock Tribe of Ft. Hall Reservation of Idaho

## **BARONA**

- Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California
- Viejas (Baron Long) - Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California

## **BILOXI**

- Tunica-Biloxi of the Blackfeet Indian Reservation of Montana

## **BLUE LAKE**

- Blue Lake Rancheria of California

## **CADDO**

- Caddo Indian Tribe of Oklahoma

## **CAHTO (Also see Pomo)**

- Cahto Indian Tribe of the Laytonville Rancheria, California

## **CAHUILLA**

- Agua Caliente Band of Cahuilla Indians of the Auga Caliente Indian Reservation, Palm Springs, California
- Augustine Band of Cahuilla Mission of the Augustine Reservation, California
- Cabazon Band of Mission Indians of the Cahuilla Reservation, California
- Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California
- Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California
- California Ramona Band or Village of Cahuilla Mission Indians of California
- Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California
- Torres-Martinez Band of Cahuilla Mission Indians of the Torres-Martinez Reservation, California
- Cahuilla Band of Mission Indians of the Cahuilla Reservation, California

## **CAYUGA**

- Cayuga Nation of New York
- Seneca-Cayuga Tribe of Oklahoma

## **CHEHALIS**

- Confederated Tribes of the Chehalis Reservation, Washington

## **CHEMEHUEVI**

- Chemehuevi Indian Tribe of the Chemehuevi Reservation, California

## **CHEROKEE**

- Cherokee Nation of Oklahoma
- Eastern Band of Cherokee Indians of North Carolina
- United Keetoowah Band of Cherokee Indians, Oklahoma

## **CHEYENNE**

- Cheyenne-Arapaho Tribes of Oklahoma
- Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana

## **CHICKASAW**

- Chickasaw Nation of Oklahoma

## **CHIPPEWA**

- Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
- Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan
- Chippewa-Cree Indian of the Rocky Boy Reservation, Montana

## **CHIPPEWA**

- Grand Traverse Band of Ottawa & Chippewa Indians of Michigan
- Keweenaw Bay Indian Community of L'Anse Lac Vieux Desert and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin
- Minnesota Chippewa Tribe (Six component reservations), Minnesota
  - Boise Fort Band (Nett Lake)
  - Fond du Lac Band
  - Grand Portage Band
  - Leech Lake Band
  - Mille Lac Band
  - White Earth Band
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Red Cliff Reservation, Wisconsin
- Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota
- Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Michigan
- Sault Ste. Marie Tribe of Chippewa Indians of Michigan
- Sokoagon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin
- Turtle Mountain Band of Chippewa Indians, Turtle Mountain Indian Reservation, North Dakota
- Lac Du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
- St. Croix Chippewa Indians - Wisconsin, St. Croix Reservation

## **CHITIMACHA**

- Chitimacha Tribe of Louisiana

## **CHOCTAW**

- Choctaw Nation of Oklahoma
- Mississippi Band of Choctaw, Mississippi

## **CHUKCHANSI**

- Picayune Rancheria of Chukchansi Indians of California

## **CHUMASH**

- Santa Ynez Band of Chumash Mission Indians of the Santa Ysabel Reservation, California

## **CLALLAM (also spelled S'Klallam)**

- Jamestown Band of Clallam Indians of Washington
- Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington
- Port Gamble Indian Community, Port Gamble Band of Clallam Indians, Port Gamble Reservation, Washington

## **COCOPAH**

- Cocopah Tribe of Arizona

## **COEUR D'ALENE**

- Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho

## **COLORADO RIVER**

- Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California

## **COLVILLE**

- Confederated Tribes of the Colville Reservation, Washington

## **COMANCHE**

- Comanche Indian Tribe of Oklahoma

## **COOS**

- The Confederated Tribes of Coos, Lower Umpqua, and Suislaw Indians of Oregon

## **COQUILLE**

- Coquille Tribe of Oregon



## **COUSHATTA**

- Coushatta Tribe of Louisiana

## **COVELO**

- Covelo Indian Community of the Round Valley Reservation, California

## **COW CREEK**

- See Umpqua Indians

## **CREE**

- Chippewa-Cree Indians of the Rocky Boy Reservation, Montana

## **CREEK**

- Alabama-Quassarte Tribal Town of the Creek Nation of Indians of Oklahoma
- Creek Nation of Oklahoma
- Kialegee Tribal Town of the Creek Indian Nation of Oklahoma
- Thlopthlocco Tribal Town of the Creek Indian of Oklahoma
- Poarch Band of Creek Indians of Alabama

## **CROW**

- Crow Tribe of Montana

## **DELAWARE**

- Delaware Tribe of Western Oklahoma, Oklahoma

## **DIEGUENO**

- Barona Capitan Grande Band of Diegueno Mission Indians of the Barona Reservation, California
- Camp Band of Diegueno Mission Indians of the Camp Indian Reservation, California
- Capitan Grande Band of Diegueno Mission Indians of the Capitan Grande Reservation, California
- Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California
- Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
- La Posta Band of Diegueno Mission Indians of the La Posta Reservation, California
- Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
- Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
- San Pasqual Band of Diegueno Mission Indians of the San Pasqual Reservation, California
- Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California
- Sycuan Band of Diegueno Mission Indians of the Sycuan Reservation, California
- Viejas Baron Long Capitan Grande Band of Diegueno Mission Indians of the Viejas Reservation, California
- **GUIDIVILLE**
- Guidiville Rancheria of California

## **FLATHEAD**

· See Salish-Kootenai

## **GOSHUTE**

- Confederated Tribes of the Goshute Reservation, Nevada
- Skull Valley Band of the Goshute Indians of Utah

## **GRAND RONDE**

- Confederated Tribes of the Grand Ronde Community of Oregon

## **GROS VENTRE**

- Ft. Belknap Indian Community of the Ft. Belknap Reservation of Montana
- Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

## **HAVASUPAI**

- Havasupai Tribe of Havasupai Reservation, Arizona

## **HIDATSA**

- Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

## **HOH**

- Hoh Indian Tribe of the Hoh Reservation, Washington

## **HOOPA (aka HUPA)**

- Hoopa Valley Tribe of the Hoopa Valley Reservation, California

## **HOPI**

- Hopi Tribe of Arizona

## **HUALAPAI**

- Hualapai Tribe of the Hualapai Indian Reservation, Arizona

## **IOWA**

- Iowa Tribe of the Indians of the Iowa Reservation in Nebraska and Kansas
- Iowa Tribe of Oklahoma

## **JAMUL**

- Jamul Indian Village of California

## **KALISPEL**

- Kalispel Indian Community of the Kalispel Reservation, Washington

## **KAROK**

- Karok Tribe of California
- Quartz Valley Rancheria of Karok, Shasta and Upper Klamath Indians of California

## **KAW**

- Kaw Indian Tribe of Oklahoma

## **KICKAPOO**

- Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
- Kickapoo Tribe of Oklahoma
- Kickapoo Traditional Tribe of Texas

## **KIOWA**

- Kiowa Indian Tribe of Oklahoma

## **KLALLUM (see Clallam)**

## **KLAMATH**

- Klamath Tribe of Oregon
- Quartz Valley Rancheria of Karok, Shasta, and Upper Klamath Indians of California

## **KOOTENAI**

- Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
- Kootenai Tribe of Idaho

## **LUISENO**

- La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation, California
- Pala Band of Luiseno Mission Indians of the Pala Reservation, California
- Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
- Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
- Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
- Soboba Band of Luiseno Mission Indians of the Soboba Reservation, California
- Twenty-Nine Palms Band of Luiseno Mission Indians of the Twenty-Nine Palms Reservation, California

## **LUMMI**

- Lummi Tribe of the Lummi Reservation, Washington

## **LYTTON**

- Lytton Rancheria of California

## **MAIDU**

- Berry Creek Rancheria of Maidu Indians of California
- Covelo Indian Community of the Round Valley Reservation, California
- Enterprise Rancheria of Maidu Indians of California
- Greenville Rancheria of Maidu Indians of California
- Mooretown Rancheria of Maidu Indians
- Susanville Indian Rancheria of Paiute, Maidu, Pit River, & Washoe Indians of California

## **MAKAH**

- Makah Indian Tribe of the Makah Indian Reservation, Washington

## **MALISEET**

- Houlton Band of Maliseet Indians of Maine

## **MANDAN**

- Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota

## **MARICOPA**

- AK Chin Indian Community of Papago Indians of Maricopa, AK Chin Reservation, Arizona
- Gila River Pima-Maricopa Indian Community of the Gila River Indian Reservation of Arizona
- Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona

## **MATTOLE**

- Rohnerville Rancheria of Bear River or Mattole Indians of California

## **MECHOOPDA**

- Mechoopda Indian Tribe of Chico Rancheria California
- **MENOMINEE**
- Menominee Indian Tribe of Wisconsin, Menominee Indian Reservation, Wisconsin

## **ME-WUK**

- Miami Tribe of Oklahoma
- Buena Vista Rancheria of Me-Wuk Indians of California

## **MICCOSUKEE**

- Miccosukee Tribe of Indians of Florida

## **MICMAC**

- Aroostook Band of Micmac Indians of Maine

## **MIWOK (ME-WUK)**

- Buena Vista Rancheria of Me-wuk Indians of California
- Cher-Ae Heights Indian Community of the Trinidad Rancheria of California
- Chicken Ranch Rancheria of Me-wuk Indians of California
- Jackson Rancheria of Me-Wuk Indians of California
- Sheep Ranch Rancheria of Me-Wuk Indians of California
- Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
- Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California

## **MODOC**

- Modoc Tribe of Oklahoma (Some members of Oregon's Klamath Tribe are also Modoc.)

## **MOHAWK**

- St. Regis Band of Mohawk Indians of New York

## **MOHICAN**

- Stockbridge-Munsee Community of Mohican Indians of Wisconsin

## **MOJAVE (MOHAVE)**

- Fort McDowell Mohave-Apache Indian Community, Fort McDowell Band of Mohave-Apache Indians of the Fort McDowell Indian Reservation, Arizona
- Fort Mohave Indian Tribe of Arizona, California & Nevada

## **MONO**

- Big Sandy Rancheria of Mono Indians of California
- Cold Springs Rancheria of Mono Indians of California
- Northfork Rancheria of Mono Indians of California

## **MUCKLESHOOT**

- Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington

## **NARRAGANSETT**

- Narragansett Indian Tribe of Rhode Island

## **NAVAJO**

- Navajo Tribe of Arizona, New Mexico, and Utah

## **NEZ PERCE**

- Nez Perce Tribe of Idaho, Nez Perce Reservation, Idaho

## **NISQUALLY**

- Nisqually Indian Community of the Nisqually Reservation, Washington

## **NOOKSAK**

- Nooksack Indian Tribe of Washington

## **OMAHA**

- Omaha Tribe of Nebraska

## **ONEIDA**

- Oneida Nation of New York
- Oneida Tribe of Indians of Wisconsin, Oneida Reservation, Wisconsin

## **ONONDAGA**

- Onondaga Nation of New York

## **OSAGE**

- Osage Tribe of Oklahoma

## **OTOE-MISSOURIA**

- Otoe-Missouria of Oklahoma

## **OTTAWA**

- Grand Traverse Band of Ottawa and Chippewa Indians of Michigan
- Ottawa Tribe of Oklahoma

## **PAIUTE**

- Big Pine Band of Owens Valley Paiute Shoshone Indians, Big Pine Reservation, California
- Bridgeport Paiute Indian Colony of California
- Burns Paiute Indian Colony, Oregon
- Cedarville Rancheria of Northern Paiute Indians of California
- Confederated Tribes of the Warm Springs Reservation, Oregon
- Fort Bidwell Indian Community of Paiute Indians of the Fort Bidwell Reservation, California
- Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
- Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada

## **PAIUTE**

- Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
- Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
- Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
- Moapa Band of Paiute Indians of Moapa River Reservation, Nevada
- Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
- Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
- Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California

- Paiute Indian Tribe of Utah
  - Cedar City
  - Indian Peaks
  - Knosh
  - Koosharen
  - Shivwite
- Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
- Reno-Sparks Indian Colony, Nevada
- San Juan Southern Paiute Tribe of Arizona
- Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Summit Lake Paiute Tribe of the Summit Lake Reservation, Nevada
- Susanville Indian Rancheria of Paiute, Maidu Pit River, and Washoe Indians of California
- Utu Utu Gwaiti Paiute Tribe of the Walker River Reservation, Nevada

## **PAIUTE**

- Walker River Paiute Tribe of the Walker River Reservation, Nevada
- Winnemucca Indian Colony of Nevada
- Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch, Nevada

## **PAPAGO**

- Ak Chin Indian Community of Papago Indians of the Maricopa, Ak Chin Reservation, Arizona
- Papago Tribe of the Sells, Gila Bend, and San Xavier Reservation, Arizona

## **PASCUA YAQUI**

- Pascua Yaqui Tribe of Arizona

## **PASSAMAQUODDY**

- Passamaquoddy Tribe of Maine

## **PAWNEE**

- Pawnee Indian Tribe of Oklahoma

## **PENOBSCOT**

- Penobscot Tribe of Maine

## **PEORIA**

- Peoria Tribe of Oklahoma

## **PEQUOT**

- Mashantucket Pequot Tribe of Connecticut

## **PIMA**

- Gila River Pima-Maricopa Indian Community of the Gila River Indian Reservation of Arizona
- Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona

## **PIT RIVER**

- Alturas Indian Rancheria of Pit River Indians of California
- Big Bend Rancheria of Pit River Indians of California
- Big Valley Rancheria of Pomo and Pit River Indians of California
- Lookout Rancheria of Pit River Indians of California
- Montgomery Creek Rancheria of Pit River Indians of California
- Pit River Indian Tribe of the X-L Ranch, California
- Roaring Creek Rancheria of Pit River Indians of California
- Susanville Indian Rancheria of Paiute, Maidu, Pit River, and Washoe Indians of California

## **POMO**

- Cahto Indian Tribe of the Laytonville Rancheria, California
- Cloverdale Rancheria of Pomo Indians, California
- Coyote Valley Band of Pomo Indians, California
- Dry Creek Rancheria of Pomo Indians of California
- Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
- Hopland Band of Pomo Indians of the Hopland Rancheria, California
- Kashia Band of Pomo Indians of the Stewart's Point Rancheria, California
- Manchester Band of Pomo of the Manchester Pt. Arena Rancheria, California
- Middletown Rancheria of Pomo Indians of California
- Pinoleville Rancheria of Pomo Indians of California
- Potter Valley Rancheria of Pomo Indians of California
- Redding Rancheria of Pomo Indians of California
- Redwood Valley Rancheria of Pomo Indians of California
- Robinson Rancheria of Pomo Indians of California
- Scotts Valley Band of Pomo Indians of California
- Sherwood Valley Rancheria of Pomo Indians of California
- Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California

## **PONCA**

- Ponca Tribe of Indians of Oklahoma

## **PORT GAMBLE**

- Port Gamble Klallam Indian Tribe, Washington

## **POTAWATOMI**

- Citizen Band of Potawatomi Indians of Oklahoma
- Forest County Potawatomi Community of Wisconsin Indians of Michigan
- Hannahville Indian Community of Wisconsin Potawatomi Indians of Michigan
- Prairie Band of Potawatomi Indians of Kansas

## **PUEBLO**

- Pueblo of Acoma, New Mexico



- Pueblo of Cochiti, New Mexico
- Pueblo of Jemez, New Mexico
- Pueblo of Isleta, New Mexico
- Pueblo of Laguna, New Mexico
- Pueblo of Namebe, New Mexico
- Pueblo of Picuris, New Mexico
- Pueblo of Pojoaque, New Mexico
- Pueblo of San Felipe, New Mexico
- Pueblo of San Ildefonso, New Mexico
- Pueblo of San Juan, New Mexico

## **PUEBLO**

- Pueblo of Sandia, New Mexico
- Pueblo of Santa Ana, New Mexico
- Pueblo of Santa Clara, New Mexico
- Pueblo of Santo Domingo, New Mexico
- Pueblo of Taos, New Mexico
- Pueblo of Tesuque, New Mexico
- Pueblo of Zia, New Mexico

## **PUYALLUP**

- Puyallup Tribe of the Puyallup Reservation, Washington

## **QUAPAW**

- Quapaw Tribe of Oklahoma

## **QUECHAN (YUMA)**

- Quechan Tribe of the Fort Yuma Reservation, California

## **QUILEUTE**

- Quileute Tribe of Quileute, Washington

## **QUINAULT**

- Quinault Tribe of the Quinault Reservation, Washington

## **SAC & FOX**

- Sac & Fox Tribe of Mississippi and Iowa
- Sac & Fox Tribe of Missouri of the Sac & Fox Reservation, Kansas and Nebraska
- Sac & Fox Tribe of Indians of Oklahoma

## **SALISH**

- Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana

## **SANTA ROSA**

- Santa Rosa Indian Community of the Santa Rosa Rancheria of California

## **SAUK-SUIATTLE**

- Sauk-Suiattle Tribe of Washington

## **SEMINOLE**

- Seminole Nation of Oklahoma
- Seminole Tribe of Florida, Dania, Big Cypress, and Brighton Reservations, Florida

## **SENECA**

- Seneca Nation of New York
- Seneca-Cayuga Tribe of Oklahoma
- Tonawanda Band of Seneca Indians of New York

## **SERRANO**

- San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California

## **SHAWNEE**

- Absentee Shawnee of Oklahoma
- Eastern Shawnee Tribe of Oklahoma

## **SHOALWATER**

- Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington

## **SHOSHONE**

- Big Pine Band of Owens Valley Paiute-Shoshone Indians of the Big Pine Reservation, California
- Death Valley Timbi-Sha Shoshone Band of California
- Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
- Ely Indian Colony of Nevada
- Fort McDermitt Paiute-Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada
- Northwestern Band of Shoshone Indians of Utah (Washakie)
- Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
- Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
- Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
- Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho
- Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Shoshone Tribe of Wind River Reservation, Wyoming
- Te-Moak Bands of Western Shoshone Indians of the Battle Mountain, Elko, and South Fort Colonies of Nevada

## **SILETZ**

- Confederated Tribes of the Siletz Reservation, Oregon

## **SIOUX**

- Asinniboine and Sioux Band of the Fort Peck Reservation, Montana
- Cheyenne River Sioux of the Cheyenne River Reservation, South Dakota
- Crow Creek Sioux Band of the Crow Creek Reservation, South Dakota
- Devils Lake Sioux Band of the Devils Lake Sioux Reservation, North Dakota

## **SIOUX**

- Flandreau Santee Sioux Band of South Dakota
- Lower Brule Sioux Band of the Lower Brule Reservation, South Dakota
- Lower Sioux Indian Community of the Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota
- Oglala Sioux of the Pine Ridge Reservation, South Dakota
- Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota
- Sioux Indians of the Lower Sioux Reservation, Minnesota
- Sioux Indians of the Prairie Island Reservation, Minnesota
- Rosebud Sioux Band of the Rosebud Indian Reservation, South Dakota
- Santee Sioux Band of the Santee Reservation of Nebraska
- Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake)
- Sisseton-Wahpeton Sioux Band of the Standing Rock Reservation, North and South Dakota
- Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota
- Yankton Sioux Band of South Dakota

## **S'KALLAM (see Clallam)**

## **SKAGIT**

- Upper Skagit Indian Tribe of Washington

## **SKOKOMISH**

- Skokomish Indian Tribe of the Skokomish Reservation, Washington

## **SMITH RIVER**

- Big Lagoon Rancheria of Smith River Indians of California
- Elk Valley Rancheria of Smith River Indians Tolowa Indians of California
- Smith River Rancheria of California

## **SNOQUALMIE INDIAN TRIBE**

- Snoqualmie Indian Tribe of Washington

## **SPOKANE**

- Spokane Tribe of the Spokane Reservation, Washington

## **SQUAXIN ISLAND**

- Squaxin Island Tribe of the Squaxin Island Reservation, Washington

## **STILLAGUAMISH**

- Stillaguamish Tribe of Washington

## **STOCKBRIDGE**

- Stockbridge-Munsee Community of Mohican Indians of Wisconsin

## **SUQUAMISH**

- Suquamish of the Port Madison Reservation, Washington

## **SWINOMISH**

- Swinomish Indians of the Swinomish Reservation, Washington

## **TACHE**

- Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California

## **THREE AFFILIATED TRIBES OF FT. BERTHOLD**

- Three Affiliated Tribes of Fort Berthold Reservation, North Dakota
  - Arikara
  - Hidatsa
  - Mandan

## **TOHONO**

- Tohono O'odham Nations of Arizona

## **TOLOWA**

- Cher-Ae Heights Indian Community of the Trinidad Rancheria of California
- Elk Valley Rancheria of Smith River Tolowa Indians of California

## **TONKAWA**

- Tonkawa Tribe of Indians of Oklahoma

## **TULALIP**

- Tulalip Tribes of the Tulalip Reservation, Washington

## **TULE RIVER**

- Tule River Indian Tribe of the Tule River Indian Reservation, California

## **TUNICA**

- Tunica-Biloxi Indian Tribe of Louisiana

## **TUSCARORA**

- Tuscarora Nation of New York

## **UMATILLA**

- Confederated Tribes of the Umatilla Reservation, Oregon

## **UMPQUA**

- Cow Creek Band of Umpqua Indians of Oregon
- The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians of Oregon

## **UTE**

- Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
- Ute Indian Tribe of the Uintah and Ouray Reservation, Utah
- Ute Mountain of the Ute Mountain Reservation in Colorado, New Mexico, and Utah

## **WAILAKI**

- Grindstone Indian Rancheria of Wintun-Wailaki Indians of California

## **WAMPANOAG**

- Gay Head Wampanoag Indians of Massachusetts

## **WARM SPRINGS**

- Confederated Tribes of the Warm Springs of Oregon
  - Warm Springs
  - Wasco
  - Paiute

## **WASHOE**

- Washoe Tribe of Nevada and California
  - Carson Colony, Dressierville, and Washoe Ranches
- Reno-Sparks Indian Colony, Nevada
- Susanville Indian Rancheria of Paiute, Maidu, Pit River, and Washoe Indians of California

## **WICHITA**

- Wichita and Affiliated Tribes of Oklahoma

## **WINNEBAGO**

- Winnebago Tribe of the Winnebago Reservation of Nebraska
- Wisconsin Winnebago Indian Tribe of Wisconsin

## **WINTUN**

- Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
- Cortina Indian Rancheria of Wintun Indians of California
- Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
- Rumsey Indian Rancheria of Wintun Indians of California

## **WIYOT**

- Blue Lake Rancheria of California
- Table Bluff Rancheria of Wiyot Indians of California

## **WYANDOTTE**

- Wyandotte Tribe of Oklahoma

## **YAKAMA**

- Confederated Tribes and Bands of the Yakama Nation, Yakama Reservation, Washington

## **YAQUI**

- Pascua Yaqui Tribe of Arizona

## **YAVAPAI**

- Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
- Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona

## **YOKUT**

- Table Mountain Rancheria of California
- Santa Rosa Indian Community of Santa Rosa Rancheria of California
- Ysleta Del Sur Pueblo of Texas

## **YOMBA**

- Yomba Shoshone Tribe of the Yomba Reservation Nevada

## **YUMA**

- Quechan Tribe of the Fort Yuma Indian Reservation of California

## **YUROK**

- Cher-Ae Heights Indian Community of the Trinidad Rancheria of California
- Coast Indian Community of Yurok Indians of the Resighini Rancheria, California
- Yurok Tribe of the Hoopa Valley Reservation, California

**ZUNI**

- Zuni Tribe of New Mexico

## **12.30 TRIBAL ADDRESSES IN THE UNITED STATES – BY STATE**

**ALABAMA**

<b>TRIBE</b>	<b>BIA</b>
Poarch Band of Creek Indians of Alabama 5811 Jack Springs Road Atmore, Alabama 36502 (205) 368-9136 / Fax 205/368-4502	Choctaw Agency 421 Powell Philadelphia, MS 39350

**ARIZONA**

<b>TRIBE</b>	<b>BIA</b>
Ak Chin Indian Comm. of Papago Indians of Maricopa 42507 N. Peters and Nell Rd. Maricopa, AZ 85239 (602) 568-2227 / Fax 602/254-6133	Pima Agency P. O. 8 Sacaton, Arizona 85257 (602) 562-3326 (963-7673) Fax 602/562-3543
Cocopah Tribe of Arizona Bin G. Somerton, AZ 85350 (602) 627-2102 / Fax 602/627-3173	Fort Yuma Agency P.O. Box 1591 Yuma, AR 85364 (619) 572-0248 / Fax 619/572-0895
Colorado River Indian Tribe	Colorado River Agency

<p>Rt. 1, Box 23-B Parker, AZ 85344] (602) 669-9211 / Fax 602/669-5675</p>	<p>Rt. 1, Box 9-C Parker, AZ 85844 (602) 669-7111 / Fax 602/669-7187</p>
<p>Fort McDowell Mohave-Apache P.O. Box 17779 Fountain Hills, AZ 85268 (602) 837-5121 / Fax 602/837-1630</p>	<p>Salt River Agency Rt. 1 Box 117 Scottsdale, AZ 85256 (602) 640-2842 / Fax 602/640-2809</p>
<p>Fort Mohave Indian Tribe of Arizona 500 Merriman Avenue Needles, CA 92363 (619) 326-4591 / Fax 619/326-2468</p>	<p>Colorado River Agency Rt. 1 Box 9-C Parker, AZ 85344 (602) 669-7111 / Fax 602/669-7187</p>
<p>Gila River Pima Maricopa Indian P.O. Box 97 Sacaton, AZ 85247 (602) 562-3311 / Fax 602/562-3422</p>	<p>Pima Agency P.O. Box 8 Sacaton, AZ 85247 (602) 562-3326 / Fax 602/582-3543</p>
<p>Havasupai Tribe of the Havasupai Reservation P.O. Box 10 Supai, AZ 86435 (602) 448-2961 / Fax 602/448-2551</p>	<p>Truxton Cacon Agency Valentine, AZ 86437 (602) 769-2286 / Fax 602/769-2440</p>
<p>Hopi Tribe of Arizona P.O. Box 123 Kykotsmovi, AZ 86039 (602) 734-2441 / Fax 602/734-2435</p>	<p>Hopi Agency P.O. Box 158 Keams Canyon, AZ 86034 (602) 738-2228 / Fax 602/738-5522</p>
<p>Kaibab Band of Paiute Indians</p>	<p>Southern Paiute Field Station</p>



<p>Tribal affairs Bldg. #C65 Box 2</p> <p>Fredonia, AZ 86022</p> <p>(602) 643-7245 / Fax 602/643-7260</p>	<p>P.O. Box 986</p> <p>Cedar City, UT 84720</p> <p>(801) 674-9720 / Fax 801/674-9714</p>
<p>Navajo Tribe of Arizona, New Mexico and Utah P.O. Box 308</p> <p>Window Rock, AZ 86515</p> <p>(602) 871-6352 / Fax 602/871-4025</p>	<p>Navajo Area Office</p> <p>P.O. Box M</p> <p>Window Rock, AZ 86515</p> <p>(505) 863-8261 / Fax 505/863-8245</p>
<p>Pascua Yaqui Tribe of Arizona</p> <p>7474 S. Camino de Oeate</p> <p>Tucson, AZ 85746</p> <p>(602) 883-2838 / Fax 602/883-7770</p>	<p>Salt River Agency</p> <p>Rt. 1, Box 117</p> <p>Scottsdale, AZ 85256</p> <p>(602) 640-2842 / Fax 602/640-2809</p>
<p>Quecnan Tribe of Fort Yuma</p> <p>P.O. Box 11352</p> <p>Yuma, AZ 85364</p> <p>(619) 572-0213 / Fax 619/572-2102</p>	<p>Fort Yuma Agency</p> <p>P.O. Box 1591</p> <p>Yuma, AZ 85364</p> <p>(619) 572-0248 / Fax 619/572-0895</p>
<p>Salt River Pima-Maricopa Indian Community</p> <p>Rt. 1, Box 216</p> <p>Scottsdale, AZ 85256</p> <p>(602) 941-7277 / Fax 602/945-3698</p>	<p>Salt River Agency</p> <p>Rt. 1, Box 117</p> <p>Scottsdale, AZ 85256</p> <p>(602) 640-2842 / Fax 602/640-2809</p>
<p>San Carlos Apache Tribe</p> <p>P.O. Box 0</p> <p>San Carlos, AZ 85550</p> <p>(602) 475-2321 / Fax 602/475-2567</p>	<p>San Carlos Agency</p> <p>P.O. Box 209</p> <p>San Carlos, AZ 85550</p> <p>(602) 475-2321 / Fax 602/475-2781</p>
<p>San Juan Southern Paiute</p>	<p>Southern Paiute Field Station</p>

<p>P.O. Box 2656</p> <p>Tuba City, AZ 86045</p> <p>(602) 283-4583 / Fax 602/283-5761</p>	<p>P.O. Box 986</p> <p>Cedar City, UT 94720</p> <p>(801) 674-9720 / Fax 801/674-9714</p>
<p>Tohono O'Odham Nation of Arizona</p> <p>(formerly known as the Papago Tribe of the Sells, Gila Bend and San Xavier Reservation)</p> <p>P.O. Box 837</p> <p>Sells, AZ 85634</p> <p>(602) 383-2221 / Fax 602/383-2417</p>	<p>P.O. Box 578</p> <p>Sells, AZ 85634</p> <p>(602) 383-3286 / Fax 602/383-3247</p>
<p>Tonto Apache Tribe</p> <p>Tonto Reservation #30</p> <p>Payson, AZ 85541</p> <p>(602) 474-85541 / Fax 602/474-5000</p>	<p>Truxton Canon Agency</p> <p>Valentine, AZ 86437</p> <p>(602) 769-2286 / Fax 602/769-2440</p>
<p>White Mountain Apache Tribe</p> <p>P.O. Box 700</p> <p>Whiteriver, AZ 85941</p> <p>(602) 338-4346 / Fax 602/338-4778</p>	<p>Fort Apache Agency</p> <p>P.O. Box 500</p> <p>Whiteriver, AZ 85941</p> <p>(602) 338-5353 / Fax 602/338-5383</p>
<p>Yavapai-Apache Indian Community of the Camp Verde Reservation</p> <p>P.O. Box 1188</p> <p>Camp Verde, AZ 86322</p> <p>(602) 567-3649 / Fax 602/567-9455</p>	<p>Truxton Canon Agency</p> <p>Valentine, AZ 86437</p> <p>(602) 769-2286 / Fax 602/769-2440</p>
<p>Yavapai-Prescott Tribe of the Yavapai</p> <p>530 E. Merrit St.</p> <p>Prescott, AZ 86301-2038</p> <p>(602) 445-8790 / Fax 602/778-9445</p>	<p>Truxton Canon Agency</p> <p>Valentine, AZ 86437</p> <p>(602) 769-2286 / Fax 602/769-2440</p>

**CALIFORNIA**

<b>TRIBE</b>	<b>BIA</b>
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<p>Aqua Caliente Band of Cahuilla Indians</p> <p>960 E. Tahquitz Way #106</p> <p>Palm Springs, CA 92262</p> <p>(619) 325-5673 / Fax 619/325-0593</p>	<p>Palm Springs Field Office</p> <p>California Agency</p> <p>P.O. Box 2245</p> <p>Palm Springs, CA 92263</p> <p>(619) 322-3086 / Fax 619/322-2031</p>
<p>Alturas Indian Rancheria of Pit River</p> <p>P.O. Box 1035</p> <p>Alturas, CA 96101</p> <p>(916) 233-5571 / Fax 619/443-0681</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Augustine Band of Cahuila Mission</p> <p>c/o Southern California Agency</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Barona General Business</p> <p>1095 Barona Rd.</p> <p>Lakeside, CA 92040</p> <p>(619) 443-6612</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Benton Paiute Reservation</p> <p>Star Route 4, Box 56A</p> <p>Benton, CA 93512</p> <p>(619) 933-2321</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 95815</p> <p>(916) 978-4337 / Fax 916/978-5589</p>
<p>Berry Creek Rancheria of Maidu</p> <p>1779 Mitchell Avenue</p> <p>Oroville, CA 95966</p> <p>(916) 534-3859</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 95815</p> <p>(916) 978-4337 / Fax 916/978-5589</p>
<p>Big Bend Rancheria of Pit River</p> <p>P.O. Box 255</p> <p>Big Bend, CA 96001</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p>

<p>Big Lagoon Rancheria of Smith River</p> <p>P.O. Drawer 3060</p> <p>Trinidad, CA 95570</p> <p>(707) 826-2079</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Big Pine Band of Owens Valley Paiute Shoshone Indians</p> <p>P.O. Box 700</p> <p>Big Pine, CA 93513</p> <p>(619) 938-2942 / Fax 619/938-2942</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916/978-5589</p>
<p>Big Sandy Rancheria of Mono</p> <p>P.O. Box 337</p> <p>Auberry, CA 93602</p> <p>(209) 855-4003</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916/978-5589</p>
<p>Big Valley Rancheria of Pomo &amp; Pit River</p> <p>P.O. Box 153</p> <p>Lakeport, CA 95453</p> <p>(707) 263-7522</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Bishop Indian Tribal Council</p> <p>P.O. Box 548</p> <p>Bishop, CA 93514</p> <p>(619) 873-3514</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Blue Lake Rancheria of California</p> <p>P.O. Box 428</p> <p>Blue Lake, CA 95525</p> <p>(707) 668-5101 / Fax 707/668-4272</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/245-5167</p>
<p>Bridgeport Paiute Indian Colony</p> <p>P.O. Box 37</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p>

<p>Bridgeport, CA 93517</p> <p>(619) 932-7003</p>	<p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Buena Vista Rancheria of MeWuk of California</p> <p>4650 Calmine Rd.</p> <p>Ione, CA 95640</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Cabazone Band of Cahuilla Mission</p> <p>84-245 Indio Springs Drive</p> <p>Indio, CA 92201</p> <p>(619) 342-2593 / Fax 619/347-7880</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Cachil DeHee Band of Wintun Indians</p> <p>P.O. Box 8</p> <p>Colusa, CA 95932</p> <p>(916) 458-8231</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Cahuilla Band of Mission Indians</p> <p>P.O. Box 860</p> <p>Anza, CA 92306</p> <p>(714) 763-5549 / Fax 714/763-2808</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Cahto Indian Tribe of the Laytonville</p> <p>P.O. Box 1239</p> <p>Laytonville, CA 95454</p> <p>(707) 984-6197</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Campo Band of Diegueno Mission</p> <p>1779 Campo Truck Trail</p> <p>Campo, CA 92006</p> <p>(619) 478-9046 / Fax 619/478-5818</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Capitan Grande Band of Diegueno Mission Indians of California</p> <p>c/o Southern California Agency</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p>

	Riverside, CA 92507-0001 (909) 276-6624 / Fax (909) 276-6641
Barona Group of Capitan Grande Band of Mission Indians  1095 Barona Rd.  Lakeside, CA 92040  (619) 443-6612	Southern California Agency  2038 Iowa Avenue, Suite 101  Riverside, CA 92507-0001  (909) 276-6624 / Fax (909) 276-6641
Viejas Group of Capitan Grande  P.O. Box 908  Alpine, CA 92001  (619) 445-3810	Southern California Agency  2038 Iowa Avenue, Suite 101  Riverside, CA 92507-0001  (909) 276-6624 / Fax (909) 276-6641
Cedarville Rancheria of Northern Paiute Indians of California  P.O. Box 216  Cedarville, CA 96104  (916) 279-2270	Northern California Agency  P.O. box 494879]  Redding, CA 96049  (916) 246-5141 / Fax 916/246-5167
Chemehuevi Indian Tribe  P.O. Box 1780  Chemehuevi, CA 92363  (619) 858-4531 / Fax 619/858-4818	Colorado River Agency  Rt. 1, Box 9-C  Parker, CA 95344  (602) 669-7111 / Fax 602/669-7187
CherAe Heights Indian Community of the Trinidad Rancheria  P.O. Box AA  Trinidad, CA 95570	Northern California Agency  P.O. Box 494879  Redding, CA 96049  (916) 246-5141 / Fax 916/246-5167
Chicken Ranch Rancheria of MeWuk  P.O. Box 1699  Jamestown, CA 95327  (209) 984-3057	Central California Agency  1800 Tribute Rd., Suite 111  Sacramento, CA 96049  (916) 978-4337 / Fax 916-978-5589
Cloverdale Rancheria of Pomo	Central California Agency

<p>285 Santana Drive</p> <p>Cloverdale, CA 95424</p> <p>(707) 894-5773</p>	<p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Coast Indian Community of Yurok</p> <p>P.O. Box 212</p> <p>Klamath, CA 95548</p> <p>(707) 484-2431</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Cold Springs Rancheria of Mono</p> <p>P.O. Box 209</p> <p>Tollhouse, CA 93667</p> <p>(707) 855-2326</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Colusa Rancheria</p> <p>P.O. Box 8</p> <p>Colusa, CA 95932</p> <p>(916) 458-8231 / Fax 916/458-8231</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Cortina Indian Rancheria of Wintun</p> <p>P.O. Box 7470</p> <p>Citrus Heights, CA 95621-7470</p> <p>(916) 726-7118</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Covelo Indian Community of Round Valley</p> <p>P.O. Box 448</p> <p>Covelo, CA 95428</p> <p>(707) 983-6126</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Coyote Valley Band of Pomo</p> <p>P.O. Box 39</p> <p>Redwood Valley, CA 95470</p> <p>(707) 485-8723 / Fax 707/468-5615</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Cuyapaipe Community Diegueno Mission</p>	<p>Southern California Agency</p>

<p>4390 LaPosta Truck Trail</p> <p>Pine Valley, CA 92062</p> <p>(619) 478-5289</p>	<p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Death Valley Timbisha Shoshone Band</p> <p>P.O. Box 206</p> <p>Death Valley, CA 92328</p> <p>(619) 786-2418</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Dry Creek Rancheria of Pomo Indians</p> <p>P.O. Box 607</p> <p>Geyserville, CA 95441</p> <p>(707) 431-8232</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Elem Indian Colony of Pomo Indians of Sulpher Bank</p> <p>P.O. box 618</p> <p>Clearlake Oaks, CA 95423</p> <p>(707) 998-3315</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Elk Valley Rancheria of Smith River</p> <p>P.O. Box 1042</p> <p>Crescent City, CA 95531</p> <p>(707) 464-4680</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Enterprise Rancheria of Maidu</p> <p>Oroville, CA</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Fort Bidwell Indian Community of Paiute Indians</p> <p>P.O. Box 127</p> <p>Fort Bidwell, CA 96112</p> <p>(916) 279-6310 / Fax 916/279-2233</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Fort Independence Indian Community of Paiute Indians</p>	<p>Central California Agency</p>



<p>P.O. Box 67</p> <p>Independence, CA 93526</p> <p>(619) 878-2126</p>	<p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Greenville Rancheria of Maidu</p> <p>1304 E. Str. Ste 106</p> <p>Redding, CA 96001</p> <p>(916) 241-3941</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Grindstone Indian Rancheria of Wintun Waiulaki</p> <p>P.O. Box 63</p> <p>Elk Creek, CA 95939</p> <p>(916) 968-5116</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Guidiville Rancheria</p> <p>P.O. Box 339</p> <p>Talmage, CA 95481</p> <p>(707) 462-2477 / Fax 707/462-0379</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Hoopa Valley Tribe of the Hoopa</p> <p>P.O. Box 1348</p> <p>Hoopa, CA 95546</p> <p>(916) 625-4211 / Fax 916/625-4594</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Hopland Reservation</p> <p>P.O. Box 610</p> <p>Hopland, CA 95449</p> <p>(707) 744-1647 / Fax 707/744-1506</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Inaja Band of Diegueno Mission</p> <p>715 B St. #5</p> <p>Ramona, CA 92065</p> <p>(619) 789-8581</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Jackson Rancheria of MeWuk Indians</p>	<p>Central California Agency</p>

<p>1600 Bingo Way Jackson, CA 94642 (209) 223-3931</p>	<p>1800 Tribute Rd., Suite 111 Sacramento, CA 96049 (916) 978-4337 / Fax 916-978-5589</p>
<p>Jamul Indian Village of California P.O. Box 612 Jamul, CA 91935 (619) 669-4785 / Fax 916/669-4817</p>	<p>Southern California Agency 2038 Iowa Avenue, Suite 101 Riverside, CA 92507-0001 (909) 276-6624 / Fax (909) 276-6641</p>
<p>Karuk Tribe of California P.O. Box 1016 Happy Camp, CA 96039 (916) 493-5305 / Fax 916/493-5322</p>	<p>Northern California Agency P.O. Box 494879 Redding, CA 96049 (916) 246-5141 / Fax 916/246-5167</p>
<p>Kashia Band of Pomp Indians of Stewarts Point Rancheria P.O. Box 54 Stewarts Point, CA 95480 (707) 785-2595</p>	<p>Central California Agency 1800 Tribute Rd., Suite 111 Sacramento, CA 96049 (916) 978-4337 / Fax 916-978-5589</p>
<p>LaJolla Band of Luiseno Mission Star Route Box 158 Valley Center, CA 92082 (619) 742-3771</p>	<p>Southern California Agency 2038 Iowa Avenue, Suite 101 Riverside, CA 92507-0001 (909) 276-6624 / Fax (909) 276-6641</p>
<p>LaPosta Band of Diegueno Mission 1064 Barona Road Lakeside, CA 92040 (619) 561-2924</p>	<p>Southern California Agency 2038 Iowa Avenue, Suite 101 Riverside, CA 92507-0001 (909) 276-6624 / Fax (909) 276-6641</p>
<p>Laytonville Rancheria P.O. Box 48 Laytonville, CA 95454</p>	<p>Central California Agency 1800 Tribute Rd., Suite 111 Sacramento, CA 96049 (916) 978-4337 / Fax 916-978-5589</p>

<p>Lone Pine Reservation</p> <p>101 S. Main St</p> <p>Lone Pine, CA 93545</p> <p>(619) 876-5414</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Lookout Rancheria of Pit River</p> <p>P.O. Box 87</p> <p>Lookout, CA 96054</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Los Coyotes Band of Cahuilla Mission</p> <p>P.O. Box 86</p> <p>Warner Springs, CA 92086</p> <p>(619) 782-3269</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Lytton Rancheria</p> <p>P.O. Box 519</p> <p>Crescent City, CA 95531</p> <p>(707) 464-7752 / Fax 707/542-1243</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Manchester Band of Diegueno Mission</p> <p>P.O. Box 623</p> <p>Point Arena, CA 95468</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Manzanita Band of Diegueno Mission</p> <p>P.O. Box 1302</p> <p>Boulevard, CA 92005</p> <p>(619) 478-5028</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Mesa Grande Band of Diegueno Mission</p> <p>P.O. Box 270</p> <p>Santa Ysabel, CA 92070</p> <p>(619) 782-3835</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>

<p>Middletown Rancheria of Pomo Indian</p> <p>P.O. Box 292</p> <p>Middletown, CA 95461</p> <p>(916) 987-3276</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Montgomery Creek Rancheria of Pit River Indians</p> <p>P.O. Box 282</p> <p>Montgomery Creek, CA 96065</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Mooretown Rancheria of Maidu</p> <p>P.O. Box 1842</p> <p>Oroville, CA 95965</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Morongo Band of Cahuilla Mission</p> <p>11581 Potrero Road</p> <p>Banning, CA 92220</p> <p>(714) 849-4697 / Fax 714/849-4425</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Northfork Rancheria of Mono Indians</p> <p>P.O. Box 120</p> <p>North Fork, CA 93643</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Paiute-Shoshone Indians of Bishop</p> <p>P.O. Box 548</p> <p>Bishop, CA 93514</p> <p>(619) 873-3584</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Paiute-Shoshone Indians of Lone Pine</p> <p>St. Route 1, 1101 S. Main St.</p> <p>Lone Pine, CA 93545</p> <p>(619) 876-5414</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>

<p>Pala Bang of Liuseno Mission Indians</p> <p>P.O. Box 43</p> <p>Pala, CA 92059</p> <p>(619) 742-3784 / Fax 619/742-1411</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Pauma Band of Luiseno Mission of the Pauma &amp; Yuma Reservation</p> <p>P.O. Box 86</p> <p>Pauma Valley, CA 92061</p> <p>(619) 742-1289 / Fax 619/742-3422</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Pecbanga Band Luiseno Mission</p> <p>P.O. Box 1477</p> <p>Temecula, CA 92390</p> <p>(714) 676-2768 / Fax 714/699-6983</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641 (714) 276-6624 / Fax 714/276-6641</p>
<p>Picayune Rancheria of Chukchansi</p> <p>P.O. Box 708</p> <p>Coarsegold, CA 93614</p> <p>(209) 683-6633 / Fax 209/683-0599</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Pinoleville Rancheria of Pomo</p> <p>367 North State Street, Suite 204</p> <p>Ukiah, CA 94582</p> <p>(707) 463-1454</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Pit River Indian Tribe of the X-1 Ranch Reservation</p> <p>P.O. Box Drawer 1570</p> <p>Burney, CA 96013</p> <p>(916) 335-5421</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Potter Valley Rancheria of Pomo</p> <p>2191 S. State St.</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p>

Ukiah, CA 95482  (707) 468-7494	Sacramento, CA 95815  (916) 978-4337 / Fax 916-978-5589
Quartz Valley Rancheria of Karok, Shasta and Upper Klamath  P.O. Box 737  Eina, CA 96027  (916) 467-3466	Northern California Agency  P.O. Box 494879  Redding, CA 96049  (916) 246-5141 / Fax 916/246-5167
Ramona Band of Village of Cahuilla Mission  P.O. Box 26  Anza, CA 92306	Southern California Agency  2038 Iowa Avenue, Suite 101  Riverside, CA 92507-0001  (909) 276-6624 / Fax (909) 276-6641
Redding Rancheria of Pomo Indians  2000 Rancheria Rd  Redding, CA 96001  (916) 241-1871 / Fax 916/241-1879	Northern California Agency  P.O. Box 494879  Redding, CA 96049  (916) 246-5141 / Fax 916/246-5167
Coast Indian Community of the Resighine Rancheria  P.O. Box 529  Klamath, CA 95548  (707) 464-7115	Northern California Agency  P.O. Box 494879  Redding, CA 96049  (916) 246-5141 / Fax 916/246-5167
Redwood Valley Rancheria of Pomo  P.O. Box 499  Redwood Valley, CA 95470  (707) 485-0361	Central California Agency  1800 Tribute Rd., Suite 111  Sacramento, CA 95815  (916) 978-4337 / Fax 916-978-5589
Rincon Band of Luiseno Mission  P.O. Box 68  Valley Center, CA 92081  (619) 749-1051 / Fax 619/749-8901	Southern California Agency  2038 Iowa Avenue, Suite 101  Riverside, CA 92507-0001  (909) 276-6624 / Fax (909) 276-6641
Roaring Creek Rancheria of Pit River	Northern California Agency

<p>P.O. Box 494879</p> <p>Redding, CA 96049</p>	<p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Robinson Rancheria of Pomo Indians</p> <p>P.O. Box 1119</p> <p>Nice, CA 95464</p> <p>(707) 275-0527 / Fax 707/275-0235</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 95815</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Rohnerville Rancheria of Bear River</p> <p>P.O. Box 108</p> <p>Eureka, CA 95502-108</p> <p>(707) 443-6150 / Fax 707/442-6403</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Round Valley Reservation</p> <p>P.O. Box 448</p> <p>Covelo, CA 95428</p> <p>(707) 983-6126</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 95815</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Rumsey Indian Rancheria of Wintun</p> <p>P.O. Box 18</p> <p>Brooks, CA 95606</p> <p>(916) 796-3400 / Fax 916/796-2143</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>San Manuel Bank of Serrano Mission</p> <p>5438 N. Victoria Avenue</p> <p>Highland, CA 92346</p> <p>(714) 862-8509 / Fax 714/864-3370</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>San Pasqual Band of Diegueno Mission</p> <p>P.O. Box 365</p> <p>Valley Center, CA 92082</p> <p>(619) 749-3200 / Fax 619/749-3876</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Santa Rosa Indian Community of the Santa Rosa Rose</p>	<p>Central California Agency</p>

<p>Rancheria</p> <p>16835 Alkaki Drive</p> <p>Lemoore, CA 93245</p> <p>(209) 924-1278 / Fax 209/924-8949</p>	<p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Santa Rosa Band of Cahuilla Mission</p> <p>325 N. Western St.</p> <p>Hemet, CA 92343</p> <p>(619) 741-5211</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Santa Ynez Band of Chumasn Mission</p> <p>P.O. Box 517</p> <p>Santa Ynez, CA 93460</p> <p>(805) 688-7997 / Fax 805/688-8005</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Santa Ysabel Band of Diegueno Mission</p> <p>P.O. Box 130</p> <p>Santa Ysabel, CA 92070</p> <p>(619) 765-0845 / Fax 619/765-0320</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Scott Valley Band of Pomo Indians</p> <p>302 Holly Oak Lane</p> <p>Alameda, CA 94501</p> <p>(415) 865-1416</p> <p>Sheep Ranch Rancheria of MeWuk</p> <p>(no tribal organization)</p> <p>c/o Central California Agency</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p> <p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Sherwood Valley Rancheria of Pomo</p> <p>2141 South State Street</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p>



<p>Ukiah, CA 95482</p> <p>(707) 468-1337</p>	<p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Shingle Springs Band of Miwok Indians</p> <p>(Verona Tract)</p> <p>P.O. Box 1340</p> <p>Shingle Springs, CA 95682</p> <p>(916) 676-8010 / Fax 916/626-8010</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Smith River Rancheria</p> <p>P.O. Box 239</p> <p>Smith River, CA 95567</p> <p>(707) 487-9255 / Fax 707/487-0930</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Soboba Band of Luiseno Mission</p> <p>P.O. Box 487</p> <p>San Jacinto, CA 92383</p> <p>(714) 654-2765 / Fax 714/654-4198</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Stewarts Point Rancheria</p> <p>P.O. Box 54</p> <p>Stewarts Point, CA 95480</p> <p>Fax 916/978-5589</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Susanville Indian Rancheria of Paiute, Maidu, Pit River and Washoe Indians</p> <p>Drawer U</p> <p>Susanville, CA 96130</p> <p>(916) 257-6264 / Fax 916/257-6983</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Sycuan Band of Diegueno Mission</p> <p>5459 Dehesa Rd.</p> <p>Loleta, CA 95551</p> <p>(619) 445-5993</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>

<p>Table Bluff Rancheria of Wiyot Indians</p> <p>P.O. Box 519</p> <p>Loleta, CA 95551</p> <p>(707) 733-5055 / Fax 707/733/5601</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>
<p>Table Mountain Rancheria</p> <p>P.O. Box 245</p> <p>Friant, CA 93626</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Taule River Indian Tribe</p> <p>P.O. Box 589</p> <p>Porterville, CA 93258</p> <p>(209) 781-4271 / Fax 209/781-4610</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Timbisha Shoshone Tribe</p> <p>P.O. Box 206</p> <p>Death Valley, CA 92328</p> <p>(619) 786-2374 / Fax 610/786-2344</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/978-5589</p>
<p>Torres-Martinez Band of Cahuilla</p> <p>66-725 Martinez Road</p> <p>Termal, CA 92274</p> <p>(619) 397-0300 / Fax 619/397-0300</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Trinidad Rancheria</p> <p>P.O. Box 630</p> <p>Trinidad, CA 95570</p> <p>(707) 677-0211 / Fax 707/677-3921</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/978-5589</p>
<p>Tuolumne Band of Me-Wuk Indians</p> <p>19595 Miwuk Street</p> <p>Tuolumne, CA 95379</p> <p>(209) 928-3475 / Fax 209/928-1295</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>

<p>Twenty-Nine Palms Band of Luiseno</p> <p>c/o Clen Calac</p> <p>511 via Miraleste</p> <p>Palm Springs, CA 92262</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Upper Lake Bank of Pomo Indians</p> <p>P.O. Box 245272</p> <p>Sacramento, CA 95820</p> <p>(916) 371-5637</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Utu Utu Gwaiti Paiute of Benton Paiute Reservation</p> <p>4, Box 56-A</p> <p>Benton, CA 93512</p> <p>(619) 933-2321</p>	<p>Central California Agency</p> <p>1800 Tribute Rd., Suite 111</p> <p>Sacramento, CA 96049</p> <p>(916) 978-4337 / Fax 916-978-5589</p>
<p>Viejas Tribal Council</p> <p>P.O. Box 908</p> <p>Alpine, CA 92001</p> <p>(619) 445-3810 / Fax 619/445-5337</p>	<p>Southern California Agency</p> <p>2038 Iowa Avenue, Suite 101</p> <p>Riverside, CA 92507-0001</p> <p>(909) 276-6624 / Fax (909) 276-6641</p>
<p>Yurok Tribe of Hoopa Valley</p> <p>517 Third St. Suite 21</p> <p>Eureka, CA 95501</p> <p>(800) 848-8765</p> <p>(707) 444-0433 / Fax 707/444-0437</p>	<p>Northern California Agency</p> <p>P.O. Box 494879</p> <p>Redding, CA 96049</p> <p>(916) 246-5141 / Fax 916/246-5167</p>

## COLORADO

TRIBE	BIA
<p>Southern Ute Reservation, Colorado</p> <p>P.O. Box 737</p> <p>Ignacio, CO 81157</p> <p>(303) 563-0100 / Fax 303/563-0396</p>	<p>Southern Ute Agency</p> <p>P.O. Box 315</p> <p>Ignacio, CO 91137</p> <p>(303) 563-4511 / Fax 303/563-9321</p>

Ute Mountain Tribe of Ute Mountain Towaoc, CO 81334 (303) 565-7151 / Fax 303/565-7412	Ute Mountain Agency Towaoc, CO 82334 (303) 365-8471 / Fax 565-8906
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## CONNECTICUT

TRIBE	BIA
Mashantucket Pequot Tribe of Connecticut P.O. Box 3060 Ledyard, CT 96339-3060 (203) 536-2681 / Fax 203/572-0421	Eastern Area Office 1951 Constitution Avenue Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610

## FLORIDA

TRIBE	BIA
Miccosukee Tribe of Indians of Florida P.O. Box 440021, Tamaiami Station Miami, FL 33144 (305) 223-8380 / Fax 305/223-1011	Eastern Area Office 1951 Constitution Avenue Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Seminole Tribe of Florida, Dania Big Cypress and Brighton Reservation 6073 Stirling Road Hollywood, FL 33024 (305) 583-0400 / Fax 305/581-8917	Seminole Agency 6075 Stirling Road Hollywood, FL 33024 (305) 581-7050 / Fax 305/792-7340

## IDAHO

TRIBE	BIA
Coeur D'Alene Tribe Plummer, ID 83851 (208) 274-3101 / Fax 208/274-2824	Northern Idaho Agency P.O. Box 277 Lapwai, ID 83540 (208) 843-2300 / Fax 208/843-7142
Fort Hall Business Council	Fort Hall Business Council

P.O. Box 306 Fort Hall, Idaho 83203-0306 (208) 238-3700 / Fax 208/237-0797	P.O. Box 306 Fort Hall, Idaho 83203-0306 (208) 238-3700 / Fax 208/237-0797
Kootenai Tribe of Idaho P.O. Box 1269 Bonners Ferry, ID 83805-1269 (208) 267-3519 / Fax 208/267-2762	Northern Idaho Agency P.O. Drawer 277 Lapwai, ID 83540 (208) 843-2300 / Fax 208/843-7142
Nez Perce Tribe of Idaho P.O. Box 305 Lapwai, ID 83540 (208) 843-2253 / Fax 208/843-2036	Northern Idaho Agency P.O. Drawer 277 Lapwai, ID 83540 (208) 843-2300 / Fax 208/843-7142
Shoshone-Bannock Tribes of Fort Hall P.O. Box 637 Blackfoot, ID 83221 (208) 785-7401	Fort Hall Agency Fort Hall, ID 83203 (208) 238-2301 / Fax 208/237-0466

## IOWA

TRIBE	BIA
Sac & Fox of the Mississippi in Iowa Rt. 2, Box 56C Tama, Iowa 52339 (515) 484-5358 / Fax 515/484-5424	Sax & Fox Area Field Office Bureau of Indian Affairs Rt. 2, Box 78A Tama, Iowa 52339 (515) 484-4041 / Fax 515/484-6518

## KANSAS

TRIBE	BIA
Iowa Tribe of Kansas and Nebraska	Horton Agency

Rt. 1, Box 58A Whitecloud, KS 66094 (913) 595-3258 / Fax 913/595-6610	P.O. Box 31 Horton, KS 66439 (913) 486-2161 / Fax 913/486-2515
Kickapoo Reservation in Kansas Rt. 1, Box 157A Horton, Kansas 66439 (913) 486-2131 / Fax 913/486-2801	Horton Agency 908 First Avenue East Horton, Kansas 66439 (913) 486-2161 / Fax 913/486-2515
Prairie Band of Potawatomi Indians P.O. Box 97 Mayetta, Kansas 66509 (913) 966-2255 / Fax 913/966-2144	Horton Agency Horton, Kansas 66439 (913) 486-2161 / Fax 913/486-2515
Sac & Fox Tribe of Missouri in Kansas and Nebraska Rt. 1, Box 60 Reserve, Kansas 66434 (913) 742-7471	Horton Agency P.O. Box 31 Horton, Kansas 66439 (913) 486-2161 / Fax 913/486-2515

## LOUISIANA

TRIBE	BIA
Chitimacha Tribe of Louisiana P.O. Box 661 Charenton, Louisiana 70523 (318) 923-4973 / Fax 318/923-7791	Eastern Area Office 1951 Constitution Avenue Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Coushatta Tribe of Louisiana P.O. Box 818 Elton, Louisiana 70532 (318) 584-2261 / Fax 318/584-2998	Eastern Area Office 1951 Constitution Avenue Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Tunica-Biloxi Indian Tribe of Louis. P.O. Box 331	Eastern Area Office 1951 Constitution Avenue

Mansura, Louisiana 71351	Washington, D.C. 20245
(318) 253-9767 / Fax 318/253-9791	(703) 235-2571 / Fax 703/235-8610

## MAINE

TRIBE	BIA
Aroostook Band of Micmac P.O. Box 772 Presque Isle, MA 04769 (207) 764-1972 / Fax 207/764-7667	Eastern Area Office 1951 Constitution Avenue Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Passamaguoddy Tribe of Maine P.O. Box 301 Princeton, Maine 04668 (207) 796-2301 / Fax 207/796-5256	Eastern Area Office 1951 Constitution Avenue NW Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Penobscot Tribe of Maine Six River Road Indian Island Reservation Old Town, MA 04468 (207) 827-7776 / Fax 207/827-6042	Eastern Area Office 1951 Constitution Avenue NW Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610
Houlton Band of Mailiset Indians P.O. Box 748-Bell Road Houlton, Maine 04730 (207) 532-4273 / Fax 207/532-2660	Eastern Area Office 1951 Constitution Avenue NW Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610

## MASSACHUSETTS

TRIBE	BIA
Gayhead Wampanoag Indians of Mass. State Road, RFD, Box 137 Gay Head, Massachusetts 02535 (617) 645-9265 / Fax 508/545-3790	Eastern Area Office 1951 Constitution Avenue NW Washington, D.C. 20245 (703) 235-2571 / Fax 703/235-8610

**MICHIGAN**

<b>TRIBE</b>	<b>BIA</b>
Bay Mills Indian Community Rt. 1 Brimley, MI 49715 (906) 248-3241 / Fax 906/248-3283	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Grand Traverse Band of Ottawa & Chippewa Indians of Michigan Rt. 1, Box 135 Suttons Bay, MI 49682 (616) 271-3538	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Hannahville Indian Community N. 14911 Hannahville Blvd. Rd. Wilson, MI 49896-9728 (906) 466-2342 / Fax 906/466-2418	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Keweenaw Bay Indian Community Rt. 1, Box 45 Baraga, MI 49908 (906) 353-6623 / Fax 906/353-7540	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Lac Vieux Desert Band of Chippewa Indians P.O. Box 446 Watersmeet, MI 49969 Recognized 9/8/88 (906) 358-4577 / Fax 906/358-4785	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Saginaw Chippewa Indian Tribe 7070 E. Broadway Rd. Mt. Pleasant, MI 48858 (517) 772-5700 / Fax 517/772-3508	Michigan Agency P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
Sault St. Marie Tribe of Chippewa	Michigan Agency



206 Greenvough Street Sault St. Marie, MI 47983 (906) 635-6050 / Fax 906/632-0741	P.O. Box 884 Sault Ste. Marie, MI 49783 (906) 632-6809 / Fax 906/632-0689
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## MINNESOTA

TRIBE	BIA
Lower Sioux Indian Community Rt. 1 Box 308 Morton, MN 56270 (507) 697-6185 / Fax 507/697-6110	Minnesota Sioux Field Office Minneapolis Area Office 15 South Fifth Street Minneapolis, MN 55402 (612) 373-1000 / Fax 612/373-1186
Minnesota Chippewa Tribe (Six Component Reservations) Bois Forte Band Fon due Lac Band Grant Portage Band Leech Lake Band White Earth Band P. O. Box 217 Cass Lake, MN 56633 (218) 335-8581 / Fax 218/335-6562	Minnesota Agency Rt. 3, Box 112 Cass Lake, MN 56633 (218) 335-6913 / Fax 218/335-2819
Prairie Island Indian Community 1158 Island Blvd. Welch, MN 55089 (612) 388-2554 / Fax 612/388-1576	Minnesota Sioux Field Office Minneapolis Area Office 15 South Fifth Street Minneapolis, MN 55402 (612) 373-1000 / Fax 612/373-1186
Red Lake Band of Chippewa Indians	Red Lake Agency

P.O. Box 550  Red Lake, MN 56671  (218) 679-3341 / Fax 218/679-3378	Red Lake, MN 56671  (218) 679-3361 / Fax 218/679-3378
Shakopee Mdewakanton Sioux Comm.  2330 Sioux Trail N. W.  Prior Lake, MN 55372  (612) 445-8900	Minnesota Sioux Field Office  Minneapolis Area Office  15 South Fifth Street  Minneapolis, MN 55402  (612) 373-1000 / Fax 612/373-1186
Upper Sioux Community  P.O. Box 147  Granite Falls, MN 56241  (612) 445-8900 / Fax 612/445-8906	Minnesota Sioux Field Office  Minneapolis Area Office  15 South Fifth Street  Minneapolis, MN 55402  (612) 373-1000 / Fax 612/373-1186

## MISSISSIPPI

TRIBE	BIA
Mississippi Band of Choctaw Indians  P.O. Box 6010 Choctaw Branch  Philadelphia, MI 39350  (601) 656-5251 / Fax 601/565-1992	Choctaw Agency  412 Powell  Philadelphia, MI 39350  (601) 565-1521 / Fax 601/656-2350

## MISSOURI

TRIBE	BIA
Eastern Shawnee Tribe of Oklahoma  P.O. Box 350  Seneca, MO 64865  (918) 666-2435 / Fax 918/666-3325	Miami Agency  P.O. Box 391  Miami, OK 74354  (918) 542-3396 / Fax 918/542-7202

## MONTANA

TRIBE	BIA
<p>Assiniboine and Sioux Tribe of Montana</p> <p>Poplar, MT 59255</p> <p>(406) 768-5155</p>	<p>Fort Peck Agency</p> <p>P.O. Box 637</p> <p>Poplar, MT 59255</p>
<p>Blackfeet Tribe, Montana</p> <p>P.O. Box 850</p> <p>Browning, Montana 59417</p> <p>(406) 338-7276 / Fax 406/338-7530</p>	<p>Blackfeet Agency</p> <p>P.O. Box 850</p> <p>Browning, MT 59417</p> <p>(406) 338-7544 / Fax 406/338-7716</p>
<p>Chippewa-Cree Indians of Rocky Boy</p> <p>Rocky Boy Rt. Box 544</p> <p>Box Elder, Montana 59521</p> <p>(406) 395-4282 / Fax 406/395-4497</p>	<p>Rocky Boy's Agency</p> <p>Box Elder, Montana 59521</p> <p>(406) 395-4476 / Fax 406/395-4382</p>
<p>Confederated Salish &amp; Kootenai</p> <p>Box 278</p> <p>Pablo, MT 59855-0278</p> <p>(406) 675-2700 / Fax 406/675-2806</p>	<p>Flathead Agency</p> <p>Box A</p> <p>Pablo, MT 59855</p> <p>(406) 675-2700 / Fax 406/675-2805</p>
<p>Crow Tribe of Montana</p> <p>P.O. Box 159</p> <p>Crow Agency, MT 59022</p> <p>(406) 638-2601 / Fax 406/638-7283</p>	<p>Crow Agency</p> <p>P.O. Box 159</p> <p>Crow Agency, MT 59022</p> <p>(406) 638-2672 / Fax 406/638-2380</p>
<p>Fort Belknap Indian Community of the Fort Belknap Res-Montana</p> <p>P.O. Box 249</p> <p>Harlem, MT 59526</p> <p>(406) 235-2205 / Fax 406/353-2797</p>	<p>Fort Belknap Agency</p> <p>P.O. Box 980</p> <p>Harlem, MT 59526</p> <p>(406) 353-2901 / Fax 406/353-2886</p>
<p>Fort Peck Tribe</p> <p>P.O. Box 1027</p> <p>Poplar, Montana 59255</p> <p>(406) 768-5155 / Fax 406/768-5478</p>	<p>Fort Peck</p> <p>P.O. Box 1027</p> <p>Poplar, Montana 59255</p> <p>(406) 768-5155 / Fax 406/768-5478</p>

Northern Cheyenne Tribe P.O. Box 128 Lame Deer, MT 59043 (406) 477-8284 / Fax 406/477-6210	Northern Cheyenne Tribe P.O. Box 128 Lame Deer, MT 59043 (406) 477-8242/ Fax 406/477-6636
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**NEBRASKA**

<b>TRIBE</b>	<b>BIA</b>
Omaha Tribe of Nebraska P.O. Box 368 Macy, Nebraska 68039 (402) 837-5391 / Fax 402/878-2943	Winnebago Agency Winnebago, Nebraska 68071 FTS 758-7212 (402) 878-2201 / Fax 402/878-2943
Ponca Tribe of Nebraska P.O. box 288 Niobra, Nebraska 68760 (402) 857-3391 / Fax 402/857-3736	Aberdeen Area (605) 226-0250 / Fax 605/782-7446 Winnebago Agency Winnebago, Nebraska 68071
Santee Sioux Tribe of Nebraska Route 2 Niobrara, Nebraska 68760 (402) 857-2271 / Fax 402/857-3307	FTS 758-7212 (402) 878-2201 / Fax 402/878-2943
Winnebago Tribe of Nebraska Winnebago, Nebraska 68071 (402) 878-2272 / Fax 402/878-2963	Winnebago Agency Winnebago, Nebraska 68071 (402) 878-2201 / Fax 402/878-2943

**NEVADA**

<b>TRIBE</b>	<b>BIA</b>
Duckwater Shoshone Tribe P.O. Box 140068	Eastern Nevada Agency P.O. Box 28

<p>Duckwater, NV 89314</p> <p>(702) 863-0227 / Fax 702/863-0301</p>	<p>Elko, NV 89832</p> <p>(702) 738-5165 / Fax 702/738-4710</p>
<p>Ely Indian Colony of Nevada</p> <p>16 Shoshone Circle</p> <p>Ely, NV 89301</p> <p>(702) 289-3013 / Fax 702/289-2263</p>	<p>Eastern Nevada Agency</p> <p>P.O. Box 28</p> <p>Elko, NV 89832</p> <p>(702) 738-5165 / Fax 702/738-4710</p>
<p>Fallon Business Council</p> <p>8955 Mission Rd.</p> <p>Fallon, Nevada 89406</p> <p>(702) 423-6075 / Fax 702/423-5202</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Fort McDermott Paiute and Shoshone</p> <p>P.O. Box 457</p> <p>McDermitt, NV 89421</p> <p>(702) 532-8259 / Fax 702/532-8259</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Las Vegas Tribe of Paiute Indians</p> <p>N. 1 Paiute Drive</p> <p>Las Vegas, NV 89106</p> <p>(702) 386-3926 / Fax 702/383-4019</p>	<p>Southern Paiute Field Station</p> <p>P.O. Box 986</p> <p>Cedar City, UT 84720</p> <p>(801) 674-9714 / Fax 801/674-9714</p>
<p>Lovelock Paiute Tribe of Lovelock</p> <p>P.O. Box 878</p> <p>Lovelock, NV 89419</p> <p>(702) 273-7861 / Fax 702/273-7030</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Moapa Band of Paiute Indians</p> <p>P.O. Box 340</p>	<p>Southern Paiute Field Station</p> <p>P.O. Box 986</p>

<p>Moapa, NV 89025-0340</p> <p>(702) 865-2787 / Fax 702/865-2875</p>	<p>Cedar City, UT 84720</p> <p>(801) 674-9720 / Fax 801/674-9714</p>
<p>Paiute-Shoshone Tribe of Fallon</p> <p>P.O. Box 1650</p> <p>Fallon, NV 89406</p> <p>(702) 423-6075</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Pyramid Lake Paiute Tribe</p> <p>P.O. Box 256</p> <p>Nixon, NV 89424</p> <p>(702) 574-1000 / Fax 702/786-8232</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Shoshone-Paiute Tribes of Duck Valley</p> <p>P.O. box 219</p> <p>Owyhee, NV 89832</p> <p>(702) 757-3161 / Fax 702/757-2219</p>	<p>Eastern Nevada Agency</p> <p>P.O. Box 28</p> <p>Elko, NV 89832</p> <p>(702) 738-5165 / Fax 702/738-4710</p>
<p>Reno-Sparks Indian Colony Nevada</p> <p>98 Colony Road</p> <p>Reno, NV 89502</p> <p>(702) 329-2936 / Fax 702/359-9501</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Summit Lake Paiute Tribe</p> <p>510 Melarky St. #11</p> <p>Winnemucca, NV 89445</p> <p>(702) 623-5151 / Fax 702/623-0558</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Te-Moak Tribe of Western Shoshone</p> <p>525 Sunset Street</p>	<p>Eastern Nevada Agency</p> <p>P.O. Box 28</p>

<p>Elko, NV 89801</p> <p>(702) 738-9251 / Fax 702/738-2345</p>	<p>Elko, NV 89832</p> <p>(702) 738-5165 / Fax 702/738-4710</p>
<p>Walker River Paiute Tribe</p> <p>P.O. Box 220</p> <p>Shurz, NV 89427</p> <p>(702) 773-2306 / Fax 702/773-2585</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Washoe Tribe of Nevada &amp; California (Carson Colony, Dresslerville and Washoe Ranches)</p> <p>919 Hwy 395 South</p> <p>Gardnerville, NV 89410</p> <p>(702) 265-4191 / Fax 702/265-6240</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Winnemucca Indian Colony of Nevada</p> <p>P.O. Box 1370</p> <p>Winnemucca, NV 89446</p> <p>(702) 623-2980</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Yerrington Paiute Tribe</p> <p>171 Campbell Lane</p> <p>Yerrington, NV 89447</p> <p>(702) 463-3301 / Fax 702/463-2416</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>
<p>Yomba Shoshone Tribe</p> <p>HC61 Box 6275</p> <p>Austin, TX 89310</p> <p>(702) 964-2463</p>	<p>Western Nevada Agency</p> <p>1300 Curry Street</p> <p>Carson City, NV 89701</p> <p>(702) 887-3500 / Fax 702/887-3531</p>

**NEW MEXICO**

<b>TRIBE</b>	<b>BIA</b>
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<p>Jicarilla Apache Tribe</p> <p>P.O. Box 507</p> <p>Dulce, NM 87528</p> <p>(505) 759-3242 / Fax 505/759-3005</p>	<p>Jicarilla Agency</p> <p>P.O. Box 167</p> <p>Dulce, NM 87528</p> <p>(505) 759-3951 / Fax 505/759-3948</p>
<p>Mescalero Apache Tribe</p> <p>P.O. Box 176</p> <p>Mescalero, NM 88340</p> <p>(505) 671-4495 / Fax 505/671-4495</p>	<p>Mescalero Agency</p> <p>Mescalero, NM 88340</p> <p>(505) 671-4421 / Fax 505/671-4601</p>
<p>Pueblo of Acoma, New Mexico</p> <p>P.O. Box 309</p> <p>Acomita, NM 87034</p> <p>(505) 552-6604 / Fax 505/552-6600</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Cochiti, New Mexico</p> <p>P.O. Box 70</p> <p>Cochiti Pueblo, NM 87072</p> <p>(505) 867-3211 / Fax 505/465-2245</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Jemez, New Mexico</p> <p>P.O. Box 100</p> <p>Jemez, Pueblo, NM 87024</p> <p>(505) 834-7359 / Fax 505/834-7331</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Isleta, New Mexico</p> <p>P.O. Box 1270</p> <p>Isleta, Pueblo 87022</p> <p>(505) 869-3111 / Fax 505/869-4236</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Laguna, New Mexico</p> <p>P.O. Box 194</p> <p>Laguna, NM 87026</p> <p>(505) 552-6654 / Fax 505/243-9636</p>	<p>Laguna Agency</p> <p>P.O. Box 1448</p> <p>Laguna, NM 87026</p> <p>(505) 552-6001 / Fax 505/552-7497</p>



<p>Pueblo of Nambe, New Mexico</p> <p>Rt. 1, Box 117-88</p> <p>Santa Fe, NM 87501</p> <p>(505) 455-2036 / Fax 505/455-2038</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of Picuris, New Mexico</p> <p>P.O. Box 127</p> <p>Penasco, NM 87553</p> <p>(505) 587-2519 / Fax 505/587-1071</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pojoaque</p> <p>Rt. 11 Box 71</p> <p>Santa Fe, NM 87501</p> <p>(505) 455-2278 / Fax 505/455-2950</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of San Felipe, New Mexico</p> <p>P.O. Box A</p> <p>San Felipe, NM 87001</p> <p>(505) 867-3381 / Fax 505/867-3383</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of San Juan, New Mexico</p> <p>P.O. Box 1099</p> <p>San Juan Pueblo, NM 87566</p> <p>(505) 852-4400 / Fax 505/852-4820</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of San Ildefonso, New Mexico</p> <p>Route 5, Box 315A</p> <p>Santa Fe, NM 87501</p> <p>(505) 455-2273 / Fax 505/455-7351</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of Sandia, New Mexico</p> <p>P.O. Box 6008</p> <p>Bernalillo, NM 87004</p> <p>(505) 867-3317 / Fax 505/867-9235</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>

<p>Pueblo of Santa Ana, New Mexico</p> <p>Star P.O. Box 37</p> <p>Bernalillo, NM 87004</p> <p>(505) 867-3301 / Fax 505/867-3395</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Santa Clara, New Mexico</p> <p>P.O. Box 580</p> <p>Espanola, NM 87532</p> <p>(505) 753-7326 / Fax 505/753-8988</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of Santo Domingo, New Mexico</p> <p>P.O. Box 99</p> <p>Santo Domingo Pueblo, NM 87095</p> <p>(505) 465-2214 / Fax 505/465-2688</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Pueblo of Taos, New Mexico</p> <p>P.O. Box 1846</p> <p>Taos, NM 87571</p> <p>(505) 758-9593 / Fax 505/758-8831</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of Tesuque, New Mexico</p> <p>Route 11, Box 1</p> <p>Santa Fe, NM 87501</p> <p>(505) 983-2667 / Fax 505/982-2331</p>	<p>Northern Pueblos Agency</p> <p>P.O. Box 849</p> <p>Santa Fe, NM 87501</p> <p>(505) 753-1400 / Fax 505/753-1404</p>
<p>Pueblo of Zia, New Mexico</p> <p>General Delivery</p> <p>San Ysidro, NM 87053</p> <p>(505) 867-3304 / Fax 505/867-3308</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Ramon Navajo Chapter</p> <p>Rt. 2 Box 13</p> <p>Raman, New Mexico 87321</p> <p>(505) 775-3342 / Fax 505/775-3538</p>	<p>Ramon/Navajo</p> <p>(505) 775-3255 / Fax 505/775-3387</p>

<p>Ysleta del Sur Pueblo</p> <p>P.O. Box 17579 Ysleta St.</p> <p>El Paso, Texas 79917</p> <p>(915) 859-7913 / Fax 915/859-2988</p>	<p>Southern Pueblo Agency</p> <p>P.O. Box 1667</p> <p>Albuquerque, NM 87103</p> <p>(505) 766-3021 / Fax 505/766-3023</p>
<p>Zuni Tribe of the Zuni Reservation</p> <p>P.O. Box 339</p> <p>Zuni, NM 87327</p> <p>(505) 782-4481 / Fax 505/782-2700</p>	<p>Zuni Agency</p> <p>P.O. Box 369</p> <p>Zuni, NM 87327</p> <p>(505) 782-4453 / Fax 505/782-5715</p>

## NEW YORK

TRIBE	BIA
<p>Cayuga Nation of New York</p> <p>P.O. Box 11</p> <p>Versailles, NY 14168</p> <p>(716) 532-4847 / Fax 716/532-5417</p>	<p>New York Liaison Office</p> <p>Federal Bldg., Rm. 523</p> <p>100 S. Clinton St.</p> <p>Syracuse, NY 12302</p> <p>(315) 423-5476 / Fax 315/423-5577</p>
<p>Oneida Nation of New York</p> <p>101 Canal St.</p> <p>Canastota, NY 13032</p> <p>(315) 679-8251 / Fax 315/697-8259</p>	<p>New York Liaison Office</p> <p>Federal Bldg., Rm. 523</p> <p>100 S. Clinton St.</p> <p>Syracuse, NY 12302</p> <p>(315) 423-5476 / Fax 315/423-5577</p>
<p>Onondaga Nation of New York</p> <p>R.R. #1 Box 270A</p> <p>Nedrow, NY 13120</p> <p>(315) 469-8507</p>	<p>New York Liaison Office</p> <p>Federal Bldg., Rm. 523</p> <p>100 S. Clinton St.</p> <p>Syracuse, NY 12302</p> <p>(315) 423-5476 / Fax 315/423-5577</p>
<p>Seneca Nation of New York</p> <p>Cattaraugus Reservation</p>	<p>New York Liaison Office</p> <p>Federal Bldg., Rm. 523</p>

1490 Rt. 438 Irving, NY 14081 (716) 532-4900 / Fax 716/532-9132	100 S. Clinton St. Syracuse, NY 12302 (315) 423-5476 / Fax 315/423-5577
St. Regis Band of Mohawk, New York Community Bldg. Hogansburg, NY 13655 (518) 358-2272 / Fax 518/358-3203	New York Liaison Office Federal Bldg., Rm. 523 100 S. Clinton St. Syracuse, NY 12302 (315) 423-5476 / Fax 315/423-5577
Tonawanda Band of Seneca Indians 7027 Meadville Road Basom, NY 14013 (716) 542-4244 / Fax 716/542-9692	New York Liaison Office Federal Bldg., Rm. 523 100 S. Clinton St. Syracuse, NY 12302 (315) 423-5476 / Fax 315/423-5577
Tuscarora Nation of New York 5616 Walmore Road Lewiston, NY 14092 (716) 297-4990	New York Liaison Office Federal Bldg., Rm. 523 100 S. Clinton St. Syracuse, NY 12302 (315) 423-5476 / Fax 315/423-5577

## NORTH CAROLINA

TRIBE	BIA
Eastern Band of Cherokee Indians of North Carolina P.O. Box 455 Cherokee, NC 28719 (704) 497-2771 / Fax 704/497-2952	Cherokee Agency Cherokee, North Carolina 28719 (704) 497-9131 / Fax 704/497-6715

## NORTH DAKOTA

TRIBE	BIA
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<p>Devils Lake Sioux Tribe</p> <p>Fort Totten, ND 58335</p> <p>(791) 766-4221 / Fax 701/766-4854</p>	<p>Fort Totten Agency</p> <p>Fort Totten, ND 58335</p> <p>(701) 4545 / Fax 701/766-4854</p>
<p>Standing Rock Sioux Tribe</p> <p>P.O. Box D</p> <p>Fort Yates, ND 58538</p> <p>(701) 854-7201</p>	<p>Standing Rock Agency</p> <p>Fort Yates, ND 58538</p> <p>(701) 854-3433/ Fax 701/854-7543</p>
<p>Three Affiliated Tribes of Fort Berthold Reservation</p> <p>P.O. Box 220</p> <p>New Town, ND 58763</p> <p>(701) 627-4781 / Fax 701/627-3805</p>	<p>Fort Berthold Agency</p> <p>P.O. Box 370</p> <p>New Town, ND 58763</p> <p>(701) 627-4707 / Fax 701/627-3601</p>

## OKLAHOMA

TRIBE	BIA
<p>Absentee Shawnee Tribe</p> <p>2025 S. Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 275-4030 / Fax 405 / 275-5637</p>	<p>Shawnee Agency</p> <p>2025 South Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 273-0317 / Fax 405/273-0072</p>
<p>Apache Tribe of Oklahoma</p> <p>P.O. Box 1220</p> <p>Anadarko, OK 73005</p> <p>(405) 247-9493 / Fax 405/247-9232</p>	<p>Anadarko Agency</p> <p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-6673 / Fax 405/247-9232</p>
<p>Caddo Indian Tribe of Oklahoma</p> <p>P.O. Box 487</p> <p>Binger, OK 73009</p> <p>(405) 656-2314 / Fax 405/247-2005</p>	<p>Anadarko Agency</p> <p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-6673 / Fax 405/247-9232</p>

<p>Cherokee Nation of Oklahoma</p> <p>P.O. Box 948</p> <p>Tahlequah, OK 74464</p> <p>(918) 456-0671 / Fax 918/456-6485</p> <p>1-800-722-4325 in Oklahoma</p>	<p>Tahlequah Agency</p> <p>P.O. Box 828</p> <p>Tahlequah, OK 74464</p> <p>(918) 456-6146 / Fax 918/458/0329</p>
<p>Cheyenne-Arapaho Tribes of Oklahoma</p> <p>P.O. Box 38</p> <p>Concho, OK 73022</p> <p>(405) 262-0345 / Fax 405/262-0745</p>	<p>Concho Agency</p> <p>Concho, OK 73022</p> <p>(405) 262-7481 / Fax 405/262-3140</p>
<p>Chickasaw Nation of Oklahoma</p> <p>P.O. Box 1548</p> <p>Ada, OK 74820</p> <p>(405) 436-2603 / Fax 405/436-4287</p>	<p>Chickasaw Agency</p> <p>(405) 436-0784 / Fax 405/436-3215</p>
<p>Choctaw Nation of Oklahoma</p> <p>Drawer 1210 16th Locust St.</p> <p>Durant, OK 74701</p> <p>(405) 924-8280 / Fax 405/924-1150</p>	<p>Talihina Agency</p> <p>P.O. Drawer H</p> <p>Talihina, OK 74571</p> <p>(918) 567-2207 / Fax 918/567-2061</p>
<p>Citizen Band Potawatomi Indians</p> <p>1901 S. Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 275-3121 / Fax 405/275-0198</p> <p>Comanche Indian Tribe of Oklahoma</p> <p>HC32 Box 1720</p> <p>Lawton, OK 73502</p> <p>(405) 492-4988 / Fax 405/492-4981</p>	<p>Shawnee Agency</p> <p>2025 South Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 273-0317 / Fax 405/273-0072</p> <p>Anadarko Agency</p> <p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-7374 / Fax 405/247-9232</p>
<p>Creek Nation of Oklahoma</p>	<p>Okmulgee Agency</p>

<p>P.O. Box 580</p> <p>Okmulgee, OK 74447</p> <p>(918) 756-8700 / Fax 918/756-2911</p>	<p>P.O. Box 370</p> <p>Okmulgee, OK 74447</p> <p>(918) 756-3950 / Fax 918/756-9626</p>
<p>Delaware Tribe of Western Oklahoma</p> <p>P.O. Box 825</p> <p>Anadarko, OK 73005</p> <p>(405) 247-2448 / Fax 405/247-2005</p>	<p>Anadarko Agency</p> <p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-7374 / Fax 405/247-9232</p>
<p>Fort Sill Apache Tribe of Oklahoma</p> <p>Rt. 2, Box 121</p> <p>Apache, OK 73006</p> <p>(405) 588-2298 / Fax 405/588-3313</p>	<p>Anadarko Agency</p> <p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-7374 / Fax 405/247-9232</p>
<p>Iowa Tribe of Oklahoma</p> <p>P.O. Box 190</p> <p>Perkins, OK 74059</p> <p>(405) 547-2403 / Fax 405/547-5294</p>	<p>Shawnee Agency</p> <p>2025 South Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 273-0317 / Fax 405/273-0072</p>
<p>Kaw Indian Tribe of Oklahoma</p> <p>Drawer 50</p> <p>Kay City, OK 74641</p> <p>(405) 269-2552 / Fax 405/269-2301</p>	<p>Pawnee Agency</p> <p>P.O. xox 440</p> <p>Pawnee, OK 74058</p> <p>(918) 762-2585 / Fax 918/762-3201</p>
<p>Kjalegee Tribal Town of the Creek</p> <p>910 North 3rd</p> <p>Okemah, OK 74859</p>	<p>Okmulgee Agency</p> <p>P.O. Box 370</p> <p>Okmulgee, OK 74447</p> <p>(918) 756-3950 / Fax 918/756-9626</p>
<p>Kickapoo Tribe of Oklahoma (includes Texas Band of Kickapoo)</p> <p>P.O. Box 70</p> <p>McLoud, OK 74851</p> <p>(405) 964-2075 / Fax 405/964-2745</p>	<p>Shawnee Agency</p> <p>2025 South Gordon Cooper Dr.</p> <p>Shawnee, OK 74801</p> <p>(405) 273-0317 / Fax 405/273-0072</p>
<p>Kiowa Indian Tribe of Oklahoma</p>	<p>Anadarko Agency</p>

<p>P.O. Box 369</p> <p>Carnegie, OK 73015</p> <p>(405) 654-2300 / Fax 405/654-2188</p> <p>Miami Tribe of Oklahoma</p> <p>P.O. Box 1326</p> <p>Miami, OK 74355</p> <p>(918) 542-1445 / Fax 918/542-7260</p>	<p>P.O. Box 309</p> <p>Anadarko, OK 73005</p> <p>(405) 247-6673 / Fax 405/247-7314</p> <p>Miami Agency</p> <p>P.O. Box 391</p> <p>Miami, OK 74355</p> <p>(918) 542-3396 / Fax 918/542-7202</p>
<p>Modoc Tribe of Oklahoma</p> <p>515 G SE 39</p> <p>Miami, OK 74354</p> <p>(918) 542-1190 / Fax 918/542-5415</p>	<p>Miami Agency</p> <p>P.O. Box 391</p> <p>Miami, OK 74355</p> <p>(918) 542-3396 / Fax 918/542-7202</p>
<p>Osage Tribe of Oklahoma</p> <p>Tribal Administration Bldg.</p> <p>Osage Agency</p> <p>Pawhuska, OK 74056</p> <p>(918) 287-2495 / Fax 918/287-2257</p>	<p>Osage Agency</p> <p>Pawhuska, OK 74056</p> <p>(918) 287-2481 / Fax 918/287-1229</p>
<p>Ottawa Tribe of Oklahoma</p> <p>P.O. Box 110</p> <p>Miami, OK 74355</p> <p>(918) 540-1536 / Fax 918/542-3214</p>	<p>Miami Agency</p> <p>P.O. Box 391</p> <p>Miami, OK 74355</p> <p>(918) 542-3396 / Fax 918/542-7202</p>
<p>Otoe-Missouria Tribe of Oklahoma</p> <p>P.O. Box 68</p> <p>Red Rock, OK 74651</p> <p>(405) 723-4434 / Fax 405/783-4273</p>	<p>Pawnee Agency</p> <p>P.O. Box 440</p> <p>Pawnee, OK 74058</p> <p>(918) 762-2585 / Fax 918/762-3201</p>
<p>Pawnee Indian Tribe of Oklahoma</p> <p>P.O. Box 470</p>	<p>Pawnee Agency</p> <p>P.O. Box 440</p>



Pawnee, OK 74058  (918) 762-3624 / Fax 918/762-2389	Pawnee, OK 74058  (918) 762-2585 / Fax 918/762-3201
Peoria Tribe of Oklahoma  P.O. Box 1527  Miami, OK 74355  (918) 540-2535 / Fax 918/450-2528	Miami Agency  P.O. Box 391  Miami, OK 74355  (918) 542-3396 / Fax 918/542-7202
Ponca Tribe of Indians of Oklahoma  Box 2  White Eagle, Ponca City, OK 74601  (405) 762-8104 / Fax 405/762-7436	Pawnee Agency  P.O. Box 440  Pawnee, OK 74058  (918) 762-2585 / Fax 918/762-3201
Quapaw Tribe of Oklahoma  P.O. Box 765  Quapaw, OK 74363  (918) 542-1853 / Fax 918/542-4594	Miami Agency  P.O. Box 391  Miami, OK 74355  (918) 542-3396 / Fax 918/542-7202
Sac & Fox Tribe of Indians of Oklahoma  Route 2, Box 246  Stroud, OK 74079  (918) 968-3526 / Fax 918/968-3887	Shawnee Agency  2025 South Gordon Cooper Dr.  Shawnee, OK 74801  (405) 273-0317 / Fax 405/273-0072
Seminole Nation of Oklahoma  P.O. Box 1498  Wewoka, OK 74884  (405) 257-6287 / Fax 405/257-5017	Wewoka Agency  P.O. Box 1060  Wewoka, OK 74884  (405) 257-6257 / Fax 405/257-6748
Seneca-Cayuga Tribe of Oklahoma  P.O. Box 1283  Miami, OK 74355  (918) 542-6609 / Fax 918/542-3684	Miami Agency  P.O. Box 391  Miami, OK 74355  (918) 542-3396 / Fax 918/542-7202
Thlopthlocco Tribal Town of Creek	Okmulgee Agency

Box 706 Okemah, OK 74859 (918) 623-2620	P.O. Box 370 Okmulgee, OK 74447 (918) 756-3950 / Fax 918/542-7202
Tonkawa Tribe of Indians of Oklahoma P.O. Box 70 Tonkawa, OK 74653 (405) 628-2561 / Fax 405/628-3375	Pawnee Agency Pawnee, OK 74801 (918) 762-2585 / Fax 918/762-3201
United Keetoowah Band of Cherokee P.O. Box 746 Tahlequah, OK 74465-0746 (918) 456-9462 / Fax 918/456-3648	Muskogee Area (918) 687-2296 / Fax 918/736-2571
Wichita Indian Tribe of Oklahoma P.O. Box 729 Anadarko, OK 73005 (405) 247-2425 / Fax 405/247-2005	Anadarko Agency P.O. Box 309 Anadarko, OK 73005 (405) 247-6673 / Fax 405/247-7314
Wyandotte Tribe of Oklahoma P.O. box 250 Wyandotte, OK 74370 (918) 678-2297 / Fax 918/678-2944	Miami Agency P.O. Box 391 Miami, OK 74355 (918) 542-3396 / Fax 918/542-7202

## OREGON

TRIBE	BIA
Burns Paiute Indian Colony Oregon HC71 Pa'Si'go Str. Burns, OR 97720-9303 (503) 573-2088 / Fax 503/573-2323	Warms Springs Agency P.O. Box 1239 Warm Springs, OR 97761 (503) 553-2411 / Fax 503/553-1426
Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians	Siletz Agency P.O. Box 539

<p>455 South 4th St.</p> <p>Coos Bay, OR 97420-1570</p> <p>(503) 267-5454 / Fax 503/269-1647</p>	<p>Siletz, OR 97380</p> <p>(503) 444-2679 / Fax 503/444-2513</p>
<p>Confederated Tribes of the Grand Ronde</p> <p>9615 Grande Ronde Rd.</p> <p>Grand Rhonde, OR 97347-0038</p> <p>(503) 879-5215 / Fax 503/879-5964</p>	<p>Siletz Agency</p> <p>P.O. Box 539</p> <p>Siletz, OR 97380</p> <p>(503) 444-2679 / Fax 503/444-2513</p>
<p>Confederated Tribes of the Umatilla</p> <p>P.O. box 638</p> <p>Pendleton, OR 97801</p> <p>(503) 276-3165</p>	<p>Umatilla Agency</p> <p>P.O. Box 520</p> <p>Pendleton, OR 97801</p>
<p>Confederated Tribes of Warm Springs</p> <p>P.O. Box C</p> <p>Warm Springs, OR 97761-0078</p> <p>(503) 553-1161 / Fax 503/553-1924</p>	<p>Warm Springs Agency</p> <p>P.O. Box 1239</p> <p>Warm Springs, OR 97761</p> <p>(503) 553-2411 / Fax 503/553-1426</p>
<p>Coquille Indian Tribe</p> <p>P.O. Box 1435</p> <p>Coos Bay, Oregon 97420-0330</p> <p>(503) 888-4274 / Fax 503/269-2573</p>	<p>Siletz Agency</p> <p>P.O. Box 539</p> <p>Siletz, OR 97380</p> <p>(503) 444-2679 / Fax 503/444/2513</p>
<p>Cow Creek Band of Umpqua Indians</p> <p>2400 Stewart Parkway</p> <p>Roseburg, OR 97470-1563</p> <p>(503) 672-9405 / Fax 503/673-0432</p>	<p>Siletz Agency</p> <p>P.O. Box 539</p> <p>Siletz, OR 97380</p> <p>(503) 444-2679 / Fax 503/444/2513</p>
<p>Klamath General Council</p> <p>Box 436</p> <p>Chiloquin, OR 97624-0436</p> <p>(503) 783-2219 / Fax 503/783-2029</p> <p>RECOGNIZED 8/27/86</p>	<p>Chiloquin Sub-Agency</p> <p>P.O. Box 360</p> <p>Chiloquin, OR 97624</p> <p>(503) 783-2189 / Fax 503/783-2946</p>

<p>Siletz Tribal Council</p> <p>P.O. Box 549</p> <p>Siletz, OR 97380-0549</p> <p>(503) 444-2513 / Fax 503/444-2307</p> <p>Umatilla Board of Trustees</p> <p>P.O. Box 638</p> <p>Pendleton, OR 97801-0638</p> <p>(503) 276-3165 / Fax 503/276-9060</p>	<p>Siletz</p> <p>(503) 235-2571 / Fax 503/444-2513</p> <p>Umatilla</p> <p>(503) 276-3811 / Fax 503/276-3811 ext. 449</p>

## RHODE ISLAND

TRIBE	BIA
<p>Naragansett Indian Tribe of Rhode Island</p> <p>P.O. Box 268</p> <p>Charleston, Rhode Island 02813</p> <p>(401) 364-1100 / Fax 401/364-1104</p>	<p>Eastern Area Office</p> <p>1951 Constitution Avenue NW</p> <p>Washington, D.C. 20245</p> <p>(703) 235-2571 / Fax 703/235-8610</p>

## SOUTH DAKOTA

TRIBE	BIA
<p>Cheyenne River Sioux Band</p> <p>P.O. Box 590</p> <p>Eagle Butte, SD 57625</p> <p>(605) 964-4155 / Fax 605/964-4151</p>	<p>Cheyenne River Agency</p> <p>Eagle Butte, SD 57625</p> <p>(605) 964-6611 / Fax 605/964-4060</p>
<p>Crow Creek Sioux Band of the Crow Creek Reservation</p> <p>P.O. Box 658</p> <p>Fort Thompson, SD 57339</p> <p>(605) 245-2221 / Fax 605-2216</p>	<p>Crow Creek Agency</p> <p>P.O. Box 139</p> <p>Fort Thompson, SD 57339</p> <p>(605) 245-2311 / Fax 605/245-2343</p>

<p>Flandreau Santee Sioux</p> <p>Box 283</p> <p>Flandreau, SD 57028</p> <p>(605) 997-3891 / Fax 605/997-3878</p>	<p>Aberdeen Area</p> <p>(605) 226-0250 / Fax 605/782-7446</p>
<p>Lower Brule Sioux Band</p> <p>Lower Brule, SD 57548</p> <p>(605) 473-5561 / Fax 605/473-5606</p>	<p>Lower Brule Agency</p> <p>P.O. Box 190</p> <p>Lower Brule, SD 57548</p> <p>(605) 473-5512 / Fax 605/473-5491</p>
<p>Oglala Sioux Band of Pine Ridge</p> <p>P.O. Box 468</p> <p>Pine Ridge, SD 57770</p> <p>(605) 867-5821 / Fax 605/867-5659</p> <p>Rosebud Sioux Band</p> <p>P.O. Box 430</p> <p>Rosebud, SD 57570</p> <p>(605) 747-2381 / Fax 605/747-2243</p> <p>Sisseton-Wahpeton Sioux of Lake Traverse Reservation, South Dakota</p> <p>Route 2, Agency Village</p> <p>Sisseton Village, SD 57262</p> <p>(605) 698-3911 / Fax 605/698-3708</p>	<p>Rosebud Agency</p> <p>P.O. Box 550</p> <p>Rosebud, SD 57570</p> <p>(605) 747-2224 / Fax 605/747-2805</p> <p>Sisseton Agency</p> <p>P.O. Box 688</p> <p>Agency Village, SD 57262</p> <p>(605) 698-7676 / Fax 605/698-7784</p>
<p>Yankton Sioux Tribe</p> <p>P.O. Box 248</p> <p>Marty, SD 57361</p> <p>(605) 384-3641 / Fax 605/384-5687</p>	<p>Yankton Agency</p> <p>Wagner, SD 57380</p> <p>(605) 384-3651 / Fax 605/384-5706</p>

**TEXAS**

<b>TRIBE</b>	<b>BIA</b>
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Alabama & Coushatta Tribes of Texas Rt. 3, Box 659 Livingston, TX 77351 (409) 563-4391 / Fax 409/563-4397	Anadarko Area  (405) 273-0317 / Fax 405/273-0072
Kickapoo Traditional Tribe of Texas P.O. Box 972 Eagle Pass, Texas 78853 (512) 773-2105 / Fax 512/757-9228	Shawnee  (405) 273-0317 / Fax 405/273-0072

## UTAH

TRIBE	BIA
Confederated Tribes of the Goshute P.O. Box 6104 Ibapah, UT 84034 (801) 234-1138 / Fax 801/234-1162	Eastern Nevada Agency P.O. Box 28 Elko, NV 89832 (702) 738-5165 / Fax 702/738-4710
Paiute Indian Tribe of Utah 600 N. 100 East Paiute Dr. Cedar City, UT 84720 (801) 586-1112 / Fax 801/586-0896	Southern Paiute Field Station P.O. Box 986 Cedar City, UT 84720 (801) 674-9720 / Fax 801/674-9714
Skull Valley Band of Goshute of Utah c/o U & O Agency P.O. Box 130 Ft. Duchesne, UT 84026 (807) 722-2406 / Fax 801/831-6126	Unitah and Ouray Agency Ft. Duchesne, UT 84026 (801) 722-2406 / Fax 801/831-6126
Ute Indian Tribe of Unitah & Ouray P.O. Box 190 Fort Duchesne, UT 84026 (801) 722-5141 / Fax 801/722-2374	Unitah and Ouray Agency Ft. Duchesne, UT 84026 (801) 722-2406 / Fax 801/722-2374

## WASHINGTON

TRIBE	BIA
<p>Confederated Tribes of the Chehalis</p> <p>P.O. Box 536</p> <p>Oakville, WA 98568</p> <p>(360) 273-5911 / Fax 360/273-5914</p>	<p>Olympia Peninsula Agency</p> <p>P.O. Box 120</p> <p>Hoquiam, WA 98550</p> <p>(360) 533-9100 / Fax 360/533-9141</p>
<p>Confederated Tribes of the Colville</p> <p>P.O. Box 150</p> <p>Nespelem, WA 99155</p> <p>(509) 634-4711 / Fax 509/634-4116</p>	<p>Colville Agency</p> <p>P.O. Box 111</p> <p>Nespelem, WA 99155</p> <p>(509) 634-4901 / Fax 509/634-9449</p>
<p>Confederated Tribes of Yakama</p> <p>P.O. Box 151</p> <p>Toppenish, WA 98948</p> <p>(509) 865-5121 / Fax (509)865-5528</p>	<p>Yakama Agency</p> <p>P.O. Box 632</p> <p>Toppenish, WA 98948</p>
<p>Cowlitz Tribe</p> <p>PO Box 2547</p> <p>Longview, WA 98632</p> <p>Phone: (360) 575-3307</p> <p>Fax: (360) 575-1948</p>	<p>Olympic Peninsula Agency</p> <p>Bureau of Indian Affairs</p> <p>P.O. Box 48</p> <p>Aberdeen, WA 98520</p> <p>Phone: (360) 533-9100</p> <p>Fax: (360) 533-9141</p>
<p>Hoh Indian Tribe</p> <p>2464 Lower Hoh Road</p> <p>Forks, WA 98331-9304</p> <p>(360) 374-6582 / Fax 360/374-6549</p>	<p>Olympic Peninsula Agency</p> <p>P.O. Box 120</p> <p>Hoquiam, WA 98550</p> <p>(360) 533-9100 / Fax 360/533-9141</p>
<p>Jamestown S'Klallam Tribe</p> <p>1033 Old Blyn Hwy</p> <p>Sequim, WA 98382-9342</p> <p>(360) 683-1109 / Fax 360/681-4643</p>	<p>Olympic Peninsula Agency</p> <p>P.O. Box 120</p> <p>Hoquiam, WA 98550</p> <p>(360) 533-9100 / Fax 360/533-9141</p>
<p>Kaslispel Indian Community</p>	<p>Spokane Agency</p>

P.O. Box 39 Usk, WA 99180-9342 (509) 445-1147 / Fax 509/445-1705	P.O. Box 389 Wellpinit, WA 99040 (509) 258-4561 / Fax 509/258-4563
Lower Elwha Tribal Community 2851 Lower Elwha Road Port Angeles, WA 98363 (360) 452-8471 / Fax 360/452-4528	Olympic Peninsula Agency P.O. Box 120 Hoquiam, WA 98550 (360) 533-9100 / Fax 360/533-9141
Lummi Tribe 2616 Kwina Road Bellingham, WA 98226-9298 (360) 384-1489 / Fax 360/671-3840	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Muckleshoot Indian Tribe 39015 - 172nd SE Auburn, WA 98002-9763 (253) 939-3311 / Fax 253/939-5311	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Nisqually Indian Community 4820 Seh-Nan-Num Dr. SE Olympia, WA 98503 (360) 456-5221 / Fax 360/407-0125	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Nooksack Indian Tribe P.O. Box 157 Deming, WA 98244 (360) 592-5176 / Fax 360/592-1365	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Makah Indian Tribe P.O. Box 115 Neah Bay, WA 98357 (360) 645-2201 / Fax 360/645-2788	Makah Agency (360) 645-2229
Port Gamble Band of S'Klallam Indians	Puget Sound Agency



<p>31912 Little Boston Rd NE Kingston, WA 98346 (360) 297-2646 / Fax 360/297-7097</p>	<p>3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 525/258-1254</p>
<p>Puyallup Tribe 2002 East 28th Street Tacoma, WA 98404-4996 (253) 573-7800 / Fax 253/573-7929</p>	<p>Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 525/258-1254</p>
<p>Quileute Tribe P.O. Box 279 LaPush, WA 98350-0279 (360) 374-6163 / Fax 360/374-6311</p>	<p>Olympic Peninsula Agency P.O. Box 120 Hoquiam, WA 98550 (360) 533-9100 / Fax 360/390-9141</p>
<p>Quinault Indian Nation P.O. Box 189 Taholah, WA 98587-0189 (360) 276-8211 / Fax 360/276-4191</p>	<p>Olympic Peninsula Agency P.O. Box 120 Hoquiam, WA 98550 (360) 533-9100 / Fax 360/390-9141</p>
<p>Samish Nation PO Box 217 Anacortes, WA 98221 Phone: (360) 899-5282 Fax: (360) 299-4357</p>	<p>Puget Sound Agency Bureau of Indian Affairs 2707 Colby Avenue, Suite 1101 Everett, WA 98201-3528 Phone: (425) 258-2651 Fax: (425) 258-1254</p>
<p>Sauk-Suiattle Tribe 5318 Chief Brown Lane Darrington, WA 98241-9421 (360) 436-0131 / Fax 360/436-1511</p>	<p>Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254</p>
<p>Shoalwater Bay Tribe P.O. Box 130</p>	<p>Olympic Peninsula Agency P.O. Box 120</p>

<p>Tokeland, WA 98590-0130 (360) 267-6766 / Fax 360/267-6778</p>	<p>Hoquiam, WA 98550 (360) 533-9100 / Fax 360/533-9141</p>
<p>Skokomish Indian Tribe N. 80 Tribal Center Road Shelton, WA 98584-9748 (360) 426-4232 / Fax 360/877-5943</p>	<p>Olympic Peninsula Agency P.O. Box 120 Hoquiam, WA 98550 (360) 533-9100 / Fax 360/533-9141</p>
<p>Snoqualmie Tribe P. O. Box 670 Fall City, WA 98024 (360) 222-6900</p>	<p>Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254</p>
<p>Spokane Tribe P.O. Box 100 Wellpinit, WA 99040-0100 (509) 258-4581 / Fax 509/258-9243</p>	<p>Spokane Agency P.O. Box 389 Wellpinit, WA 99040 (509) 258-4561 / Fax 509/258-4563</p>
<p>Squaxin Island Tribe S. E. 70 Squaxin Lane Shelton, WA 98584-9200 (360) 426-9781 / Fax 360/426-6577</p>	<p>Olympic Peninsula Agency P.O. Box 120 Hoquiam, WA 98550 (360) 533-9100 / Fax 360/533-9141</p>
<p>Stillaguamish Tribe 3439 Stoluckguamish Lane Arlington, WA 98223-9056 (360) 652-7362 / Fax 360/435-7689</p>	<p>Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254</p>
<p>Suquamish Indian Tribe P.O. Box 498 Suquamish, WA 98392-0498 (360) 598-3311 / Fax 360/598-6295</p>	<p>Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254</p>
<p>Swinomish Indian Tribal Community</p>	<p>Puget Sound Agency</p>

P.O. Box 817 LaConner, WA 98257-0817 (360) 466-3163 / Fax 360/466-5309	3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Tulalip Tribe 6700 Totem Beach Road Marysville, WA 98270-9694 (360) 651-4000 / Fax 360/651-4032	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Upper Skagit Indian Tribe of Washington 25944 Community Plaza Sedro Woolley, WA 98284 (360) 856-5501 / Fax (360) 856-3175	Puget Sound Agency 3006 Colby Avenue-Fed. Bldg. Everett, WA 98201 (425) 258-2651 / Fax 425/258-1254
Yakama Indian Nation P.O. Box 151 Toppenish, WA 98948-0151 (509) 865-5121 / Fax 509/865-5528	Yakama Agency P.O. Box 632 Toppenish, WA 98948 (509) 865-2255

## WISCONSIN

TRIBE	BIA
Bad River Band of Lake Superior Chippewa Indians Rt. 39 Odapah, WI 54861 (715) 682-7111 / Fax 715/682-7118	Great Lakes Agency Ashland, WI 54806 (715) 682-4527 / Fax 715/682-8897
Forest County Potawatomi Community P.O. Box 340 Crandon, WI 54520 (715) 478-2903 / Fax 715/478-5280	Great Lakes Agency Ashland, WI 54806 (715) 682-4527 / Fax 715/682-8897
Lac Courte Oreilles Band of Lake Superior Chippewa Indians Rt. 2 Box 2700	Great Lakes Agency Ashland, WI 54806

Hayward, WI 54843  (715) 634-8934 / Fax 715/634-4797	(715) 682-4527 / Fax 715/682-8897
La du Flambeau Tribal Council  P.O. Box 67  Lacdue Flambeau, WI 54538  (715) 588-3303 / Fax 715/588-7930	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
Menominee Indian Tribe of Wisconsin  P.O. Box 910  Keshena, WI 54135  (715) 799-5100 (tribal enrollment)  Fax 715/799-3373	Menominee Field Office  Minneapolis Area Office  15 South 5th St.  Minneapolis, MN  (612) 373-1000 / Fax 612/373-1186
Oneida Tribe of Wisconsin  P.O. Box 365  Oneida, WI 54155-0365  (414) 869-2772 / Fax 414/869-2194	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin  P.O. Box 529  Bayfield, WI 54814  (715) 779-5805 / Fax 715/779-3151	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
Sokoagon Chippewa (Mole Lake) Community  Rt. 1 Box 625  Crandon, WI 54520  (715) 478-2604 / Fax 715/478-5275	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
Strockbridge-Munsee Community  Rt. 1  Bowler, WI 54416  (715) 793-4111 / Fax 715/793-4299	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
St. Croix Chippewa Indians	Great Lakes Agency

P.O. Box 287 Hertel, WI 54845 (715) 349-2195 / Fax 715/349-5768	Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897
Wisconsin Winnebago Tribe  P.O. Box 667 Tomah, WI 54660 (608) 372-4147 / Fax 608/372-3197	Great Lakes Agency  Ashland, WI 54806  (715) 682-4527 / Fax 715/682-8897

## WYOMING

TRIBE	BIA
Arapaho Tribe of Wind River  P.O. Box 217 Ft. Washakie, WY 82514 (307) 332-6120 / Fax 307/332-7543	Wind River Agency  Fort Washakie, WY 82514  (307) 332-7810 / Fax 307/332-4578
Northwestern Band of Shoshone of Utah (Washakie)  Rock Springs, WY 82901	Wind River Agency  Bureau of Indian Affairs  Fort Washakie, WY 82514  (307) 332-7810 / Fax 307/332-4578
Shoshone Tribe of the Wind River  P.O. Box 217 Ft. Washakie, WY 82514 (307) 332-3532 / Fax 332-3055	Wind River Agency  Fort Washakie, WY 82514  (307) 332-7810 / Fax 307/332-4578

# 13.0 Forms

## 13.01 INTRODUCTION

This chapter contains forms that Children's Administration (CA) staff use to fulfill the requirements of this manual with respect to CA's Indian child welfare program. The forms are available for downloading through the department's [Forms and Records Section](#).

## 13.05 FORMS

DSHS 04-220(X) Family Ancestry Chart

DSHS 09-428(X) Dependency Petition

DSHS 09-453 Guardianship Petition

DSHS 09-474 Petition for Relinquishment and Termination of Parent Child Relationship (RCW 26.33)

DSHS 09-536 Inquiry to Bureau of Indian Affairs

DSHS 09-537 Notice to Non-Federally Recognized or Canadian First Nations Tribe or Band

DSHS 09-539 Inquiry to Indian Tribe, Band, or Nation Re: Membership Status

DSHS 09-541 Notice to Indian Tribe, Band or Nation

DSHS 09-542 Notice of Intervention and Request for Continuance - Indian Tribe

DSHS 09-543 Notice to Parent/Indian Custodian

DSHS 09-544 Request for Continuance - Parent/Indian Custodian

DSHS 09-545 Notice to BIA

DSHS 09-547 Motion and Order to Transfer Jurisdiction to Tribal Court

DSHS 09-548 Motion and Order for the Tribal Court to Accept Jurisdiction Under 25 U.S.C. 1911(b)

DSHS 09-758 Notice to Child's Tribe of Alternative Residential Placement (ARP) Proceeding

DSHS 09-759 Motion, Declaration, of Child's Return from Voluntary Foster Care Placement, and Order of Dismissal

DSHS 09-760 Notice of Placement Change

DSHS 09-761 Indian Identity Request

DSHS 09-762 Petition for Court Validation of Voluntary Consent to Foster Care Placement of an Indian Child

DSHS 09-763 Consent to Foster Care Placement and Court Certification

DSHS 09-764 Relinquishment of Custody, Consent to Termination/ Adoption, and Court Certification - Indian Child

DSHS 09-765 Declaration of Adoption Facilitator

DSHS 09-766 Petition for Termination of Parent-Child Relationship (RCW 13.34)

DSHS 09-767 Declaration of Notification - Foster Care Placement Validation Hearing

DSHS 09-768 Superior Court Adoption Information for Indian Child

DSHS 09-769 Voluntary Relinquishment and Adoption Information to Parent of Indian Child

DSHS 09-770 Notice and Summons (Relinquishment/ Termination/ Adoption)

DSHS 09-771 Addendum to Petition

DSHS 09-772 Notice to Extended Family Members

DSHS 09-773 Notice of Termination or Adoption Decree Vacate

DSHS 09-774 Notice of Change of Voluntary Placement

DSHS 09-775 Inquiry to Indian Organization

DSHS 09-776 Notice of Dependency Dismissal

DSHS 09-777 Indian Child: Compliance Checklist

DSHS 09-778 Information to Prospective Adoptive Parents of Indian Child

DSHS 15-128 Verification of Indian Status: Foster Care and Adoptive Applicant

## 14.0 Definitions

The following definitions are terms used in the *Indian Child Welfare Manual*.

“**ACT**” means the Indian Child Welfare Act, 25 U.S.C. 1901, et seq., or ICWA.

“**ACTIVE EFFORTS**” consist of taking the client through the steps of the plan rather than requiring that the plan be performed on its own. “Passive efforts,” on the other hand, consist of merely drawing up a plan and requiring the client to use his or her own resources to bring it to fruition. A court will make a finding of **active efforts** on a case-by-case basis, taking into account the parent’s circumstances. The court may consider the detailed testimony of the social worker in determining whether **active efforts** have been followed. The testimony should demonstrate that the social worker has been in contact with the parent, that services have been offered, provide a detailed description of the services and progress, if any, and indicate whether the parent has demonstrated any interest in remedying the problem areas.

“**BUREAU OF INDIAN AFFAIRS**” (BIA) means, within the Department of the Interior, the principal agency of the federal government responsible for the administration of federal programs for federally recognized Indian Tribes, and for promoting Indian self-determination. The Bureau has a trust responsibility emanating from treaties and other agreements with native groups. The BIA (as of 1998) provides federal services to approximately 1.2 million Indians and Alaska Natives who are members of more than 557 federally recognized Indian Tribes in the 48 contiguous United States and Alaska. The Bureau administers 43,450,267 acres of tribally-owned land, 10,183,530 acres of individually-owned land, and 417,225 acres of federally-owned land which is held in trust status or Tribes.

“**CANADIAN FIRST NATIONS INDIAN CHILD**” means an unmarried person under the age of 18 who is a member of a treaty Tribe, Metis community, or a non-status Indian community from Canada.

“**CANADIAN RESERVE**” is the equivalent of the term “Indian Reservation” used in the United States.

“**CENTENNIAL ACCORD**” means an agreement, signed on August 4, 1989, establishing a government-to-government relationship between the State of Washington and the federally recognized Indian Tribes in Washington State. The agreement introduces a framework to build more positive relationships in the resolution of disagreements and provides a process for working on issues of mutual concern.

“**CHILD CUSTODY PROCEEDING**” means the term or terms that apply to domestic relations proceedings in which an Indian child is placed in the custody of DSHS, or a child placing agency or in which a placement has been requested:

- **Out-of-Home placement** - An action placing an Indian child in a foster family home or group care facility or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed under 74.15 RCW and the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.
- RCW 74.14C.010
- **Termination of parental rights** - an action resulting in the legal end to the parent-child relationship.
- **Foster or relative care when the parental rights have been terminated** - 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.
- **Adoptive placement** - the permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption.

"**CHILD IN NEED OF SERVICES**" (CHINS) does not apply in a dependency proceeding. See the *CA Case Services Policy Manual*, [Appendix A](#).

"**CHILD IN NEED OF SERVICES (CHINS) PETITION**" - See the *CA Case Services Policy Manual*, [Appendix A](#).

“**CHILD PLACING AGENCY**” (CPA) means an agency that places a child or children for temporary care, continued care, or for adoption.

“**CHILD PROTECTIVE TEAM**” (CPT) means a team of professional and community volunteers appointed by CA to review placement decisions, child abuse and neglect investigations, and other matters as requested by the department. A CA Regional Administrator may designate a LICWAC to serve as a CPT if it has appropriate professional representation.

“**CHILDREN’S ADMINISTRATION**” (CA) means the organizational entity within the Department of Social and Health Services that provides child protective, child welfare, and related services. CA includes the Division of Children and Family Services (DCFS), the Division of Licensed Resources (DLR), and the Division of Program and Policy Development.

“**CHILD’S TRIBE,**” means:

- For a Canadian First Nations child, a First Nation, Tribe, Metis community, or non-status Indian community from Canada in which the child is a member.
- For an “Recognized Indian Child,” a non-federally recognized Tribe in which the child is a member or is eligible for membership.

“**COMPELLING REASON**” means, for purposes of the Adoption and Safe Families Act (ASFA), a factor in case planning that presents an unusual circumstance that makes necessary a decision which would not normally be made for a child or family. “Compelling Reason” includes, but is not necessary limited to, circumstances in which a child:



1. Is older and is opposed, following a discussion with the social worker of the alternatives, to adoption as a permanent plan;
2. Has significant ties to the child's family which are positive and expected to be on-going and would be disrupted by termination of parental rights;
3. Is in placement for reasons other than abuse, neglect, abandonment, or no parent able or willing to care for the child (e, g., children in care due to the risk they pose to others, due to behavioral management issues, etc.);
4. Does not have a permanent placement resource identified and for whom there is significant risk that an adoptive resource will not be found; or
5. Has other unique situations described in the ISSP by the social worker that constitute compelling reasons not to file a petition to terminate parental rights.

**“CONCURRENT JURISDICTION”** means a situation in which two different courts, such as tribal and state, have the power and authority to deal with the same subject matter or case.

**“CONTACT PERSON”** means a person(s) designated by the child's Tribe for initial contact.

**“COURT OF COMPETENT JURISDICTION”** means a court that has the authority to hear and decide a particular case.

**"CULTURAL COMPETENCE"** means a set of behaviors and attitudes that enables individuals working with a child or family to learn about or recognize the cultural context of a situation and to integrate that knowledge into an action.

**"CULTURAL CONSULTANTS"** means culturally competent individuals recognized by the department and/or client as a resource to help assess and/or resolve problems relating to cultural issues. The person is not necessarily a qualified expert. See the definition of “qualified expert.”

**"CULTURAL DIVERSITY"** means the distinguishable differences in life styles, values, traditions, religions, etc.

**"CULTURALLY RESPONSIVE"** means a pattern of behaviors that incorporates and acknowledges the importance of cultures (competence), the assessment of cross-culture relations (literate), vigilance towards the dynamics that result from cultural difference (effective), the expansion of cultural knowledge and the adaptation of services to meet culturally unique needs.

**"CULTURE"** means the integrated pattern of human behavior including thought, communication, actions, customs, beliefs, values, institutions, of a racial, ethnic, religious or social group.

**"CUSTODIAN"** means the person or entity that has the legal right to the custody of the child. RCW 13.32A.030

**“DEPARTMENT”** means the Washington State Department of Social and Health Services (DSHS).

**“DILIGENT EFFORTS”** means case activity marked by careful and persevering attention to detail.

**“DISPOSITION”** means the order of a Juvenile or Family Court that determines a treatment plan for a child and family after allegations of abuse or neglect have been founded by the court. The plan includes the placement of the child, required supervision, and services for the child and parents.

**“DISPOSITIONAL HEARING”** means the Juvenile or Family Court hearing during which parties present information and arguments concerning proposed disposition orders. The Dispositional Hearing may immediately follow or be held separately from the Fact-Finding Hearing.

**“DOCUMENTED EFFORTS”** means a written account of compliance efforts in the case file. Documentation includes:

- Contacts with relatives, representatives of the child’s Tribe, and other persons who might have relevant information;
- Names, phone numbers, and addresses of persons contacted;
- Summaries of the nature and content of the contacts;
- Copies of any correspondence; and
- Compilation of a family Ancestry Chart reflecting all information reasonably available through such contacts.

**“DOMICILE,”** for adults, is established by the physical presence in a place where the person intends to remain permanently or indefinitely. “Domicile” is not necessarily synonymous with “residence.” A person may have only one domicile but may have more than one residence. The domicile of the child’s parents determines the child’s domicile. In the case of a child born to unmarried parents, the child’s domicile is that of the child’s mother. Usually, the child’s Tribe determines the child’s domicile based on the domicile of the child’s parent(s).

**“DURESS”** means unlawful pressure on a person to do what the person would not otherwise do. It may include force, threats of violence, physical restraint, or mental or psychological pressure.

**“ELIGIBLE FOR MEMBERSHIP IN AN INDIAN TRIBE”** means a determination made by a Tribe that an individual person is a member or eligible for membership in the Tribe. Only the Tribe may make this determination.

**“ENROLLMENT IN AN INDIAN TRIBE”** means a determination made by a Tribe that a person is listed on the enrollment register for the Tribe. Enrollment may not be necessary for a person to be eligible for membership in the Tribe.

**“ETHNIC”** means a group designated by customs, characteristics, language, common history, and/or racial affiliation.

**“EXCLUSIVE JURISDICTION”** means a particular court is the only court that has the power and authority to hear and decide a particular type of case.

**“EXPERT QUALIFIED IN THE PLACEMENT OF INDIAN CHILDREN IN NON-INDIAN HOMES”** means a person with specific experience in helping Indian children, and the non-Indian foster or adoptive families with whom the children have been placed, to cope with and adjust to the social and psychological issues associated with such placements.

**“EXTENDED FAMILY MEMBER”** means an individual, defined by the law or custom of the child’s Tribe, as a relative of the child. If the child’s Tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child’s grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent, even following termination of the marriage.

**“FEDERALLY RECOGNIZED INDIAN CHILD”** means, under the federal Indian Child Welfare Act (ICWA), an unmarried person who is under the age of eighteen and who is either:

1. A member of a federally recognized Indian Tribe, including Eskimo, Aleut, or other Alaska Native; or

2. Eligible for membership in a federally recognized Indian Tribe, including Eskimo, Aleut, or other Alaska Native, and is the biological child of a member of an Indian child.

25 U. S. C. 1903(4)

“**FEDERALLY RECOGNIZED INDIAN TRIBE**” means any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native Village.

25 U. S. C. 1903(8)

“**FOSTER CARE**” means placement of a child by the department or a licensed child placing agency in a home or facility licensed pursuant to chapter 74.15 RCW or in a home or facility that is not required to be licensed pursuant to chapter 74.15 RCW.

“**FULL FAITH AND CREDIT**” means a provision in the U. S. Constitution requiring all states to recognize and enforce, in certain situations, laws and court decisions from other states or courts. ICWA requires all states to extend that recognition and enforcement to all tribal laws, customs, and decisions relating to child custody matters.

“**GROUP CARE**” means the provision of a safe, healthful environment for youth in a 24-hour licensed facility for more than six children, which provides the basic needs of food, shelter, and the provision of therapeutic services required for the successful reunification of youth with their family resource.

"**GUARDIAN**" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under Chapter 13.34 RCW.

“**GUARDIAN AD LITEM**” (GAL) means a person appointed by the court to represent the child’s best interest before the court. In some jurisdictions, volunteer GALs are also known as Court Appointed Special Advocates (CASA).

“**GUARDIANSHIP**” – See the *CA Case Services Policy Manual*, [Appendix A](#).

“**IMPASSE**” means a deadlock between CA and the LICWAC following thorough discussion by the CA social worker of the case plan and case decisions with the worker’s supervisor and managers, and the LICWAC does not concur with the department’s plan and decisions.

“**INDIAN**” means any of the following groups:

- Any person who is a member or eligible for membership in a federally recognized Indian Tribe, or who is an Eskimo, Aleut or Alaska native and who is a member of any Alaska Native Regional Corporation or Alaska Native Village;
- Any person determined, or eligible to be found, to be Indian by the Secretary of the Interior, including through issuance of a Certificate of Degree of Indian Blood or by the Indian Health Service (IHS);
- Any person considered to be Indian by a federally or non-federally recognized Indian Tribe;
- Any person who is a member or entitled to be a member of a Canadian Tribe or Band, Metis community, or non-status Indian community from Canada; or
- The biological child of a member of an Indian Tribe; or
- For purposes of implementing 25 U.S.C. 1917, any adopted individual who has reached the age of 18 and who evidences an intent to or has petitioned the court which entered the final decree of adoption for

information on the individual's tribal affiliation and for other information that may be necessary to protect any rights flowing from the individual's tribal relationship.

**“INDIAN CHILD”** means any unmarried person under the age of 18 who is:

- A member of or eligible for membership in a federally recognized Indian Tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;
- Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of Degree of Indian Blood, or by the IHS;
- Considered to be Indian by a federally recognized or non-federally recognized Indian Tribe; or
- A member or entitled to be a member of a Canadian Tribe or Band, Metis community, or non-status Indian community from Canada.

**“INDIAN CHILD'S TRIBE/FIRST NATION/BAND”** means a federally or non-federally recognized Tribe in which a child is a member or eligible for membership or a Tribe, Metis community, or non-status Indian community from Canada in which a child is a member.

**“INDIAN CHILD WELFARE ACT”** (ICWA) means 25 U.S.C. 1901, et seq.

**“INDIAN CUSTODIAN”** means an Indian person who has custody of an Indian child under tribal law or custom or under state law, or any Indian person to whom the Indian child's parent has transferred temporary physical care, custody, and control.

**“INDIAN HEALTH SERVICE”** (IHS) means an agency within the federal Department of Health and Human Services (HHS) that provides health care for American Indians and Alaska Natives.

**“INDIAN INTERPRETER”** means any person recognized and designated by the child's Tribe or an Indian organization as an interpreter of the culture, customs, child rearing practices, and standards of the child's Tribe. Such a person may be a language interpreter.

**“INDIAN ORGANIZATION”** means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians, and which provides social or child welfare services to Indian families.

**“INDIAN RESERVATION”** means Indian Country as defined in Section 1151 of Title 18, United States Code, and any lands not covered under such section, title to which is either held by the United States in trust for any Indian Tribe or individual, subject to a restriction by the United States against alienation.

**“INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN”** (ICPC) means a compact between states which provides for services to dependent children crossing state lines. Evaluations of the suitability of possible placements and supervision of children, if placed, are the primary services offered through the ICPC. Monitoring of children in the home of their parents is also provided if the parents have crossed state lines. The ICPC is administered through CA Headquarters for requests by or for state social workers and for Tribes that wish to utilize this service. Federally recognized Tribes may independently join ICPC.

**“INTERVENE”** means to become a party to a suit pending between other persons. The general purpose of allowing a party to intervene is to give them authority to adequately represent their own interest in the action.

**“INVOLUNTARY”** means without will or power of choice. Under ICWA involuntary proceedings are those brought by the state or Tribe to accomplish a purpose with which the parent does not agree.

**“LEAST RESTRICTIVE SETTING”** means a phrase to describe the kind of foster care or pre-adoptive placement that a court must seek. The placement should most closely approximate a family setting and Indian environment or allow the child reasonable proximity and access to resources to meet the child’s needs as an Indian child or other special needs (physical, mental, social, etc.).

**“LEGALLY FREE CHILD”** means a child for whom the parental rights of both the mother and the father have been terminated. Legally free children are placed in the permanent custody of an agency that is then authorized to place the child for adoption or to otherwise care for the child until the child becomes an adult.

**“LOCAL INDIAN CHILD WELFARE ADVISORY COMMITTEE”** (LICWAC) means a body of department-approved and appointed volunteers who staff and consult with the department on cases of Indian children who:

- Are not members of a federally recognized Tribe;
- Are members of a Tribe but for whom the Tribe has decided not to intervene or has not responded; or
- The child’s Tribe has officially designated the LICWAC to speak for the Tribe.

**“MEDICAL HISTORY”** means health information on the child contained in the child’s case record, as required by the *CA Practices and Procedures Guide*, chapter 4000, section 43092, Health and Education Record.

**“NON-FEDERALLY RECOGNIZED INDIAN TRIBE”** means:

- A Canadian First Nations Tribe, Band, Metis, or non-status Indian community; or
- Any Tribe, Band, or other organized group of community of Indians that has not been recognized as eligible for services provided to Indians by the Secretary of the Interior. Such a Tribe may refer to itself as a “landless” Tribe.

**“ORIGINAL PLACEMENT DATE”** or **“ORIGINAL FOSTER CARE PLACEMENT”** – See the *CA Practices and Procedures Guide*, [Appendix A](#).

**"OUT-OF-HOME PLACEMENT or CARE"** means a placement in a foster family home or group care facility or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed under 74.15 RCW. RCW 74.14C.010

**"PARENT"** means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

RCW 13.32A.030

**"PARENTING STATUS"** means:

- **Custodian** - a person appointed by the parent, guardian, or state or tribal court to provide care for a child.
- **Guardian** - a person appointed by the state or tribal court to provide care or to supervise a child.
- **Parent** - may include:
  1. Adoptive parent - a person the courts grant parental status, rights, and privileges for a child.
  2. Birth parents - the persons, male and female, who conceived and gave birth to the child.
  3. Custodial parent - the parent with whom the child resides:
    1. Legal - a current court order designating a parent's right to the child's custody that may include:
      1. Joint custody.

2. Parenting plans.
  3. Shared custody.
  4. Sole custody to one parent.
2. Physical - the parent(s) with whom the child resides or is found.
  4. Non-custodial parent – the parent with whom the child does not reside or is found.
- **Step-parent** - a person, not the child's parent, who is currently or was formerly married to the child's parent.
  - **Caretaker** - a person who has actual physical supervision responsibility for a child and may include any of the above parenting statuses or a person appointed to provide physical custody.

“**PLACEMENT**” means the home in which the child lives as authorized by the state or tribal court or voluntary placement agreement.

“**PREVAILING SOCIAL AND CULTURAL STANDARDS**” means the standards of conduct common in a community. For example, it might be common in an Indian community to leave grade school children unattended for periods of time during the day or have several people share a bedroom. Even if this is not considered acceptable in the non-Indian community, Section 105(d) of ICWA requires these common practices of the Indian community to be the basis for determining the fitness of a home for placement of the child.

“**PSYCHOLOGICAL RELATIVE**” (also known as fictive kin or kinship care) means an individual, not related by blood or marriage, who has taken an active part in the caretaking of the child and for whom the child has developed a sustained psychological bond.

“**QUALIFIED EXPERT OR QUALIFIED EXPERT WITNESS**” means:

- A professional person recognized and approved by the child's Tribe and DSHS as having substantial education and experience in the area of his or her specialty, and extensive knowledge of the prevailing social and cultural standards, family organization and child rearing practices within the Indian community relevant to the Indian child who is the subject of the child custody proceeding or other action;
- A person recognized and approved by the child's Tribe and DSHS as having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of the prevailing social and cultural standards, family organization and child-rearing practices within the Indian community relevant to the Indian child who is the subject of the child custody proceeding or other action; or
- A member of the child's Indian community who is recognized within the community as an expert in tribal customs and practices pertaining to family organization and child-rearing.

“**REASONABLE EFFORTS**” means the exercise of due diligence by the reasonable social service agency to use appropriate and available services to meet the needs of the child and the child’s family. Case activities must include remedial services that appropriately and actively address the specific dangers of the case.

“**REASSUMPTION OF JURISDICTION**” means the process by which certain Tribes or tribal groups may regain power and authority over child custody proceedings.

“**RELINQUISHMENT**” means the voluntary termination of one’s parental rights to a child. For children protected by ICWA, there are special conditions that must be met prior to a parent relinquishing parental rights. Parental rights are not terminated until the relinquishment is presented to the court and the court has entered an order terminating parental rights. See chapter 06, section 06.85.

“**RESIDENCE**” means the place where a person actually lives or has a home, dwelling, or place of habitation. A person may have more than one residence but may have only one domicile.

**“RIGHT OF INTERVENTION”** means an authorization by law for a third party or Tribe to join either side or to assert the person or Tribe’s own views in a court proceeding. ICWA specifically provides for an Indian custodian or Tribe to take part in a state court proceeding involving foster care placement or termination of parental rights to an Indian child.

**“STANDARD OF PROOF”** means varying requirements of proof in different judicial proceedings:

- **"Beyond a Reasonable Doubt"** is the level of proof required to support termination of parental rights for children protected by ICWA. This is a very high level of proof and means that the side requesting termination must not only put on a more convincing case than the opposition, but must also be so convincing that it eliminates all reasonable doubts in the mind of the person deciding the case. If it fails to do so, the court is obligated by ICWA to deny termination. This evidence must include the testimony of a qualified expert witness to show that continued custody of a child by the child’s parents or caretakers is likely to result in a serious emotional or physical damage to the child.
- **"Clear, Cogent, and Convincing"** is a somewhat higher standard than “preponderance of evidence,” and in some states this standard or proof is applicable in abuse and neglect proceedings.
- In **"Preponderance of Evidence,"** the petitioner must prove the existence of abuse or neglect. This is a significantly lesser standard than “beyond a reasonable doubt.” This is often interpreted to mean that the judge or jury must believe that "it is more likely than not" that abuse or neglect exists.

**“TERMINATION OF PARENTAL RIGHTS”** means an order that severs all rights and responsibilities of an individual to the person’s child. The action is taken to allow another individual to adopt the child and assume the legal rights and responsibilities of a parent.

**“TRANSFER OF JURISDICTION”** or **“TRANSFER OF PROCEEDING”** means the process by which the power to decide a child custody case is moved from one court to another, usually from state court to tribal court.

**“TRIBAL COURT”** means a court with jurisdiction over child custody proceedings and which is either:

- A court of Indian offenses; or
- A court established and operated under the code or custom of any federally recognized Indian Tribe; or
- Any other administrative body of a federally recognized Indian Tribe that is vested with authority over child custody proceedings.

When a Tribe designates the tribal court of another Tribe to act on its behalf, the term also includes the tribal court of the other Tribe.

**“TRIBAL INTERVENTION”** - In a child custody proceeding involving an Indian child, the act of the child’s Tribe in becoming a party to the proceeding in a state court.

**“TRIBE'S SOCIAL SERVICES PROGRAM”** means the tribal program, however named, with responsibility for provision of social services to Indian children and families.

**“RECOGNIZED INDIAN CHILD”** means an unmarried person under age 18 who does not meet the definition of “Indian Child,” “Washington State Indian Child,” or “Canadian First Nations Indian Child.” Regardless of enrollment or membership status, an recognized Indian child is a child considered to be an Indian by a federally or non-federally recognized Indian Tribe or off-reservation Indian/Alaska Native community organization.

**“WASHINGTON STATE INDIAN CHILD”** means an Indian child meeting the definition of “Federally Recognized Indian Child” and whose Tribe is a federally recognized Tribe located within the state of Washington.

# 15.0 Laws & Regulations

## 15.01 INTRODUCTION

This chapter contains federal statute, the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901, et. seq., Revised Code of Washington (RCW) laws applicable specifically to Indian child welfare (ICW) matters, and the Washington Administrative Code (WAC) Chapter 388- - , Indian Child Welfare. Children's Administration staff and agencies licensed agencies licensed or certified under the provisions of chapter 388-15 RCW must comply with the legal provisions of this chapter.

## 15.05 FEDERAL INDIAN CHILD WELFARE ACT

### 15.051 Sec. 1901 -Congressional Findings

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds -

1. That clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power \* \* \* To regulate Commerce \* \* \* with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;
2. That Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;
3. That there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;
4. That an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-tribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and
5. That the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

### 13.052 Sec. 1902 - Congressional Declaration of Policy

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

### 15.053 Sec. 1903 – Definitions

For the purposes of this chapter, except as may be specifically provided otherwise, the term –

1. "**Child custody proceeding**" shall mean and include–
  1. "**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;

2. **"Termination of parental rights"** which shall mean any action resulting in the termination of the parent-child relationship;
3. **"Pre-adoptive placement"** which shall mean 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; and
4. **"Adoptive placement"** which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption. 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.
2. **"Extended family member"** shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;
3. **"Indian"** means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in 1606 of title 43;
4. **"Indian child"** means any unmarried person who is under age eighteen and is either
  1. A member of an Indian tribe or
  2. Is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;
5. **"Indian child's tribe"** means
  1. The Indian tribe in which an Indian child is a member or eligible for membership or
  2. In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;
6. **"Indian custodian"** means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;
7. **"Indian organization"** means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;
8. **"Indian tribe"** means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of title 43;
9. **"Parent"** means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;
10. **"Reservation"** means Indian country as defined in section 1151 of title 18 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;
11. **"Secretary"** means the Secretary of the Interior; and
12. **"Tribal court"** means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

## **15.054 Sec. 1911 – Indian Tribe Jurisdiction Over Indian Child Custody Proceedings**

1. **Exclusive Jurisdiction**

An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

2. **Transfer of Proceedings; Declination by Tribal Court**

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall be subject to declination by the tribal court of such tribe.

3. **State Court Proceedings; Intervention**

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

4. **Full Faith and Credit to Public Acts, Records, and Judicial Proceedings of Indian Tribes**

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

## **15.055 Sec. 1912 – Pending Court Proceedings**

1. **Notice; Time for Commencement of Proceedings; Additional Time for Preparation**

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. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

2. **Appointment of Counsel**

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

3. **Examination of Reports or Other Documents**

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

**4. Remedial Services and Rehabilitative Programs; Preventive Measures**

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that **active efforts** have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

**5. Foster Care Placement Orders; Evidence; Determination of Damage to Child**

No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**6. Parental Rights Termination Orders; Evidence; Determination of Damage to Child**

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

## **15.056 Sec. 1913 – Parental Rights, Voluntary Termination**

**1. Consent; Record; Certification Matters; Invalid Consents**

Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

**2. Foster Care Placement; Withdrawal of Consent**

Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

**3. Voluntary Termination of Parental Rights or Adoptive Placement; Withdrawal of Consent; Return of Custody**

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

#### **4. Collateral Attack; Vacation of Decree and Return of Custody; Limitations**

After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

## **15.057 Sec. 1914 – Petition to Court of Competent Jurisdiction to Invalidate Action Upon Showing of Certain Violations**

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of this title.

## **15.058 Sec. 1915 – Placement of Indian Children**

### **1. Adoptive Placements; Preferences**

In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with

1. A member of the child's extended family;
2. Other members of the Indian child's tribe; or
3. Other Indian families.

### **2. Foster Care or Pre-adoptive Placements; Criteria; Preferences**

Any child accepted for foster care or pre-adoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or pre-adoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with –

1. A member of the Indian child's extended family;
2. A foster home licensed, approved, or specified by the Indian child's tribe;
3. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
4. An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

### **3. Tribal Resolution for Different Order of Preference; Personal Preference Considered; Anonymity in Application of Preferences**

In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: Provided, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

#### **4. Social and Cultural Standards Applicable**

The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

#### **5. Record of Placement; Availability**

A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

## **15.059 Sec. 1916 – Return of Custody**

### **1. Petition; Best Interests of Child**

Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 1912 of this title, that such return of custody is not in the best interests of the child.

### **2. Removal from Foster Care Home; Placement Procedure**

Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, pre-adoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

## **15.0510 Sec. 1917 – Tribal Affiliation Information and Other Information for Protection of Rights from Tribal Relationship; Application of Subject of Adoptive Placement; Disclosure by Court**

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

# 15.0511 Sec. 1918 – Reassumption Jurisdiction Over Child Custody Proceedings

## 1. **Petition; Suitable Plan; Approval by Secretary**

Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

## 2. **Criteria Applicable to Consideration by Secretary; Partial Retrocession**

1. In considering the petition and feasibility of the plan of a tribe under subsection 1. of this section, the Secretary may consider, among other things:
  1. Whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;
  2. The size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;
  3. The population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and
  4. The feasibility of the plan in cases of multi-tribal occupation of a single reservation or geographic area.
2. In those cases where the Secretary determines that the jurisdictional provisions of section 1911(a) of this title are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 1911(b) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 1911(a) of this title over limited community or geographic areas without regard for the reservation status of the area affected.

## 3. **Approval of Petition; Publication in Federal Register; Notice; Reassumption Period; Correction of Causes for Disapproval**

If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

## 4. **Pending Actions or Proceedings Unaffected**

Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 1919 of this title.v

# 15.0512 Sec. 1919 – Agreements Between States and Indian Tribes

## **1. Subject Coverage**

States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

## **2. Revocation; Notice; Actions or Proceedings Unaffected**

Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

# **15.0513 Sec. 1920 – Improper Removal of Child from Custody; Declination of Jurisdiction; Forthwith Return of Child: Danger Exception**

Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

# **15.0514 Sec. 1921 – Higher State or Federal Standard Applicable to Protect Rights of Parent or Indian Custodian of Indian Child**

In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.

# **15.0515 Sec. 1922 – Emergency Removal or Placement of Child; Termination; Appropriate Action**

Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the

child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

## **15.0516 Sec. 1923 – Effective Date**

None of the provisions of this subchapter, except sections 1911(a), 1918, and 1919 of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, pre-adoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

## **15.0517 Sec. 1931 – Grants for On or Near Reservation Programs and Child Welfare Codes**

### **1. Statement of Purpose; Scope of Programs**

The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to -

1. A system for licensing or otherwise regulating Indian foster and adoptive homes;
2. The operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;
3. Family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, and respite care;
4. Home improvement programs;
5. The employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;
6. Education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;
7. A subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and
8. Guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

### **2. Non-Federal Matching Funds for Related Social Security or other Federal Financial Assistance Programs; Assistance for such Programs Unaffected; State Licensing or Approval for Qualification for Assistance under Federally Assisted Program**

Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV-B and XX of the Social Security Act (42 U.S.C. 620 et seq., 1397 et seq.) or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this chapter. The provision or possibility of assistance under this chapter shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV-B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a



federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

## **15.0518 Sec. 1932 – Grants for Off-Reservation Programs for Additional Services**

The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to –

1. A system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;
2. The operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;
3. Family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, and respite care; and
4. Guidance, legal representation, and advice to Indian families involved in child custody proceedings.

## **15.0519 Sec. 1933 – Funds for On and Off Reservation Programs**

1. **Appropriated Funds for Similar Programs of Department of Health and Human Services; Appropriation in Advance for Payments**

In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health and Human Services: Provided, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

2. **Appropriation Authorization under Section 13 of this Title**

Funds for the purposes of this chapter may be appropriated pursuant to the provisions of section 13 of this title.

## **15.0520 Sec. 1934 – “Indian” Defined for Certain Purposes**

For the purposes of sections 1932 and 1933 of this title, the term "Indian" shall include persons defined in section 1603(c) of this title.

## **15.0521 Sec. 1951 – Information Availability to and Disclosure by Secretary**

### **1. Copy of Final Decree or Order; Other Information; Anonymity Affidavit; Exemption from Freedom of Information Act**

Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show –

1. The name and tribal affiliation of the child;
2. The names and addresses of the biological parents;
3. The names and addresses of the adoptive parents; and
4. The identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

### **2. Disclosure of Information for Enrollment of Indian Child in Tribe or for Determination of Member Rights or Benefits; Certification of Entitlement to Enrollment**

Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

## **15.0522 Sec. 1952 – Rules and Regulations**

Within one hundred and eighty days after November 8, 1978, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter.

## **15.0523 Sec. 1961 – Education; Day Schools; Report to Congressional Committees; Particular Consideration of Elementary Grade Facilities**

### **1. Sense of Congress**

It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

## 2. Report to Congress; Contents, Etc.

The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health and Human Services, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from November 8, 1978. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

## 15.0524 Sec. 1962 – Copies to the States

Within sixty days after November 8, 1978, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this chapter, together with committee reports and an explanation of the provisions of this chapter.

## 15.0525 Sec. 1963 – Severability of Provisions

If any provision of this chapter or the applicability thereof is held invalid, the remaining provisions of this chapter shall not be affected thereby.

## 15.10 STATE INDIAN CHILD WELFARE LAWS

### 15.101 RCW 13.04.030 – Juvenile Court Exclusive Jurisdiction

1. Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:
  1. Under the interstate compact on placement of children as provided in chapter 26.34 RCW;
  2. Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;
  3. Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;
  4. To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;
  5. Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:
    1. The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;
    2. The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;
    3. The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no *guardian ad litem* required in any such proceeding due to the juvenile's age:  
PROVIDED, That if such an alleged offense or infraction and an alleged offense or

infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters:

PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection:

PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

4. The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or
5. The juvenile is sixteen or seventeen years old and the alleged offense is:
  1. A serious violent offense as defined in RCW 9.94A.030;
  2. A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of
    1. One or more prior serious violent offenses;
    2. Two or more prior violent offenses; or
    3. Three or more of any combination of the following offenses:
      - Any class A felony,
      - Any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;
  3. Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;
  4. Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or
  5. Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm. In such a case the adult criminal court shall have exclusive original jurisdiction. If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;
  6. Under the interstate compact on juveniles as provided in chapter 13.24 RCW;
  7. Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;
  8. Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;
  9. Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and
  10. Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

2. The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.
3. A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

## **15.102 RCW 13.34.245 - Voluntary consent to foster care placement for Indian child--Validation--Withdrawal of consent--Termination**

1. Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of the Indian child shall not be valid.
2. To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.
3. Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or other child-placing agency which is to assume responsibility for the child's placement and care pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any non-consenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.
4. Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at anytime. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.
5. Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or other child-placing agency which had assumed responsibility for the child's placement and care pursuant to the consent to foster care placement shall file with the court written

notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any non-custodial parent.

## **15.103 RCW 26.33.080 - Petition for Relinquishment--Filing—Written Consent Required**

1. A parent, an alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.
2. A parent, alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.
3. A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

## **15.104 RCW 26.33.090- Petition for relinquishment--Hearing—Temporary Custody Order--Notice--Order of Relinquishment**

1. The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec.1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a pre-placement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.
2. Notice of the hearing shall be served on any relinquishing parent or alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.
3. The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.
4. If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be

financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

5. An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent.

## **15.105 RCW 26.33.110- Petition for Termination-- Time and Place of Hearing--Notice of Hearing and Petition--Contents**

1. The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.
2. Notice of the hearing shall be served on the petitioner, the non-consenting parent or alleged father, the legal guardian of a party, and the *guardian ad litem* of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).
3. Except as otherwise provided in this section, the notice of the petition shall:
  1. State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;
  2. Inform the non-consenting parent or alleged father that:
    1. He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and
    2. Failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;
  3. Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child;
  4. Inform an alleged father of an Indian child that if he acknowledges paternity of the child or if his paternity of the child is established prior to the termination of the parent-child relationship, that his parental rights may not be terminated unless he:
    1. Gives valid consent to termination, or
    2. His parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

## **15.106 RCW 26.33.120- Termination--Grounds-- Failure to Appear**

1. Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

2. Except in the case of an Indian child and his or her alleged father, the parent-child relationship of an alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:
  1. The alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or
  2. He is not the father.
3. The parent-child relationship of a parent or an alleged father may be terminated if the parent or alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.
4. The parent-child relationship of an Indian child and his or her parent or alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f).

## **15.107 RCW 26.33.160- Consent to adoption--When revocable—Procedure**

1. Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:
  1. The adoptee, if fourteen years of age or older;
  2. The parents and any alleged father of an adoptee under eighteen years of age;
  3. An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and
  4. The legal guardian of the adoptee.
2. Except as otherwise provided in subsection (4)(h) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:
  1. Written revocation may be delivered or mailed to the clerk of the court before approval; or
  2. Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.
3. Except as provided in subsections (2)(b) and (4)(h) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.
4. Except as provided in (h) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:
  1. It is given subject to approval of the court;
  2. It has no force or effect until approved by the court;
  3. The birth parent is or is not of Native American or Alaska native ancestry;
  4. The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;
  5. It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:
    1. Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or
    2. Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation



that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written;

6. The address of the clerk of court where the consent will be presented is included;
7. Except as provided in (h) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court;
8. In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and
9. The following statement has been read before signing the consent:  
I understand that my decision to relinquish the child is an extremely important one, that the legal effect of this relinquishment will be to take from me all legal rights and obligations with respect to the child, and that an order permanently terminating all of my parental rights to the child will be entered. I also understand that there are social services and counseling services available in the community, and that there may be financial assistance available through state and local governmental agencies.
5. A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.
6. There must be a witness to the consent of the parent or alleged father. The witness must be at least eighteen years of age and selected by the parent or alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or alleged father.

## **15.108 RCW 26.33.240- Petition for Adoption-- Hearing--Notice--Disposition**

1. After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.
2. Notice of the adoption hearing shall also be given to any person who or agency which has prepared a pre-placement report. The notice shall be given in the manner prescribed by RCW 26.33.230.
3. If the court determines, after review of the petition, pre-placement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been

dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of 25 U.S.C. Sec. 1915 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

4. If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child.

## **15.109 RCW 26.33.310 - Notice--Requirements-- Waiver**

1. Petitions governed by this chapter shall be served in the manner as set forth in the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.
2. If personal service on any parent or alleged father who has not consented to the termination of his or her parental rights can be given, the summons and notice of hearing on the petition to terminate parental rights shall be served at least twenty days before the hearing date if served within the state or thirty days if served outside of this state.
3. If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given:
  1. By first class and registered mail, mailed at least thirty days before the hearing to the person's last known address; and
  2. By publication at least once a week for three consecutive weeks with the first publication date at least thirty days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known to the petitioner, publication shall be in the city or town of the last known whereabouts within the United States and its territories; or if no address or whereabouts are known to the petitioner or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.
4. Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).
5. If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.
6. Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business days prior to the hearing by registered mail return receipt requested.

## **15.1010 RCW 74.13.031- Duties of Department-- Child Welfare Services--Children's Services Advisory Committee**

The department shall have the duty to provide child welfare services and shall:

1. Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.
2. Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in:
  1. Meeting the need for adoptive and foster home placements;
  2. Reducing the foster parent turnover rate;
  3. Completing home studies for legally free children; and
  4. Implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."
3. Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving *in loco parentis*, and/or bring the situation to the attention of an appropriate court, or another community agency:  
PROVIDED, That an investigation is not required of non-accidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving *in loco parentis*. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.
4. Offer, on a voluntary basis, family reconciliation services to families who are in conflict.
5. Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.
6. Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec.1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.
7. Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.
8. Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.
9. Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.
10. Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.
11. Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services

under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

12. Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of out-of-home placement.

## **15.1011 RCW 74.13.080- Group Care Placement-- Prerequisites for Payment**

The department shall not make payment for any child in group care placement unless the group home is licensed and the department has the custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations. However, this requirement shall not be construed to prohibit the department from making or mandate the department to make payment for Indian children placed in facilities licensed by federally recognized Indian tribes pursuant to chapter 74.15 RCW.

## **15.1012 RCW 74.15.020- Definitions**

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

1. "**Agency**" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:
  1. "**Child day-care center**" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;
  2. "**Child-placing agency**" means an agency which places a child or children for temporary care, continued care, or for adoption;
  3. "**Community facility**" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;
  4. "**Crisis residential center**" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;
  5. "**Family day-care provider**" means a child day-care provider who regularly provides child day care for not more than twelve children in the provider's home in the family living quarters;
  6. "**Foster-family home**" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;
  7. "**Group-care facility**" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;
  8. "**HOPE center**" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for

thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

9. "**Maternity service**" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;
  10. "**Responsible living skills program**" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;
  11. "**Service provider**" means the entity that operates a community facility.
2. "**Agency**" shall not include the following:
1. Persons related to the child, expectant mother, or person with developmental disability in the following ways:
    1. Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
    2. Stepfather, stepmother, stepbrother, and stepsister;
    3. A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;
    4. Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; or
    5. Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);
  2. Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;
  3. Persons who care for a neighbor's or friend's child or children, with or without compensation, where:
    1. The person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care; or
    2. The parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;
  4. Parents on a mutually cooperative basis exchange care of one another's children;
  5. A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;
  6. Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

7. Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;
  8. Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;
  9. Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;
  10. Licensed physicians or lawyers;
  11. Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;
  12. Facilities approved and certified under chapter 71A.22 RCW;
  13. Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;
  14. Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a pre-placement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;
  15. An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;
  16. An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.
3. "**Department**" means the state department of social and health services.
  4. "**Juvenile**" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.
  5. "**Probationary license**" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.
  6. "**Requirement**" means any rule, regulation, or standard of care to be maintained by an agency.
  7. "**Secretary**" means the secretary of social and health services.
  8. "**Street youth**" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by a minor and who is not residing with his or her parent or at his or her legally authorized residence.
  9. "**Transitional living services**" means at a minimum, to the extent funds are available, the following:
    1. Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;
    2. Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;
    3. Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;
    4. Individual and group counseling; and
    5. Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the job training partnership act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

## 15.1013 RCW 74.15.090- Licenses Required for Agencies

Except as provided in RCW 74.15.190, it shall hereafter be unlawful for any agency to receive children, expectant mothers or developmentally disabled persons for supervision or care, or arrange for the placement of such persons, unless such agency is licensed as provided in chapter 74.15 RCW.

## **15.1014 RCW 74.15.190- Authority of Indian Tribes to License Agencies Within Reservations--Placement of Children**

The state of Washington recognizes the authority of Indian tribes within the state to license agencies, located within the boundaries of a federally recognized Indian reservation, to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of children for foster care or adoption. The department and state licensed child-placing agencies may place children in tribally licensed facilities if the requirements of RCW 74.15.030 (2)(b) and (3) and supporting rules are satisfied before placing the children in such facilities by the department or any state licensed child-placing agency.

### **Appendix A - Cultural & Legal Articles**

## **BUILDING STRONG, STABLE INDIAN COMMUNITIES THROUGH THE INDIAN CHILD WELFARE ACT**

Patrice Kunesh\*

### **I. Introduction**

After losing countless battles, after watching so many of their people succumb painfully to slaughter and starvation, the great Indian leaders surrendered with dignity to the more powerful forces for the salvation of their people. After the Battle of the Little Big Horn, Sitting Bull, a Hunkpapa Lakota leader, realized that the greater defeat would have been the extermination of his race. Sitting Bull laid down his weapons and told his people, “Let us put our minds together and see what kind of life we can build for our children.”

Indian people [\[1\]](#) still struggle to survive under the pressures of the majority society. Embedded in this contest are the often competing needs of Tribes to stabilize their communities by protecting Indian children from improvident removals from their families—a product of decades of deliberate discrimination and concerted efforts to suppress tribal sovereignty—and to recognize that the survival of the basic family unit must transcend such tribal-state tensions.

Historically, state courts and welfare agencies have ignored the essential tribal relations of Indian people—the collective responsibility of the Indian community in its relationship with its children. State courts continue to interpret, inappropriately, Indian social, cultural, and political philosophies as alien or threatening. They continue to impose significant restraints on the ability of tribal governments and tribal courts to maintain tribal and family relations with tribal members.

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In enacting the Indian Child Welfare Act (ICWA)[\[2\]](#) in 1978, Congress specifically cited these abuses as the shameful and devastating underpinnings of the removal of thousands of Indian children from their families by state courts and welfare agencies. Indeed, the basic tenets of the ICWA are to prevent further discrimination and destruction of tribal and family interests, and to empower Tribes to assert expansive jurisdiction over Indian child welfare custody proceedings.

This paper discusses the devastating history that provoked Sitting Bull's plea for peace, and the ICWA, one of the most important pieces of federal legislation recognizing Tribes' sovereign right to protect the interests of their communities and their children. The ICWA is a recent legislative victory which has proven vital to the survival of Indian people.

## II. Centuries of Deliberate Removals

Congressional investigations, in the late 1970s, into the appalling history of the deliberate separation and removal of Indian children from their families revealed startling findings: thousands of Indian children had been forcibly removed from their homes at a rate incredibly disproportionate to the non-Indian population.[\[3\]](#) Many were never seen again by their families.[\[4\]](#) Indian children removals were conducted by social welfare agencies that were discriminatory and intolerant of native culture and customs, and by religious organizations zealous in their attempts to christianize, and thereby gain heavenly redemption for, the native heathens.[\[5\]](#) Mandatory boarding school education, a basic tenet of the assimilationist policy in the late 19th century, was a most pernicious method of Indian child removal.[\[6\]](#) In the Bureau of Indian Affairs' (BIA) boarding school system, Indian children were taken from their families on the reservations and sent, sometimes across the country, to attend the schools.

The children were kept at the boarding schools for eight years, during which time they were not permitted to see their parents, relatives, or friends. Anything Indian—dress, language, religious practices, even outlook on life—was uncompromisingly prohibited. Ostensibly educated, articulate in the English language, wearing store-bought clothes, and with their hair short and their emotionalism toned down, the boarding-school graduates were sent out either to make their way in a White world that did not want them, or to return to reservations to which they were now foreign.[\[7\]](#)

Overwhelmed by the tragic history of Indian child removals and the outcry for federal legislation, Congress enacted the ICWA, acknowledging that “there is no resource that is more vital to the continued existence and integrity of Indian Tribes than their children.”[\[8\]](#) Congress also declared that part of the United States' trust responsibility to Native Americans is “to protect the best interests of Indian children and to promote the stability and security of Indian Tribes and families.”[\[9\]](#)

The primary provisions of the ICWA, remedial in nature, delineate jurisdictional boundaries over Indian child custody proceedings by “establishing minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes or institutions which will reflect the unique values of Indian culture.”[\[10\]](#) To fulfill these purposes, the ICWA establishes specific procedures that state courts must follow when dealing with an Indian child custody proceeding. Generally these procedures are:

1. Tribal courts have exclusive jurisdiction[\[11\]](#) over Indian child[\[12\]](#) custody proceedings[\[13\]](#) when the child resides or is domiciled[\[14\]](#) on the reservation, and have jurisdiction concurrent with the state's over an Indian child who does not reside within the reservation;
2. Notice to the Indian child's Tribe must be given if a child custody proceeding originates in a state court, and the Tribe has a right to intervene in the state court proceeding;[\[15\]](#)



3. The state court must transfer<sup>[16]</sup> the case to tribal court if the Tribe or either parent requests a transfer, absent an objection by a parent (not a party seeking adoption). The state court can refuse to transfer the case to tribal court for “good cause”;
4. If a case remains in state court, an order terminating parental rights requires proof beyond a reasonable doubt, and a foster care placement can be ordered only upon a showing of clear and convincing evidence;<sup>[17]</sup>
5. If an Indian parent loses parental rights, the state court must give adoption preference to the Indian family and Tribe in the following order:
  1. a member of the child’s extended family,
  2. other members of the child’s Tribe; and
  3. other Indian families.

Only after depleting these resources may an adoption be made to a non-Indian family. A state court may disregard these preferences if it can prove good cause;<sup>[18]</sup>

6. If a state court proceeding or placement violates the provisions of the ICWA, the proceeding or placement may be invalidated upon the petition of the child’s parents, Indian custodian, or Tribe.<sup>[19]</sup>

As discussed below, these provisions have been repeatedly reviewed and interpreted by state courts. The “good cause to the contrary” provisions, in particular, are employed as bases for refusing to transfer state jurisdiction over Indian child custody proceedings to tribal courts and for avoiding application of the ICWA’s placement preferences.

### III. State Courts’ Refusal to Abide by ICWA’s Jurisdictional Dictates

A threshold issue of the ICWA is which court, state or tribal, has jurisdiction over the Indian child custody proceeding. As noted above, the ICWA has two jurisdictional provisions: When the Indian child resides or is domiciled on the reservation, the tribal court has exclusive jurisdiction over the child custody proceedings; when an Indian child resides off the reservation, the state’s jurisdiction is concurrent with the Tribe’s. Section 1911 of the ICWA requires state courts to transfer the case to a petitioning tribal court, absent good cause to the contrary. Because most Indian child custody proceedings are initiated by state courts, however, tribal courts must obtain jurisdiction over the case by petitioning the state court for a transfer. Even if the tribal court expeditiously submits its petition to transfer the case, state courts continually refuse the request, finding a plethora of “good cause” justifications. Since the ICWA does not define “good cause,” many state courts fashion a “good cause” or “best interests of the child” rationale by relying on non-binding BIA guidelines.<sup>[20]</sup>

According to the BIA Guidelines, “good cause to the contrary” that justifies a denial of a request for transfer to a tribal court occurs when (1) the Tribe does not have a tribal court as defined by ICWA, (2) the proceedings are at an advanced stage when the petition to transfer was received and the petitioner, usually the Tribe, did not file the petition promptly after receiving notice of the hearing, (3) the Indian child is over 12 years of age and objects to the transfer, (4) evidence necessary to decide the case could not be presented adequately without undue hardship to the parties or the witnesses, or (5) the parents of a child over five years of age are not available and the child has had little or no contact with the child’s Tribe or members of the child’s Tribe. <sup>[21]</sup> The Guidelines also indicate, however, that the “[s]ocio-economic conditions and the perceived adequacy of tribal or Bureau of Indian Affairs social services or judicial systems may not be considered in a determination that good cause exists.”<sup>[22]</sup>

State courts refuse to transfer an Indian child custody proceeding to a tribal court most often when they perceive that the transfer would result in a procedural hardship, due to a tribal court’s distance from the state court—a *forum non conveniens* argument. In *In re Robert T.*, <sup>[23]</sup> for example, the state court refused to transfer a parental termination proceeding from California to the Santo Domingo Tribal Court in New Mexico. The court reasoned that, since all but one of the witnesses for the case were located in California, “the state court forum

provided the better opportunity for the production of valuable evidence.”[\[24\]](#) The court acknowledged that, in effect, it was deliberately inhibiting the ability of distant tribal courts to petition state courts to transfer jurisdiction, noting that “this criterion will tend to limit transfers to cases involving Indian children who do not live very far from the reservation.”[\[25\]](#)

The *forum non conveniens* argument seems to be used by state courts as an offensive tactic either to protect the pre-adoptive non-Indian foster parents or to resist reuniting an Indian child with its Indian family that the state court has deemed unsuitable. For example, in *Department of Social Services v. Coleman*,[\[26\]](#) South Carolina sought to terminate the parental rights of Indian parents. The parents moved to transfer the proceeding to the Cheyenne River Sioux Tribal Court, but the court denied the motion under a *forum non conveniens* argument. Although the state court was aware that the prospective adoptive parents did not meet the ICWA’s placement preferences, the court reasoned that the witnesses necessary to testify in the termination action on behalf of the non-Indian foster parents’ adoption application could not afford to travel to South Dakota.[\[27\]](#) The court contrarily determined, however, that the Tribe could more “easily” participate in the South Carolina proceedings than the witnesses in South Carolina could participate in a tribal court proceeding, because the Tribe would not need to overcome the ICWA’s placement preferences and would need fewer witnesses at any placement hearing.[\[28\]](#) Implied in the court’s decision not to transfer the case is a distrust of the tribal court’s ability or willingness to exercise objectively its inherent rights to provide for the best interest of all of its members. The state court usurped the Tribe’s role by forging a *forum non conveniens* argument contrary to the ICWA’s mandates.

State courts also find “good cause” not to transfer Indian child custody cases to tribal court based not on jurisdictional grounds but, rather, on a substantive determination of what constitutes the best interests of the Indian child. For instance, in *In re Adoption of T.R.M.*,[\[29\]](#) an Indian mother voluntarily relinquished her newborn child to a non-Indian couple and later sought to regain her child.[\[30\]](#) The court hedged its decision not to transfer the case to tribal court with a good cause justification, stating that the “paramount interest is the protection of the best interests of the child.”[\[31\]](#) The court thus denied the Tribe’s petition to transfer, finding that the child’s relationship with the non-Indian family was paramount to the Tribe’s interest as *parens patriae* of its members. Like many other state court decisions which staunchly retain jurisdiction over Indian child welfare matters, the court’s reasoning appeared, essentially, to be more motivated by its desire to protect its decision-making authority than by its concern for fulfilling the jurisdictional mandates of the ICWA.[\[32\]](#)

In a generally well-reasoned decision upholding the tribal sovereignty dictates of the ICWA, an Illinois court rejected a *forum non conveniens* argument in *In Interest of Armell*[\[33\]](#) and transferred jurisdiction of the Indian child custody hearings to the Prairie Band of Potawatomi Tribal Court in Nebraska. The state court found that when the foster parents moved to California the Illinois forum was no more accessible than the tribal forum in Nebraska. The court also soundly rejected a “liberal expansion the *forum non conveniens* doctrine [which] would preclude transferring jurisdiction except in cases where the child resides on or near a reservation.”[\[34\]](#) The court also specifically rejected the application of the best interests test as a basis for denying transfer under

the ICWA’s good cause decision, *Mississippi Band of Choctaw v. Holyfield*,[\[35\]](#) the court correctly reasoned that Section 1911(b) stood only for “who was to make the custody determination, ‘not what the outcome of that determination should be.’”[\[36\]](#) The court stated that whether the Indian child would remain with her foster parents was a matter for the tribal court to decide.

State courts that seek to comply with the ICWA’s placement preferences are confronted, also, with two serious hindrances. One is the tardy or sporadic participation of the Tribe in state court ICWA proceedings, due usually to limited financial and technical tribal resources. The second is the dire shortage of licensed Native American foster families, located either on reservations or in urban areas.

Many Tribes have endeavored to address both of these concerns by establishing formal Indian Child Welfare programs and Children's Codes outlining the scope of the Tribes' involvement in child welfare cases, from notice to intervention, transfer, and placement.<sup>[37]</sup> Tribes have also established Children's Divisions of their courts to make the initial determinations of tribal jurisdictions, to accept transfers of state ICWA proceedings, and to decide foster care and adoption placements. In addition, Tribes are dealing with the dire need to find foster families by cross-licensing Indian families residing on and off their reservations and by allowing them to accept Indian and non-Indian siblings. An innovative alternative to the individual Indian foster home, being considered by an eastern Tribe, is a group foster home to provide care and assistance to Indian children and their families.

The success of the Tribes' commitment, however, is predicated on the cooperation of state courts and child welfare agencies, especially with respect to timely notifications of state court proceedings to ensure prompt tribal interventions in the cases. To this end, many Tribes are also negotiating, pursuant to Section 1919 of the ICWA, tribal-state agreements defining the sovereigns' joint roles and responsibilities in handling Indian child welfare proceedings. A common value framework established through tribal-state agreements and based on a mutual respect toward the needs of Indian children, families, and Tribes can transcend professional and cultural differences. Tribal-state agreements send clear messages that the community is committed to the protection of the Indian children's best interests and the promotion of stability and security of Indian Tribes and families.<sup>[38]</sup>

#### **IV. Promoting Stable and Secure Families**

With the passage of the ICWA, Congress implemented the policy of promoting tribal integrity and declared that the Act's legislative purpose "[s]ignificantly. . . includes both the protection of the 'best interest of Indian children' and the promotion of 'the stability and security of Indian Tribes and families.'"<sup>[39]</sup> This encompasses the growing recognition that preservation of families through permanent placement, like health and happiness, is an obtainable goal.

The preservation of families is, of course, achieved partially through the prevention of unnecessary foster care placements, resolutions of jurisdictional controversies at the initial stages of an ICWA proceeding, and expedient reunification of children. Such a framework must transcend the "dynamic tension. . . between Anglo and American Indian philosophies concerning individual rights,"<sup>[40]</sup> as well as the historical tension between state and tribal governments over tribal sovereignty issues, which pit many competing and conflicting interests of the two sovereigns against each other.

It is critical that people who deal with Indian children in the legal system—whether they are native or non-native, lawyers, social workers, or judges—approach each case with the commitment to do their utmost to promote the best interest of the Indian children. As sovereigns, Tribes have the inherent right to self-govern and survive as viable and culturally and politically distinct entities. Tribes must struggle to preserve these rights not only in the context of external pressures to maintain their sovereign status but also from internal pressures to keep Indian children with their families.

Family preservation is also achieved through cooperative problem solving, sharing of information, and delineation of joint responsibilities. The ICWA recognizes these hallmarks and specifically contemplates that Tribes and states may enter into cooperative agreements "with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis."<sup>[41]</sup>

#### **V. Conclusion**

A framework for stability and permanency must begin with the acceptance of shared and complementary values about what children and families need. Keeping families together, reunifying families, and preventing

unnecessary disruption are basic values of family preservation imbedded in the ICWA and must be shared by all parties in the child welfare system.[\[42\]](#)

# A STRENGTHS APPROACH TO HELPING NATIVE AMERICAN FAMILIES

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&

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One of the many strengths of Native American cultures is the extensive and rich informal resource networks afforded by family and community which are available to ameliorate family problems; however, when severe problems develop outside assistance may be sought or mandated. Many Native American families continue to experience severe problems, substance abuse, child abuse or neglect, and emotional disturbances in childhood, which too often are ineffectively addressed by the formal child welfare system. Too frequently the tragic result is the family's temporary or permanent dissolution.

When outside help is necessary, ideally, the worker would be an adequately trained and skillful Native American who could competently assist the family with its problems in a manner consistent and respectful of its values, customs and rituals. Unfortunately, this ideal match is not always available; therefore, having workers who are trained in a helping model designed to safeguard and utilize the strengths of Native American families would seem highly desirable.

The helping approach described in this article, Family Advocacy Case Management, is such a model. Space limitations do not allow for a complete elaboration of the model, which includes goals, standards of objectives, outcome monitoring, strengths assessment tools and a group supervision approach. Instead, this article focuses upon the strengths principles which drive the approach and case examples to illustrate their use.

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## **Strengths Approach: Theory and Practice**

These strengths principles and the Family Advocacy Model are believed to be applicable to a wide variety of settings and are in keeping with nationally prominent approaches designed to strengthen and preserve families (Boyce, 1979; Edna McConnell Clark Foundation, 1985; Kinney, Haapala, Booth & Leavitt, 1988). Contemporary and historical contributors to social work's development have made the case that clients are best served when we help them solve their problems by means of their strengths (Cabot, 1926; Gray, Hartman & Saalberg, 1985; Heger & Hunzeker, 1988; Overton & Tinker, 1957; Pinderhughes, 1983; Reynolds, 1951; Solomon, 1976; Solomon, 1985). Social work's "dual, simultaneous concern for the adaptive potential of people and the 'nutritive' qualities of their environments" is fertile ground for the strengths perspective (Germain, 1979). "The strengths perspective is an alternative to a preoccupation with negative aspects of peoples and society and a more apt expression of some of the deepest values of social work" (Weick, Rapp, Sullivan & Kisthardt, 1989, p. 350). The primary goal of the Family Advocacy service is to help the family acquire the resources needed to care for their child. Enabling, which entails "helping a person to mobilize his own drives and abilities of ruse in a desired direction" (Perlman, 1957, p. 197) is a skill essential for the worker implementing the strengths approach.

The worker practicing a strengths approach recognizes that each family is different. Regardless of their difficulties, they are people who have aspirations, goals, and strengths that need to be developed and talents that need to be expressed as well as problems for which they need help (Rapp & Chamberlain, 1985). Use of the strengths approach does not justify a denial of the client's problems. The difference is that the strengths of the family are more zealously assessed than weaknesses and strengths become the primary means for ameliorating problems.

## **Principles of the Strengths Approach**

The five principles which guide the Family Advocacy model are:

1. The worker is trained and committed to providing culturally competent service.
2. An active role by the family care givers is essential for enabling the child to live in a normal environment.
3. Clients themselves are the best informants regarding their own needs.
4. Services should be provided in the home or other settings appropriate and comfortable to the clients.
5. The relationship between the clients and the service providers is the key to the helping process.
6. Each principle is briefly described and illustrated with a case example of a special needs Native American adoption.

### **Case Example**

Wiley was approximately four years old when he was abandoned in a small southwestern community schoolyard near several Indian communities. Among the many hardships he had experienced were malnourishment, a broken collarbone and several cuts and abrasions caused by severe physical abuse. He was non-verbal and was soon found to be developmentally delayed. While the authorities investigated every possible lead and searched for clues to his identity, none were ever found. He was known to be American Indian but a tribal relationship was never established.

Wiley was first hospitalized for an extended period of time and then began a series of placements while social workers, authorities, and the juvenile courts began the lengthy process of developing and assuring a permanency plan for him. By the time Wiley was nine years old and legally free for the purposes of adoption he had been in two residential treatment facilities, five different foster homes, and was currently in his ninth placement, a group home for boys.

Wiley was diagnosed as fetal alcohol effect and behaviorally disordered. He was not attached to anyone, had no sense of identity or self and was a very angry child. He required constant supervision due to his fire-setting tendencies which further compounded his predicament, since this latter characteristic made placement resources reluctant to accept him.

### **Principle 1: The worker is trained and committed to providing culturally competent service.**

A preliminary step in becoming a culturally competent worker is self-examination. The worker must possess the self-confidence and self-esteem to not be threatened by cultural differences. Instead, the culturally competent worker not only accepts differences but values and seeks them out as potential strengths for meeting the client's needs.

Culturally competent helping professionals:

- Acknowledge cultural differences and become aware of how they affect the helping process.
- Recognize the influence of their own culture on how they think and act.

- Are aware of the effects of cross-cultural differences upon communication between worker and client.
- Are conscious of the meaning of a client's behavior within his or her cultural context.
- Can adjust the helping approach to utilize the client's cultural strengths.

The social worker who was assigned to the case for the purpose of adoptive placement reviewed the waiting pool of adoptive families and found that there was no resource for Wiley. The worker contacted the Indian Child Welfare staff on the reservation nearest to where the youth was found. It was assumed that he was in fact a member of that Tribe. The social worker enlisted the support of tribal social services by doing a full disclosure presentation and enlisting the Tribe's help to identify potential placement resources. The social worker acknowledged her lack of information about this specific Tribe and its specific customs and traditions and entered into an agreement with tribal social services for them to share the case responsibilities and treatment planning for Wiley's benefit.

**Principle 2: An active role by the family care givers is essential for enabling the child to live in a normal environment.**

An elderly medicine man, Mr. N., who lived alone and was in need of care and companionship was identified as a potential resource for Wiley. He was contacted by the social worker in his home at which time the youth's background, history and predicament was discussed with him. The client expressed an interest in having Wiley share his home and his life. The worker spend several weeks with Mr. N. learning from him the history, culture, and traditions of the Tribe.

**Principle 3: Clients themselves are the best informants regarding their own needs.**

Wiley was physically very healthy, with average intelligence, and was very good with his hands. He was very active and particularly loved being outdoors. Wiley had shown an interest in American Indian history, particularly the Tribe that he was suspected to have been associated with.

Wiley was taught by Mr. N. the rituals in ceremonial fire building. He began to understand fire as a means of survival and protection versus destruction and anger. While the fire-setting did not stop it became appropriately channeled within his cultural context. In addition, Wiley learned silver-smithing and beadwork, skills that would later become his livelihood.

**Principle 5: The relationship between the clients and the service providers is the key to the helping process.**

Over time the worker gained the caregiver's trust through patience and listening. The worker was attentive to the elderly man's expression of his own needs and the interest he expressed in the child. The mutual needs between the elder and youth were recognized and accepted by the worker. The worker admitted a lack of knowledge about the caregiver's tribal history and expressed a genuine interest to learn in order to help Wiley. A strong relationship with tribal social services was built because of a willingness to meet in tribal offices, to openly share information, and the genuine belief in the youth's strengths and the Indian community's potential for meeting the child's needs.

**Conclusion**

Because the worker possessed the self-confidence and self-esteem to recognize the cultural differences and capitalize on them, a workable and positive placement was found for Wiley. Through use of the strengths principles, the worker valued the cultural differences, sought both formal and informal resources and strived to understand the client's behavior within his cultural context. As a result a youth who was caught in a spiral of

behavior problems, repeated rejections and negative expectations was afforded an opportunity to lead a happy and meaningful life.

Although Wiley never became an enrolled member of the Tribe nor adopted according to state law, he was accepted as Indian and became a member of a larger community, a gift which he will never lose, for when the Indian grandfather dies, there will be another to take his place.

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# FAMILY STRUCTURE AND VALUE ORIENTATION IN AMERICAN INDIANS

John G. Red Horse\*

The family is a recognized cornerstone of American Indian society. It serves as a repository for value orientation that guides human behavior, as a transactional milieu for life span socialization, and as a catalyst for cultural revitalization.

This article discusses family issues critical to human services planning and delivery for American Indian communities. Two basic assumptions prevail: A grounded understanding of characteristic structures among American Indian extended family systems is a prerequisite for human services planning. And, family and culture are inseparably linked to individual mental health in that a sense of selfhood is derived from an historic culture as transmitted through family systems.[\[43\]](#)

The discussion serves to inform human service professionals who are in contact with American Indian communities. A life-span conceptual framework appraises the impact that human relationships and physical environments have on individual progress through the stages of life. This framework serves as a model from which to track value orientations and behavior as self-revitalizing forces. Normal and purposeful behavior within a structural fabric of extended family systems is highlighted to provide foundation knowledge under an assumption that normative conditions, rather than stress situations, represent basic guides for human service systems.

Three critical perspectives guide the discussion. The author will identify and articulate family circumstance and structure, analyze family value orientations and purposeful behavior, and assess the implications for the professions.

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## Family Structure Patterns

Extended family systems that are characteristic among American Indians are often misunderstood with the human service professions. This stems from experience and training that highlight nuclear family models with occasional exposure to extended family models, for example, a family of three generations within a single household. As household units, both the nuclear and the extended family models can be found in American Indian family systems. They do not, however, represent limiting parameters. Indian family systems are extended networks which characteristically include several households. An Indian family, therefore, is an active kinship system inclusive of parents, children, aunts, uncles, cousins, and grandparents.

The feature of lateral extension into multiple households is accompanied by an additional bonding feature of incorporation by which significant non-kin become family members. This is initiated through formal and informal processes. An individual, for example, may become a namesake for a child through formal ritual. This individual then assumes family obligations and responsibilities for child rearing and role modeling.

## Small Reservation Communities



Family structural patterns vary with geographic and tribal circumstances. Structural complexity is most readily understood in remote areas of tribal homogeneity. Family structure patterns in a small reservation community assume a village-type configuration with several households in close geographic proximity. This pattern points out how family truly represents the foundation of community.

## **Interstate Structure**

Many family systems extend over broad geographic regions and assume interstate dimensions. In many cases, this structural pattern has been influenced by historical tribal mobility. In others, it has been influenced through the force of American policy. Regardless of etiology, this family structural pattern, several households in each of several states, is representative of an interstate family structure. This relationship may present difficulties for some observers because interstate linkages are not always readily understood and many human

service professionals mistakenly presume that sinews of affective bonding are absent. Relational bonds vary among families and individuals, of course, but normative family behavior facilitates affective bonding and means of re-entry subsequent to long-term absence.

## **Communities in Urban Areas**

Urban circumstances have provided different environmental impacts on American Indian family systems. Environmental forces, however, have not profoundly influenced family structural patterns or behavior commensurate therein. Family features of multiple households as a transactional field for socialization, incorporation of non-kin, preferential ethnic relational patterns remain as constants. For example, family members in a medium-sized urban community, located within five hundred miles of the family's reservation, had voluntarily relocated to the urban area and independently established households in close proximity to other family members. This family structure truly represents a community within a community.

## **Communities in Metropolitan Areas**

Family structure is also replicated in large metropolitan areas often located long distances from family reservations. This situation represents considerable difficulty for workers because family structural patterns appear similar to interstate family systems. Family households are often spread, for example, among several communities or cities of a metropolitan area. Therefore, they are not readily explicable. Indian families in large metropolitan areas also appear highly influenced through informal incorporation of non-kin whose family roles are alien and incomprehensible to human service professionals unaware of incorporation phenomena.

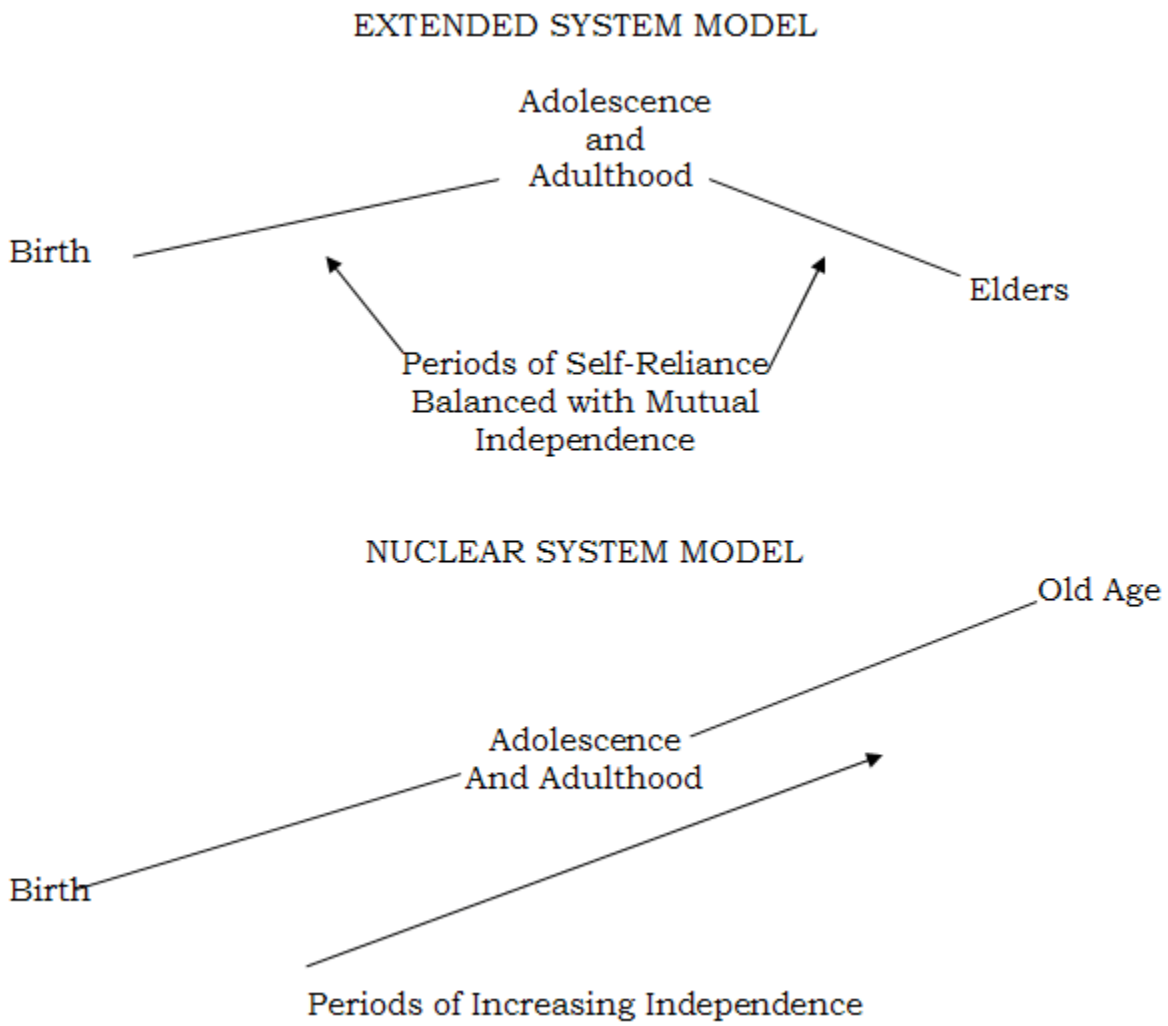
## **Summary**

This brief overview introduces the structural fabric characteristics of American Indian extended family systems. The feature of lateral extension incorporating several households affects life-long socialization and represents a transactional field that markedly contrasts from that of nuclear family systems common to American culture. Startling contrasts occur in extended family milieu with regard to affective bonding, parental attachment, and independence training. These are critical areas of purposeful behavior guided by value orientations designed to revitalize cultural ways.

## **Value Orientation and Purposeful Behavior**

American Indian value orientation and cultural behavior have remained reasonably constant.[\[44\]](#) Indian family systems self-revitalize through field-sensitive behavior designed to enhance mutual obligation. The figure below contrasts cultural life span maps between American Indian extended family systems and nuclear family

systems. The curvilinear path of the Indian family cultural life span captures the family role of pattern maintenance.



Comparative cultural life span maps explicating the curvilinear pattern of the nuclear system.

Value orientations among Indian families command lateral-group relational behavior, rather than autonomy and independence. Extended family systems foster interdependence. Identifying movement at distinct stages of the life span to identify increasing self-competence, independence, and autonomy becomes problematic with extended family life span models. Competence is indeed a feature in Indian family development, but self-reliance is immersed in a complex web of interdependent, field-sensitive, relational behavior. Field-sensitive behavior stresses collateral relationships in which family involvement, approval, and pride are highlighted. This contrasts individualism as a central theme in life.

## Development of an Extended Family

Indian family development is readily captured through explication of purposefully ordered relational behavior. This may be visualized in three major life span phases: (1) being cared for; (2) preparing to care for; and (3) assuming care for. Life span phases are not necessarily controlled according to age, but according to family or

cultural role. For example, traditional medicine men, with spirit power, may at times be very young, yet they assume care for others in a family, clan, or Tribe.

Moreover, care, as a continuing thread, denotes cultural and spiritual maintenance as well as physical and emotional needs satisfaction. As an operative term, therefore, care identifies comprehensive family strengthening roles throughout the life span. Comparatively, ego identity in nuclear family models is satisfied through independence accomplished by what one does and achieves in life. Eventual retirement, with self-responsibility apart from the mainstream of family, serves as a life goal in a nuclear model. Ego identity in extended family models, however, is satisfied through interdependent roles enacted in a family context. Proactive roles as an elder with family responsibilities to transmit a world view derivative from a wisdom of years serves as a life goal in the extended family.

Life span development, as process, is readily captured through explication of how relationships are formally organized and acted out in a selected tribal family system. This serves to identify primacy of family roles through behavioral activity of each phase.

### ***Being Cared For***

Phase one, being cared for, is best illustrated through naming ceremonies. The timing of this ritual varies; some Tribes perform the ceremony shortly after birth; other Tribes perform the ritual when the child is several years old. In either case, this ritual is illustrative of formal kinship obligation.

A name forms a cultural map. It sets a path from which one's life shall proceed.<sup>[45]</sup> Moreover, a name may provide spiritual sustenance; without a name, one's spirit may never come to rest in the afterworld.<sup>[46]</sup> Structurally, naming ceremonies organize an obligatory, supportive network for children. Family members, such as uncles, aunts, or grandparents, are most often selected as namesakes. Highly trusted and reliable non-kin who have been incorporated into the family system may also serve as namesakes. Naming ceremonies, therefore, revitalize an extended family system through organizing a proactive social and spiritual fabric around those being care for.

Namesakes assume major child-rearing responsibilities. Personal contact between namesakes and children is expected to occur on a regular basis. As such, namesakes act as role models. This responsibility requires high personal standards of conduct; immoral or bizarre behavior by a namesake may harm the developmental pattern of the child. Child-rearing roles include an obligation to care for the child should hard times or illness befall the parents. This represents an unconditional, nonjudgmental social insurance that does not undermine the sanctity of parenthood.

Again, the naming ceremony activates field-sensitive behavior through an ordering of relational bonds. Relationships are culturally revitalizing and interdependent. Extended family is designed as a social and transactional milieu for future passages in life.

### ***Preparing to Care For***

Phase two, preparing to care for, is best illustrated through explication of adolescent behavior. This phase truly captures the essence of the curvilinear relationship between age and independence. It represents a period of sorting out mutuality of family relationships during a time of life when such activity is not considered a primary task by human services professionals. A confusing and oftentimes misunderstood growth and development phenomenon of family dependence occurs. Actually, this is a period of life which introduces considerable self-reliance and personal decision-making. These features, however, simply accompany family relational obligations. For example, Helen was a twenty-three-year-old Chippewa mother with three children. Helen left

high school following pregnancy at sixteen. She was bright and motivated and eventually earned a high school diploma through a Graduate Equivalency Diploma program.

Helen had drifted into several household situations following the birth of her first child. Initially, she lived with her mother. She then established a household with a boyfriend and had two more children. She later lived with a sister, then a cousin on her home reservation, and then back with her mother.

During this seven-year period, Helen always contributed as a family member. She had been gainfully employed since leaving high school. She simply indicated a preference to be close to her mother's home, or in it. She sensed a responsibility to maintain relationships with kin and to be available for family duties.

One day Helen shared the news of her independence from her mother with a human service professional. Helen had rented an apartment and was going to live away from her mother permanently. The professional inquired of Helen where the new apartment was located. Helen beamed brightly and said, "Next door to my mother's." During subsequent visits, the professional always saw mother and daughter visiting each other's home. Helen's mother continued to care for the grandchildren daily.

Helen's definition of independence is refreshing. Her behavior typifies self-reliance guided by family interdependence. Close proximity encourages frequent contact among family households.

Strengthening mutual interdependence through relational bonding remains an overt life-long task. Distance is even overcome as a potential barrier to family obligation. Urban communities that are three to five hundred miles from reservation families experience the phenomenon of reciprocal migration as family members routinely visit each other with semimonthly to monthly frequency. Reciprocal migration appears as a phenomenon simply through definition by human service professionals. It is, however, an historically constant behavior feature among numerous Indian family systems. On a less frequent, although routine, basis, contemporary households trek great distances to attend ceremonials and revitalize family relationships.

### *Assuming Care For*

This phase captures the essence of respect and wisdom. Elders are important and provide a continuity of world view; they also lend wisdom to daily life and bring order to chaos. Elders are reminders of heritage and survival and strength.

An elder's role to assume care for often goes beyond the natural family to include a broader community. Obligations of such magnitude have been sorted out through years of relational bonding. Elders are responsive to community situations. Young children are often observed adopting grandparents simply through attachment and relational behavior. A children's program in one community was required to provide a regular budget allowance for food to an elderly couple so that they could feed seven children who enacted a grandparent bonding.

Family role among elders suggests phenomenal strength of Indian families. An urban project serving elders in St. Paul, Minnesota, studied frequency of contact between grandparents and grandchildren. Seventy percent of the population studied maintained daily contact and assumed an active family role. An interesting note is that 92 percent of the elders lived in private houses or apartments.[\[47\]](#) This is characteristic of an Indian extended family.

## **Implications for Professionals**

The integration of life span value orientations, relational bonding, and structural characteristics of the American Indian extended family system introduces the dynamic features of rational behavior designed to build mutual

obligation in family development. It also challenges human service professionals to develop appropriate knowledge sources and subsequent programs.

This effort, however, must respect contemporary tribal and situational variations among American Indian family systems. Cultural investigations have identified numerous family types including traditional, transitional, bicultural, and pan-traditional. These, however, do not appear to measure Indianness, but to capture differential transactional styles among Indian families. Many cultural features remain constant: family structure, incorporation and relational bonding, and Indian preferences in social behavior.[\[48\]](#)

The national mood reflecting the sanctity of Indian family systems is exemplified through the Indian Child Welfare Act of 1978, which received overwhelming endorsement from tribal membership.[\[49\]](#) The legislation seeks to reaffirm the cultural and structural integrity of Indian family systems.

Family reaffirmation is encouraging. Family function, however, should not be taken for granted. Many family systems no longer conduct naming ceremonies; however, this has not appeared to alter behavior around relational bonding. Affective bonding, however, requires emotional discovery and approachability. Not all Indian family systems experience these at equal levels. Human service workers should explore network delivery models that facilitate reentry whenever dislocation prevails. Without cultural network models designed to recapture distinctive tribal value orientations, affirmative efforts, like child welfare legislation, remain empty thoughts that take family reentry for granted.

Mediating structures should serve as family support systems. These should be designed to adjust secondary institutions to the life space of Indian family systems. Such capacity building, which reaffirms family integrity, requires tribal sovereignty. Tribes and correlating urban Indian organizations should assume the responsibility for explicating community standards of family conduct within the context of tribal value orientations.

Finally, a dramatic revision of scholarship surrounding Indian family behavior is required to guide capacity building efforts. An American Indian family science is necessary to introduce innovations to knowledge building. This offers a vehicle to identify differential roles and integrative features among family systems, mediating structures, and American institutions. A planned desideratum would be that American Indian family systems would be assured their culturally unique past, present, and future.

## **THE DESTRUCTION OF AMERICAN INDIAN FAMILIES**

William Byler\*

The wholesale separation of Indian children from their families is perhaps the most tragic and destructive aspect of American Indian life today.

Surveys of states with large Indian populations conducted by the Association on American Indian Affairs (AAIA) in 1969 and again in 1974 indicate that approximately 25-35 percent of all Indian children are separated from their families and placed in foster homes, adoptive homes, or institutions. In some states the problem is getting worse: in Minnesota, one in every eight Indian children under the eighteen years of age is living in an adoptive home; and, in 1971-72, nearly one in every four Indian children under one year of age was adopted.

The disparity in placement rates for Indians and non-Indians is shocking. In Minnesota, Indian children are placed in foster care or in adoptive homes at a per capita rate five times greater than non-Indian children. In Montana, the ratio of on Indian foster care placement is at least 13 times greater. In South Dakota, 40 percent of all adoptions made by the State's Department of Public Welfare since 1967-68 are of Indian children, yet

Indians make up only 7 percent of the juvenile population. The number of South Dakota Indian children living in foster homes is, per capita, nearly 16 times greater than the non-Indian rate. In the state of Washington, the Indian adoption rate is 19 times greater and the foster care rate ten times greater. In Wisconsin, the risk run by Indian children of being separated from their parents is nearly 1600 percent greater than it is for non-Indian children. Just as Indian children are exposed to these great hazards, their parents are too.

The federal boarding school and dormitory programs also contribute to the destruction of Indian family and community life. The Bureau of Indian Affairs (BIA), in its school census for 1971, indicates that 34,538 children live in its institutional facilities rather than at home. This represents more than 17 percent of the Indian school-age

\*Originally published by the Association on American Indian Affairs, 1977. Reprinted by permission of the Association, Tekakwitha Agency Road, #7, Sisseton, SD 57262. This article was written before passage of the Indian Child Welfare Act, which incorporated many of its recommendations.

population of federally-recognized reservations and 60 percent of children enrolled in BIA schools. On the Navajo Reservation, about 20,000 children or 90 percent of the BIA school population in grades K-12 live at boarding schools. A number of Indian children are also institutionalized in mission schools, training schools, etc.

In addition to the trauma of separation from their families, most Indian children in placement or in institutions have to cope with the problems of adjusting to a social and cultural environment much different than their own. In 16 states surveyed in 1969, approximately 85 percent of all Indian children in foster care were living in non-Indian homes. In Minnesota today, according to state figures, more than 90 percent of non-related adoptions of Indian children are made by non-Indian couples. Few states keep as careful or complete child welfare statistics as Minnesota does, but informed estimates by welfare officials elsewhere suggest that this rate is the norm. In most federal and mission boarding schools, a majority of the personnel is non-Indian.

It is clear then that the Indian child welfare crisis is of massive proportions and that Indian families face vastly greater risks of involuntary separation than are typical of our society as a whole.

## **Some Causative Factors**

How are we to account for this disastrous situation? The reasons appear very complex, and we realize we are far from perceiving them clearly or in their entirety. Here we can only offer a rough sketch of some of the factors. These include a lack of rational federal and state standards governing child welfare matters, a breakdown in due process, economic incentives, and the harsh social conditions in so many Indian communities. Our observations are based on a number of years experience working with Indian communities and in the courts in defense of Indian family life.

**Standards.** The Indian child welfare crisis will continue until the standards for defining mistreatment are revised. Very few Indian children are removed from their families on the grounds of physical abuse. One study of a North Dakota reservation showed that these grounds were advanced in only 1 percent of the cases. Another study of a Tribe in the Northwest showed the same incidence. The remaining 99 percent of the cases were argued on such vague grounds as neglect or social deprivation and on allegations of the emotional damage the

children were subjected to by living with their parents. Indian communities are often shocked to learn that parents they regard as excellent caregivers have been judged unfit by non-Indian social workers.

In judging the fitness of a particular family, many social workers, ignorant of Indian cultural values and social norms, make decisions that are wholly inappropriate in the context of Indian family life and so they frequently discover neglect or abandonment where none exists.

For example, the dynamics of Indian extended families are largely misunderstood. An Indian child may have scores of, perhaps more than a hundred, relatives who are counted as close, responsible members of the family. Many social workers, untutored in the ways of Indian family life or assuming them to be socially irresponsible, consider leaving the child with persons outside the nuclear family as neglect and thus as grounds for terminating parental rights.

In the DeCoteau case, the South Dakota Department of Public Welfare petitioned a State court to terminate the rights of a Sisseton-Wahpeton Sioux mother to one of her two children on the grounds that he was sometimes left with his sixty-nine-year-old great-grandmother. In response to questioning by the attorney who represented the mother, the social worker admitted that Mrs. DeCoteau's four-year-old son, John, was well cared for, but added that the great grandmother is worried at times.

Because in some communities the social workers have, in a sense, become a part of the extended family, parents will sometimes turn to the welfare department for temporary care of their children, failing to recognize that their action is perceived quite differently by non-Indians.

Indian child rearing practices are also misinterpreted in evaluating a child's behavior and parental concern. It may appear that the child is running wild and that the parents do not care. What is labeled as permissiveness may often, in fact, simply be a different but effective way of disciplining children. BIA boarding schools are full of children with such spurious behavior problems.

Poverty, poor housing, lack of modern plumbing, and overcrowding are often cited by social workers as proof of parental neglect and are used as grounds for beginning custody proceedings. In a recent California case, the State tried to apply poverty as a standard against a Rosebud Sioux mother and child. At the mother's bidding, the child's

aunt took three-year-old Blossom Lavone from the Rosebud Reservation in South Dakota to California. The mother was to follow. By the time she arrived one week later, the child had been placed in a pre-adoptive home by California social workers. The social workers asserted that, although they had no evidence that the mother was unfit, it was their belief that an Indian reservation is an unsuitable environment for a child and that the pre-adoptive parents were financially able to provide a home and a way of life superior to the one furnished by the natural mother. Counsel was successful in returning the child to her mother.

Ironically, Tribes that were forced onto reservations at gunpoint and prohibited from leaving without a permit, are now being told that they live in a place unfit for raising their children.

One of the grounds most frequently advanced for taking Indian children from their parents is the abuse of alcohol. However, this standard is applied unequally. In areas where rates of problem drinking among Indians and non-Indians are the same, it is rarely applied against non-Indian parents. Once again cultural biases frequently affect decision-making. The late Dr. Edward P. Dozier of Santa Clara Pueblo and other observers have argued that there are important cultural differences in the use of alcohol. Yet, by and large, non-Indian social workers draw conclusions about the meaning of acts or conduct in ignorance of these distinctions.

The courts tend to rely on the testimony of social workers who often lack the training and insights necessary to measure the emotional risk the child is running at home. In a number of cases, the AAIA has obtained evidence from competent psychiatrists who, after examining the defendants, have been able to contradict the allegations offered by the social workers. Rejecting the notion that poverty and cultural differences constitute social

deprivation and psychological abuse, the Association argues that the state must prove that there is actual physical or emotional harm resulting from the acts of the parents.

The abusive actions of social workers would largely be nullified if more judges were themselves knowledgeable about Indian life and required a sharper definition of the standards of child abuse and neglect.

Discriminatory standards have made it virtually impossible for most Indian couples to qualify as foster or adoptive parents, since they based on middle class values. Recognizing that in some instances it is

necessary to remove children from their homes, community leaders argue that there are Indian families within in the Tribe who could provide excellent care, although they are of modest means. While some progress is being made here and there, the figures cited above indicate that non-Indian parents continue to furnish almost all the foster and adoptive care for Indian children.

**Due Process.** The decision to take Indian children from their natural homes is, in most cases, carried out without due process of law. For example, it is rare for either Indian children or their parents to be represented by counsel or to have the supporting testimony of expert witnesses.

Many cases do not go through an adjudicatory process at all, since the voluntary waiver of parental rights is a device widely employed by social workers to gain custody of children. Because of the availability of the waivers and because a great number of Indian parents depend on welfare payments for survival, they are exposed to the sometimes coercive arguments of welfare departments. In a current South Dakota entrapment case, an Indian parent in a time of trouble was persuaded to sign a waiver granting temporary custody to the State, only to find that this is now being advanced as evidence of neglect and grounds for the permanent termination of parental rights. It is an unfortunate fact of life for many Indian parents that the primary service agency to which they must turn for financial help also exercises police powers over their family life and is, most frequently, the agency that initiates custody proceedings.

The conflict between Indian and non-Indian social systems operates to defeat due process. The extended family provides an example. By sharing the responsibility for child rearing, the extended family tends to strengthen the community's commitment to the child. At the same time, however, it diminishes the possibility that the nuclear family will be able to mobilize itself quickly enough when an outside agency acts to assume custody. Because it is not unusual for Indian children to spend considerable time away with other relatives, there is no immediate realization of what is happening—possibly not until the opportunity for due process has slipped away.

There are the simple abductions. Benita Rowland was taken by two Wisconsin women with the collusion of a local missionary after her Oglala Sioux mother was tricked into signing a form purportedly granting them permission to take the child for a short visit, but, in fact, agreeing to her adoption. It was months before Mrs. Rowland could obtain counsel and regain her daughter.

It appears that custody proceedings against Indian people are also sometimes begun, not to rescue the children from dangerous circumstances, but to punish parents and children unjustly for conduct that is disapproved of. In a recent Nevada case, a Paiute mother had to go to court to recover her children following her arrest for a motor vehicle violation. Parents of Nevada's Duckwater Band of Paiutes were threatened with the loss of their children when they sought to open their own school under an approved federal grant and refused to send their children to a county-run school.

A few years ago, South Dakota tried to send an Oglala Sioux child to a State training school simply because she changed boarding schools twice in two months. In a report sent to us by a Minnesota social worker, she unashamedly recounts threatening her Indian client with the loss of her children if she is indiscreet.



And it can be so casual—sometimes just a telephone call from an attorney or even the mere rumor that there is an attorney in the offing is enough to persuade a welfare department to drop the case. Sometimes it can be desperate. Ivan Brown was saved because the sheriff, the social worker and the prospective foster parents fled when the tribal chairman ran to get a camera to photograph their efforts to wrest him from his Indian guardian's arms.

**Economic Incentives.** In some instances, financial considerations contribute to the crisis. For example, agencies established to place children have an incentive to find children to place. In towns with large federal boarding school facilities, merchants may fight to prevent their closing. Not long ago, in response to political intervention, one boarding school in the Great Plains was being phased out as unnecessary because the children could do better at home. The merchants complained and, again as a result of political pressure, the full school enrollment was restored. Very recently merchants protested the proposed closing of Intermountain School with its large Navajo enrollment, despite the fact the closing was advocated by the Navajo Tribe.

The Bureau of Indian Affairs and the Department of Health, Education and Welfare (HEW) bear a part of the responsibility for the current child welfare crisis. The BIA and HEW both provide substantial funding to state agencies for foster care and thus, in effect, subsidize the taking of Indian children.

Neither the BIA nor HEW effectively monitor the use of these federal funds. Indian community leaders charge that federally-subsidized foster care programs encourage some non-Indian families to start baby farms in order to supplement their meager farm income with foster care payments and to obtain extra hands for farm work. The disparity between the ratio of Indian children in foster care versus the number of Indian children that are adopted seems to bear this out. For example, in Wyoming in 1969, Indians accounted for 70 percent of foster care placements but only 8 percent of adoptive placements. Foster care payments usually cease when a child is adopted.

In addition, there are economic disincentives. It will cost the federal and state governments a great deal of money to provide Indian communities with the means to remedy their situation. But over the long run, it will cost a great deal more money not to. At the very least, as a first step, we should find new and more effective ways to spend present funds.

**Social Conditions.** Low income, joblessness, poor health, sub-standard housing, and low educational attainment—these are the reasons most often cited for the disintegration of Indian family life. It is not that clear-cut. Not all impoverished societies, whether Indian or non-Indian, suffer from catastrophically high rates of family breakdown.

Cultural disorientation, a person's sense of powerlessness, his loss of self-esteem—these may be the most potent forces at work. They arise, in large measure, from our national attitudes as reflected in long-established federal policy and from arbitrary acts of government.

The main thrust of federal policy, since the close of the Indian wars, has been to break up the extended family, the clan structure, to detribalize and assimilate Indian populations. The practice of Indian religions was banned; children were, and sometimes still are, punished for speaking their native tongue; even making beadwork was prohibited by federal officials. The Dawes Act (1887), the Indian Reorganization Act (1934), P. L. 83-280 (1953), and H. Con. Res. 108 (1953) became the instruments of that policy. They represent some of our experiments to reform Indian family and community life.

One of the effects of our national paternalism has been to so alienate some Indian parents from their society that they abandon their children at hospitals or to welfare departments rather than entrust them to the care of relatives in the extended family. Another expression of it is the involuntary, arbitrary, and unwarranted separation of families.

One of the most disturbing aspects of the whole child welfare tragedy is how little Indian resistance there is in so many cases—and how much fear. CBS once taped an interview with an Indian woman who wept that she did not dare protest the taking of her children for fear of going to jail. In the Great Plains, one Indian judge, an employee of the BIA, dumbfounded when she learned she had had the power to reject the hundred custody petitions presented to her by the county welfare department, grieved that she would not have placed one those children off the reservation and left her job.

But the crisis is largely invisible—the children are gone. Over the years there has been, uniformly, a great concern among tribal officials about land and water rights, economic development, and the quality of education. In most communities, neither the BIA nor the county welfare department has deemed it necessary to report to the Tribes on the extent of the crisis. In those cases where information is available, tribal governments act swiftly. Too often they lack the financial and legal means to undertake comprehensive programs.

It has already been noted that the harsh living conditions in many Indian communities may prompt a welfare department to make unwarranted placements and that they make it difficult for Indian people to qualify as foster or adoptive parents. Additionally, because these conditions are often viewed as the primary cause of family breakdown and because generally there is no end to Indian poverty in sight, agencies of government often fail to recognize immediate, practical means to reduce the incidence of neglect or separation.

As surely as poverty imposes strains on the ability of families to function — sometimes the extra burden that is too much to bear — so too family breakdown contributes to the cycle of poverty.

**Some Destructive Consequences.** Because the family is the most fundamental economic, educational, and health care unit in society and the center of an individual's emotional life, assaults on Indian families help cause the conditions that characterize those cultures of poverty where large numbers of people feel hopeless, powerless, and unworthy.

Parents who fear they may lose their children may have their self-confidence so undermined that their ability to function successfully as parents is impaired, with the result that they lose their children. When the welfare department removes the children, it also removes much of the parents' incentive to struggle against the conditions under which they live.

Children separated from their parents may suffer such severe distress that it interferes with their physical, mental, and social growth and development.

In her recent study, *A Long Way from Home*, Judith Kleinfeld observes that the boarding home programs and regional high schools for Alaska Natives are helping to destroy a generation of village children.

She reports that their high school experience led to school-related social and emotional problems in 76 percent of the students in the rural boarding home program, 74 percent of the students in the boarding school, and 58 percent of the students in the urban boarding home program.

She found that the majority of the students studied either dropped out of school and received no further education or else transferred from school to school in a nomadic pattern that create identity problems.

Kleinfeld adds that the high school programs created other severe costs such as:

Identity confusion, which contributed to the problems many students had in meeting the demands of adult life.

Development of self-defeating styles of behavior and attitudes.

Grief of village parents, not at their children's leaving home, but also at their children's personal disintegration away from home.

The average program operating costs totaled over \$5,000 per student.

A National Institute of Mental Health publication, *Suicide, Homicide, and Alcoholism among American Indians*, reports:

The American Indian population has a suicide rate about *twice the national average*. Some Indian reservations have suicide rates at least five or six times that of the Nation, especially among younger age groups. . . . While the national rate has changed but little over the last three decades, there has been a notable increase among Indians, especially in the younger age groups.

Among the nine social characteristics of the Indian most included toward a completed suicide, it includes: "He has lived with a number of ineffective or inappropriate parental substitutes because of family disruption. . . . He has spent time in boarding schools and has been moved one to another.

In our efforts to make Indian children white we can destroy them.

## **Recommendations**

It is fitting that the Congress consider these matters. It has plenary power over Indian affairs. Abuses described involve Constitutional issues. They frequently occur in the administration of federal programs and often have the active participation or tacit approval of federal officials. Congress has the power to help correct these abuses and to help Indian families and communities overcome the social and economic hardships they face.

Therefore, we offer the following summary recommendations. Congress should enact such laws, appropriate such monies, and declare such policies as would:

1. Revise the standards governing Indian child welfare issues to provide for a more rational and humane approach to questions of custody and to encourage more adequate training of welfare officials;
2. Strengthen due process by extending to Indian children and their parents the right to counsel in custody cases and the services of expert witnesses, subjecting voluntary waivers to judicial review, and encouraging officers of the court who consider Indian child welfare cases to acquaint themselves with Indian cultural values and social norms;
3. Eliminate the economic incentives to perpetuating the crisis;
4. End coercive detribalization and assimilation of Indian families and communities and restore P. L. 83-280 Tribes their civil and criminal jurisdiction.
5. Provide Indian communities with the means to regulate child welfare matters themselves;
6. Provide Indian communities with adequate means to overcome their economic, educational, and health handicaps;
7. Provide Indian families and foster or adoptive parents with adequate means to meet the needs of Indian children in their care;
8. Provide for oversight hearings with respect to child welfare issues on a regular basis and for investigation of the extent of the problem by the General Accounting Office.
9. End the child welfare crisis, both rural and urban, and the unwarranted intrusion of government into Indian family life.

We recognize that these issues demand careful consideration over a considerable period of time and involve questions of committee jurisdiction.

The ultimate responsibility for correcting the child welfare crisis must rest properly with the Indian communities themselves. A number are demonstrating today that, informed of the scope of the problem and having available even some of the means, dramatic progress can be made. Adoptive and foster care placements out of the Indian community have virtually ceased on the Warm Springs, Lake Traverse, Blackfeet, and a number of other reservations. Given the opportunity, Indian people will initiate their own, more effective programs for families and children, such as those developed by the Devils Lake Sioux, the Eastern Band of Cherokee Indians, the Winnebago of Nebraska, and the Wisconsin American Indian Child Welfare Service Agency.

The training and employment of Indian lawyers, teachers, boarding school personnel, social workers, pediatricians, mental health professionals, and professional foster parents is vitally important. Tribal judges and police need more adequate training.

## Conclusion

Measured in numbers, measured in terms of human suffering, and as a measure of the condition of our society and our government, the Indian child welfare crisis is appalling.

The American public will support the remedial measures that are necessary. In one New York community alone, twenty thousand citizens signed petitions calling for oversight hearings and volunteers raised funds to enable some of the witnesses to appear.

Indians, blacks, Chicanos, the poor, and parents that do not meet our social norms—all are exposed to extraordinary risks of losing their children. If even one child is taken unjustly, all children are threatened. In the words of John Woodenlegs, a Northern Cheyenne, There is only one child, and her name is Children.

# ADOPTION AND THE INDIAN CHILD WELFARE ACT

Craig J. Dorsey\*

Fifteen years after passage of the federal Indian Child Welfare Act (ICWA),[\[50\]](#) confusion is rampant over several aspects of the statute. In no area is the confusion more evident than it is regarding the adoption of Indian children. Conflicting decisions from different states, the refusal of the U.S. Supreme Court to provide guidance or resolve such conflicts, and constant attempts by private adoption attorneys to limit or bypass application of the ICWA makes this a treacherous area of the law in which to practice.[\[51\]](#)

The ICWA was passed by Congress in 1978 in response to the wholesale removal of Indian children from their families and communities and their adoption by white families. Statistics compiled as part of the legislative process showed that between 25% and 35% of *all* Indian children had been separated from their families, often removed by child welfare workers who had no knowledge of Indian culture and who were convinced that removal of the children would automatically be in their best interest. Of these children, 85% to 90% had been placed in non-Indian foster or adoptive homes.[\[52\]](#) The adoptive placement rate of Indian children was several times that of non-Indian children.[\[53\]](#) These statistics, said Congress, amounted to a crisis of massive proportions.[\[54\]](#) As part of the statute itself, Congress found that:

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An alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-tribal public and private agencies. . . [and] that the States, exercising their recognized jurisdiction over Indian child custody proceedings. . . have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.[\[55\]](#)

Although it has relatively clear goals, before it was finally passed the ICWA had been modified by Congress several times over four years, and had evolved into a complex, comprehensive piece of legislation that was not reconciled to ensure consistent and complementary language. The ambiguities and gaps that result from this tortuous process have led to conflicting and inconsistent implementation, exacerbated by the reluctance of many state courts, despite statutory mandates, to relinquish jurisdiction to tribal courts or to follow federally imposed standards.

### **Framework of the ICWA**

The Act recognizes an inherent conflict between state and tribal courts on the issue of child custody proceedings, and comes down solidly in favor of tribal courts making decisions regarding the custody of Indian children. The ICWA applies to any case in which two conditions are satisfied: (1) the child is an Indian child;[\[56\]](#) and the proceeding is a child custody proceeding. [\[57\]](#) It gives tribal courts exclusive jurisdiction over proceedings concerning Indian children who reside or are domiciled on the Tribe's reservation. With regard to other Indian children, state and tribal courts have concurrent jurisdiction. In this instance, however, a state court may transfer the proceeding to tribal court if asked to do so by the either parent, the child's Indian custodian, [\[58\]](#) or the Tribe, unless there is good cause not to do so or unless either parent objects.

Removal of an Indian child from his or her family or community is more difficult at each stage of a proceeding under the ICWA than in a state court dependency proceeding. For example, placement of a child in foster care is prohibited unless there is a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child[\[59\]](#) --a higher standard of proof than is required in most dependency proceedings. Similarly for termination of parental rights, the evidence must establish beyond a reasonable doubt that continued parental custody would result in serious emotional or physical damage. Perhaps the most significant distinction, however, lies in the role given to Indian Tribes, who have the right under the ICWA to intervene in custody proceedings and to speak with a voice essentially equal to that of the parents.

The U.S. Supreme Court has addressed the ICWA in only one case: *Mississippi Band of Choctaw v. Holyfield*. [\[60\]](#) That case involved twins born to Indian parents who lived on the Choctaw Reservation in Mississippi. The babies were born 200 miles away from the reservation, however, and both parents signed consent forms for a non-Indian couple, the Holyfields, to adopt the children. A final decree of adoption was granted by a state chancery court when the children were only 18 days old.

Two months later the Choctaw Tribe moved to vacate the adoption, on the grounds that, under the ICWA, the tribal court had exclusive jurisdiction over a custody proceeding involving these children. The state court refused to set aside the adoption decree. It said that the Tribe had never obtained jurisdiction over the twins since they had never been on the reservation and the parents had gone to some effort to see that the birth took place away from the reservation and promptly arranged for the adoption. The Mississippi Supreme Court affirmed this decision, saying that the twins' domicile was that of their adoptive parents, not their birth parents.

The U.S. Supreme Court reversed. Noting that the sole issue before it was whether the twins were domiciled on the reservation, the Court first addressed whether federal or state law should be used in

answering this question, and concluded that federal law was controlling. Applying federal law, the Court said that children have the domicile of their parents and can be domiciled in a place where they have never been. The twins in this case thus were domiciled on the Choctaw Reservation. The fact that their parents had consented to adoption could not defeat the Tribe's jurisdiction; under the ICWA the tribal court had exclusive jurisdiction the moment they were born, regardless of where that was. The Court was careful to note that the question of where the twins should live was not before it; the sole issue was *who* should make the custody determination, and the law places that decision in the hands of the Choctaw tribal court. [61]

### **The ICWA's Approach to Adoption**

The ICWA definition of child custody proceeding includes adoptive placement, which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption. [62] This definition includes both voluntary and involuntary adoption proceedings, [63] and includes off-reservation adoptions. [64] One section specifically addresses voluntary adoptions, [65] but coverage of adoption is spread throughout the ICWA and in many instances is addressed by implication or inference rather than directly. [66]

Procedural requirements for voluntary relinquishment of a child for adoption are quite stringent. Consent must be executed in writing before a judge of a court of competent jurisdiction, [67] who must certify in writing that the terms and consequences of the consent were explained in detail and were fully understood by the parent, and that the parent

understands English or that the consent was adequately interpreted. Any consent given before birth or within ten days after birth shall not be valid. [68] The parent of an Indian child who consents to adoption of that child has a right to revoke that consent for any reason at any time prior to entry of a final decree of adoption, [69] and to obtain the return of the child, even if the parent had previously executed an irrevocable consent under state law. [70] If the adoption of an Indian child is vacated or set aside or the adoptive parents voluntarily consent to termination of their parental rights, the biological parent has a right to return of the child unless a showing of parental unfitness can be made. [71]

The ICWA provides a placement preference order for adoptive placements of Indian children, whether voluntary or not: (1) a member of the extended family; (2) another member of the child's Tribe; or (3) another Indian family. This order of preference must be followed by the state court in the absence of good cause to the contrary. [72]

Despite the detail and specificity of these provisions, however, the only type of adoption about which there is complete clarity is that of an Indian child domiciled or residing on a reservation. In this case, the Tribe has exclusive jurisdiction to determine the child's custody, including adoptive placement. [73] Moreover, as the U.S. Supreme Court ruled in *Holyfield*, domicile must be interpreted broadly, consistent with the purposes of the Act, to protect the Tribe's jurisdiction over its children.

### **Ambiguities Abound in ICWA**

Overall, the ICWA's treatment of adoption is riddled with ambiguities which many state courts have seized upon to limit application of the Act. In addition, sections of the statute dealing with issues other than adoption do not mesh neatly with the adoption language to form a cohesive whole.

The notice provision of the ICWA, [74] for example, requires notice by registered mail to the parent or Indian custodian *and* the Indian child's Tribe in any involuntary proceeding in a State Court seeking foster care placement of or termination of parental rights to an Indian child. It says nothing about adoption proceedings, although if Indian Tribes do not receive notice of such proceedings, they cannot express their interest in tribal children and cannot present placement options which comport with the placement preferences of the ICWA. Most courts have required notice to Indian Tribes of both voluntary and involuntary adoption proceedings, and

some states have legislated notice to Indian Tribes for voluntary adoptions in their state codes.<sup>[75]</sup> At least one state, however, Alaska, has ruled that Indian Tribes are not entitled to any notice of voluntary adoption proceedings under the ICWA,<sup>[76]</sup> under the rationale that Congress made a considered choice in crafting the notice provision of the Act. Adoption attorneys throughout the country have seized on this Alaska Supreme Court decision to avoid giving Indian Tribes notice of voluntary adoption proceedings under the ICWA.

Another example involves the right of Indian Tribes to intervene in state court adoption proceedings. 25 U.S.C. sec. 1911(c) gives an Indian Tribe a right to intervene in any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child. The language makes no distinction between voluntary and involuntary proceedings,<sup>[77]</sup> and it does not specifically address adoption proceedings.<sup>[78]</sup> Some states have bypassed this problem by granting Tribes permissive intervention under state law, based on the ICWA's recognition of an Indian child's critical interest in the placement of its children.<sup>[79]</sup> Alaska, without any reasoning of discussion, has held that the ICWA's right of

intervention does not extend to voluntary proceedings.<sup>[80]</sup> This holding seems directly in conflict with the Supreme Court's *Holyfield* decision.

Other ambiguities have also been resolved in case law in state courts. For instance, the Act has been held to apply to adoptions by stepparents,<sup>[81]</sup> grandparents,<sup>[82]</sup> and surrogate parents;<sup>[83]</sup> to both the Indian and non-Indian family of an Indian child;<sup>[84]</sup> and to an Indian adoptive parent of an Indian child, but not to a non-Indian adoptive parent.<sup>[85]</sup> An unwed father has standing to invoke the protections of the ICWA once paternity is established.<sup>[86]</sup> The ICWA applies from the time that eligibility as an Indian child as defined by the Act is established.<sup>[87]</sup> An Indian custodian as defined by the ICWA has the same rights as the parent of an Indian in any adoption proceeding.<sup>[88]</sup> An early argument was made that the ICWA should not extend to independent adoptions since congressional findings in the ICWA<sup>[89]</sup> cite the problem to be remedied as the removal of Indian children by non-tribal public and private *agencies*, but the case law has rejected this distinction.<sup>[90]</sup>

It is voluntary placement of off-reservation children, however, that has caused the greatest conflict. The great emphasis the *Holyfield* Court placed on in its policy discussion of the Tribe's interest in child custody proceedings suggests that tribal courts should have jurisdiction in these cases. Tribal jurisdiction was not meant to be defeated by the actions of individual members of the Tribe, for Congress was concerned not solely about the interest of Indian children and families, but also about the

impact on the Tribes themselves of the large numbers of Indian children adopted by non-Indians. <sup>[91]</sup> Further, the protection of this tribal interest is at the core of the ICWA, which recognizes that the Tribe has an interest in the child which is distinct from but on a parity with the interest of the parents. <sup>[92]</sup> Nevertheless, the Court did not directly address the voluntary adoption of off-reservation children, and a number of state courts have taken advantage of the resulting vacuum to resist strenuously the implementation of the spirit of the ICWA.

### **The Existing Indian Family Exception**

Several states have created a judicial exception to coverage of the ICWA, primarily in the area of adoption, where the Indian child is being given up for adoption by the non-Indian biological parent. Referred to as the existing Indian family exception to the ICWA, these cases have ruled that the ICWA does not apply unless the child has been living in an Indian environment and is being removed from the Indian family. <sup>[93]</sup> After *Holyfield*, some courts construed the decision quite narrowly and held that it did not affect their previous rulings creating the exception.<sup>[94]</sup>

The most extreme application of the existing Indian family principle occurred recently in Washington, where the State Supreme Court ruled that the ICWA did not apply if the Indian child is not being removed from an Indian cultural setting, the natural parents have no substantive ties to a specific Tribe, and neither the parents nor their families have resided or plan to reside within a tribal reservation.<sup>[95]</sup> This decision essentially allows

state courts to decide who is Indian enough for the ICWA to apply, and would have the effect of limiting application of the Act only to reservation-based Indian families.[\[96\]](#)

Several other states have expressly refused to adopt such an exception.[\[97\]](#) The existing Indian family exception is in fact contrary to a line of ICWA cases holding that one purpose of the act is to give Indian children who have never lived in an Indian community an opportunity to develop their Indian identity.[\[98\]](#)

No resolution of these conflicting lines of cases is in sight. The United States Supreme Court has refused to review this issue despite at least four petitions for certiorari. Proposed amendments to the ICWA were drafted in 1987 to address this issue, but were not acted on because Congress wanted first to see what the Supreme Court would do with the issue.[\[99\]](#) Congressional Indian committees also believed that the Supreme Court's *Holyfield* decision had resolved the issue, but are now once again considering proposed amendments, given the continuing conflict.

### **Adoptive Placement Preferences**

A final major issue raised by the ICWA's treatment of adoption is that of the placement preferences specified in the statute. This topic usually arises in one of three contexts: when the parent who consented to adoption revokes that consent and seeks return of the child; when the non-custodial parent tries to obtain custody of an Indian child after the custodial parent has consented to adoption by a third party; or when the parents have consented to adoption by someone outside the placement preferences of the ICWA and someone within those placement preferences asks that the child be placed with him or her.

The placement preferences of the Act must be followed in the absence of good cause to the contrary.[\[100\]](#) Guidelines drafted by the Bureau of Indian Affairs set out in detail what is necessary to comply with the placement preferences or to justify an alternate placement.[\[101\]](#) The Act itself requires states to maintain records of efforts to comply with the placement preferences and to make these records available to Indian Tribes.[\[102\]](#) In reality, however, in most independent adoptions, no such efforts are made; instead, the Indian child is placed immediately with non-Indians and any effort expended is to avoid application of the Act.

There is little doubt about the outcome when a parent revokes consent: the child must be returned.[\[103\]](#) Persons seeking to adopt an Indian child must accept this risk,[\[104\]](#) and one case held that adoptive parents cannot have any expectation that a consent to adoption may not be revoked before parental rights are terminated.[\[105\]](#) Bonding is not the only consideration to be used by the court in deciding the custody of an Indian child; in many cases the adoptive parents must take responsibility for having caused bonding to occur when their actions violated the ICWA.[\[106\]](#)

The outcome is less clear when the non-custodial biological parent (usually the father) seeks custody of an Indian child when the birth or custodial parent has consented to adoption of that child by (usually) non-Indians. The ICWA does not protect the parental rights of non-custodial parents of Indian children.[\[107\]](#) Where the non-custodial father knows about the existence of the child, however, but fails to establish a legal relationship with a reasonable time, it has been held that this failure constitutes good cause not to follow the placement preferences of the Act and not to place the child with him.[\[108\]](#)

The third situation arises when the parents of an Indian child consent to adoption of their child by strangers, even when relatives or other Indians want custody of the child. In most of these cases the consent parents consciously desire that the child *not* be raised in an Indian environment. The ICWA states that the placement preference of the parent shall be considered where appropriate, [\[109\]](#) but gives no guidance as to when appropriate circumstances exist. Legislative history states that the purpose of the section is to protect the rights of the Indian child as an Indian and the rights of the Indian community and Tribe in retaining its children in its society.[\[110\]](#)



This situation thus presents the competing legal rights of parents, children, and Indian Tribes. It is generally presumed that parents have the right, at least in a voluntary proceeding, to control the placement of their children. In the on-reservation context, however, the U.S. Supreme Court has ruled that the interests of a Tribe in its children are at least as great as the interests of the parents, and that the actions of the individual parents cannot defeat the purposes of the ICWA.[\[111\]](#) Some courts have applied this holding in the off-reservation adoption context as well.[\[112\]](#) At least one court has ruled that an Indian Tribe's interest in its children is not as strong as the interest of the parents in an off-reservation setting.[\[113\]](#)

Thus, it is up to the trial court to determine whether good cause exists under the ICWA not to follow the placement preferences of the ICWA. An Indian relative has a statutory right to intervene in an adoption proceeding and express his or her interest in obtaining custody of the child under the Act.[\[114\]](#) In deciding whether good cause exists, the state court may consider factors such as the best interests of the child, the wishes of the biological parents, the suitability of persons preferred for placement, the child's ties to the Tribe, and the child's ability to make any cultural adjustments necessitated by a particular placement.[\[115\]](#)

In reality, the application of these factors will make it almost impossible for an Indian relative to obtain custody of an Indian child who has already been placed in the home of non-Indians.[\[116\]](#)

## **Conclusion**

As this article makes clear, adoption under the ICWA is a complex and evolving area of the law with many inconsistent and contradictory controlling principles. Conflict under the ICWA is unlikely to abate as long as the market for adoptable Indian babies remains so strong. Adoption attorneys have been very creative about avoiding application of the placement preferences of the Act or of application of the Act itself—for example, by placing the child with the prospective adoptive parents months before filing an adoption petition, failing to notify the Tribe, routinely stating on consent forms that the child is not an Indian or that the ICWA does not apply, sending U.S. Indian children to Canada or Canadian Indian children to the United States to avoid the ICWA. At the same time, Indian Tribes will persist in asserting their interest in Indian children. As a result, the conflict over adoption of Indian children by non-Indians will continue.

# **REACTIONS BY NATIVE AMERICAN PARENTS TO CHILD PROTECTION AGENCIES: CULTURAL AND COMMUNITY FACTORS**

Charles Horejsi, Bonnie Heavy Runner Craig, and Joe Pablo\*

*The oppression suffered by Native Americans has so undermined their culture and ability to parent that child abuse and neglect are frequent problems. Yet the history of oppression often seriously damages the capacity of many Native American parents to accept help from child protective service agencies and staff members. This article explains the particular characteristics and behaviors of some Native American parents, and closes with a summarized guide to understanding these parents and to appropriate behavior on the part of social workers.*

Certain community and cultural factors affect how Native American parents react to child protection investigations and interventions concerning child abuse and neglect. Native American parents may behave in ways that cause practitioners to view them as uncooperative, unmotivated, resistant, or hard-to-reach. This is not to suggest that a high proportion of Native American parents abuse or neglect their children, or that those that do are always resistant to or uncooperative with child protection services (CPS). Rather, this article focuses on the small percentage of Native American parents who react to CPS with extreme aggressiveness, passivity,

or avoidance, and on the factors that may account for their behaviors. Unfortunately, such behaviors by a parent may precipitate court action even in cases where the CPS worker would prefer to avoid court involvement.

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In those cases where the abused or neglected child is removed and placed in foster care, both tribal and state agency CPS practitioners observe that it is not uncommon for the parents to leave their home area, avoid further contact with the agency, and seemingly abandon their child. These actions by a parent depart radically from traditional tribal family values that assign much importance to children.

How can we explain these reactions? Why do Native American parents so often behave in ways that are certain to get them into deeper trouble with authorities and the court? Why do parents so easily give up and run away? Obviously, there is no single or complete explanation. Many interrelated personality and situational factors might give rise to this behavior. Alcohol or drug abuse are of critical importance in most cases. In addition, the authors believe that cultural and community dynamics are equally significant.

## **CPS as a Threat to the Parent**

When confronted with a CPS investigation, abusing or neglectful parents □regardless of cultural background□ typically feel that the intervention is unfair and unjustified, and often react with anger and sometimes aggression. Others react with extreme fear and become psychologically immobilized and passive. Still others try to flee. A skilled CPS social worker can work through these reactions in most cases and obtain from the parent, at a minimum, a beginning level of cooperation so that steps can be taken to reduce risk to the child. Some parents, however, remain intensely hostile, resistant, and uncooperative.

Working with an angry and uncooperative parent becomes even more complex when the parent is a member of a cultural minority or an ethnic group having values, beliefs, and social norms significantly different than those of the CPS worker. Cross-cultural interaction increases the potential for misunderstanding and misinterpretation by both the worker and the parent.

In a CPS investigation, a powerful governmental agency has, in effect, pointed its finger at the parent and accused him or her of being bad or irresponsible; although these words are never spoken, that is what the parent hears. Whenever a person is threatened and frightened, the primitive fight-or-flight response is activated. Thus, the parent who feels threatened is motivated to either attack the CPS worker/agency or to escape by fleeing. A number of cultural, historical, and community factors magnify this threat for the Native American parent. Goodtracks [1973: 32], for example, explains that when confronted, the Native American typically withdraws from the interaction but when pushed beyond endurance, he may lose self-control and drive the aggressor away with verbal or physical force.

## **The Need for Understanding**

The CPS worker□s capacity for empathy is vital for engaging and working with these parents effectively. This ability to accurately tune in to the life experiences and feelings of other persons, to step into their shoes and to see things and feel life as they do, is difficult but necessary to sense the parent□s underlying feelings and the meaning he or she attaches to being forced into a relationship with the agency. With empathy, the worker can

accurately address the parent's fears, anger, and other feelings and adapt his or her own approach to winning the parent's cooperation.

CPS workers must be sensitive to the wide variety of personal, social, and economic elements that contribute to the problem of child abuse or neglect by any parent. When the parent is Native American, the worker must, in addition, be alert not only to cultural differences but also to the events of remembered history that have shaped the attitudes of native people toward child welfare agencies, social workers, and other professionals. Lack of money, health problems, chemical dependency, discrimination, psychological problems, and inadequate parenting skills intensify enormously the complexities of parenting. Below, we briefly describe some of the social problems and cultural and community factors that affect all Native American parents and may directly or indirectly influence how an individual parent responds to a CPS worker and agency.

## **Poverty**

When compared to other minority groups in the United States, Native Americans are among the poorest of the poor [Levitan 1990]. Poverty places families under great stress and shapes their behavior, attitudes, and expectations, forcing parents to devote an inordinate amount of time and energy to tasks of day-to-day survival. A life of grinding poverty often gives rise to feelings of hopelessness and a belief that one is helpless to control or influence one's life and its circumstances. Sometimes poverty generates feelings of hostility toward those in positions of authority and those who are better off economically. These attitudes and beliefs are culturally passed from one generation to another. When parents, who already feel helpless, are confronted by a CPS agency, they may feel completely overwhelmed and the intensity of that feeling may lead to extreme and inappropriate behavior.

## **Effects of Racism and Discrimination**

Most Native Americans encounter racism and discrimination daily. Sometimes it is as subtle as a disapproving look from a store clerk; sometimes it is as open as being refused rental housing or a job. Anti-discrimination laws exist but they protect only those persons willing and assertive enough to report an offense and to make an issue out of an act of discrimination.

Typically, Native American children begin to experience racism and discrimination early in life. Upon entering elementary school, they learn that the customs and values of their tribal community are not only different, but often opposite to those of the dominant society. All too often, the school experience teaches Native American children that the dominant society does not understand and does not value their culture and traditions; and that those in the dominant society feel superior to those who are culturally different.

On the playground the Native American child may be called drunken Indian or wagon burner. Sooner or later the child hears that the only good Indian is a dead Indian. Some Native American children may incorporate these expressions of bigotry into their self-concept, giving rise to feelings of inferiority. To escape this pain, the children may withdraw or act out. They may, for example, avoid school, where they encounter beliefs of the dominant society [Redhorse 1982]. They may also develop self-defeating or antisocial behaviors such as depression, suicidal tendencies, glue sniffing, alcohol abuse, violence, promiscuity, and other problems that are frequently rooted in low self-esteem [Three Feathers Associates 1987]. A study by Finley [1989], for example, found that 29% of Native American girls and 100% of Native American boys were heavy drinkers by the ninth grade.

Personal experiences with racism and discrimination can give rise to fear and distrust of persons from the dominant culture and of persons representing social service agencies operated by non-Native American

governments. A fear or suspicion of agencies will, of course, affect how a parent responds to a CPS agency and its workers.

## **Early Death □ Endless Grieving**

Given the high rate of chronic diseases (e.g., diabetes, alcoholism, heart disease, and liver disease), suicide, and accidents among Native American people, their life expectancy of 44 years is relatively short when compared to that of the United States population as a whole [Man Keung Ho 1987: 70]. Comparatively speaking, Native American people die at a young age: more than one-third of all deaths are of people under age 45, three times the rate of the general population [Campbell 1989]. For Native Americans, such grim statistics are experienced as a seemingly endless stream of funerals and an unending sense of loss and grief.

Within tribal communities, the emotional impact of death is felt more intensely because so many in the community are bonded or attached to each other by blood, marriage, or long-time friendship. Frequent losses can exhaust one's coping capacity. As one Blackfeet woman expressed it: It seems as if another death or another tragedy always comes along before you have had time to grieve the last one.

A personal history of frequent loss and incomplete grieving can affect how some parents respond to a CPS worker who has the power to place their child in foster care and thereby inflict still another loss. Face with a threat that carries the same emotional impact as death, they may react in an apparently irrational manner, such as attacking the worker, or, on the other extreme, running away or perhaps becoming completely passive.

## **The Boarding School Legacy**

Beginning in the late 1800s, U.S. government policy toward Native American people emphasized forced assimilation into the world of the white man. The Indian boarding school was designed to remove children from the influence of their parents and Tribe and create a new social environment where they could be civilized.

Discipline in these schools was harsh and the daily routine rigid. Children were required to speak only English and were punished for using their native language. Their hair, an important cultural symbol, was cut short. Uniforms replaced individually created and uniquely decorated native clothes. Visits home were few and far between. Clearly, the boarding school was an effort to destroy cultural identity; unfortunately, it was quite successful. Many who attended these schools lost touch with their tribal language, religious beliefs, customs, and social norms.

The boarding school experience has had a far-reaching effect on Native American culture and family structure. Those people who spent much of their childhood in boarding schools were deprived of an opportunity to experience family life, and many reached their adulthood with no clear concept of parenting behavior and family functioning. The boarding school effectively destroyed the intergenerational transmission of family and parenting knowledge and behaviors. Now, one or more generations after the boarding school era, many Native Americans are ill-prepared for the parent role.

The boarding schools not only destroyed or distorted the intergenerational (cultural) transmission of family and parenting knowledge and behavior, but they also introduced new and dysfunctional behaviors, such as the use of severe punishment in child rearing. Parents who had as children been spanked and hit while attending boarding school responded similarly to their own children. Before the boarding school era, the use of physical discipline was uncommon in most Tribes.

Even worse, a report published by the National Resource Center on Child Sexual Abuse [1990] cites evidence that many Native American children were sexually abused while attending boarding schools. The introduction of child sexual abuse into tribal communities, where it had not existed before, is especially troublesome: Native

American people tend not to talk openly about sex because sexual matters are highly private matters. This cultural taboo prevents the sexually abused child from reporting the offense. For the same reason, adults troubled by childhood sexual abuse avoid using professional services to cope with unresolved issues. When cases of child sexual abuse are disclosed, the tribal community is thrown into conflict and is often unable or unwilling to deal with the problem.

The boarding schools also disrupted the cultural transmission of parent-child attachment behaviors, which has created personal and family problems that have persisted over as many as three generations. As a sad aftereffect of these disruptions, we now see many Native American children being raised by biological parents with few parenting skills; some children are being raised by grandparents who lack real attachment to their own children or the parents of their grandchildren. The lack of parenting skills and the problems in attachment place children at risk of abuse or neglect. Unless these problems are dealt with, each new generation is at risk of repeating this dysfunction cycle.

When parents lack parenting skills and have no clear concept of the parent role, they are easily frustrated by normal parental responsibilities and especially by a difficult or special-needs child. The Native American parents who come into contact with a CPS agency usually need help in learning how to be parents. The most effective parent training programs are those that blend principles derived from modern child development with the spirituality, customs, traditions, and other cultural ways of their Tribe [Cross 1986]. Culturally oriented programs of parent education help parents rediscover tradition-based family patterns that were obscured and suppressed by boarding schools and one or more generations of family dysfunction.

Unfortunately, in some cases the parents are so dysfunctional that these programs have little effect. There may be no alternative to foster care and possibly court action to create an opportunity, usually through guardianship, for the child to attach to another family. It should be noted that most tribal courts are extremely reluctant to terminate parental rights because it is culturally offensive. As one tribal attorney explained, We don't even use the "T" word.

## **Foster Care**

According to Cross [1987], Native American languages did not contain words that translate into our contemporary concept of foster care. Historically, the extended family and the clan system provided whatever substitute family care might be needed. As part of its assimilation policy, the Bureau of Indian Affairs (BIA) was responsible directly, or indirectly through church-related programs, for placing large numbers of Native American children in non-Native foster homes and adoptive homes. It was this extraordinarily high rate of out-of-home placements and cultural dislocation that eventually resulted in passage of Public Law 95-608, the Indian Child Welfare Act of 1978.

Even today, many Native American people have bitter feelings toward foster care and the agencies and staff members associated with foster care. Many of today's Native American parents have parents or grandparents who were snatched from the reservation and placed in foster care or sent off to boarding school. Consequently, there exists a genuine and deep-seated fear of government agencies that have the power to place children. This fear intensifies the parent's fight-of-flight reaction when faced with a CPS agency expressing concern over the care of the children.

Today's Native American parents and grandparents have grown up with the reality-based belief that once a child goes into foster care, he or she never returns home. In other words, in their experience and from what they were told by their parents and grandparents, foster care is always permanent. This belief increases the parent's fear of CPS and accounts for the frequent observation that once a child is placed, parents seem to give up and walk away. Unfortunately, this reaction is sometimes misinterpreted as a lack of motivation or a lack of concern

for the child. A more accurate interpretation is to view the parents as making an effort to get on with their life after the death of a loved one.

## **The Reservation Experience**

In the early years of reservation life, traditional tribal leaders were stripped of their authority to make decisions concerning the wellbeing of the tribal society. The influence of chiefs and elders was replaced by that of the Indian agency or agency superintendent, and the actions of government agencies became central to the very survival of Native Americans. Life and livelihood were tied directly and closely to the resources provided by the government agencies.

Many years and several generations of forced dependency on government authority gave rise to feelings of powerlessness and helplessness. Because there was no choice, Native American people came to expect agencies to make decisions for them. The aftereffects of this forced dependency persist even today. Out of habit or fear, or both, many Native Americans are easily intimidated by government agencies. Some assert themselves and make their opinions known but many respond with resignation, or more accurately, with quiet and passive defiance.

Because of the power of government in the everyday life of Native Americans, parents typically view the CPS agency—whether tribally or state operated—as powerful, arbitrary, and beyond their influence. To cope, the parents react by trying to escape or with artificial submission.

## **Effects of Substance Abuse**

Since first introduced by Europeans, alcohol has had a devastating impact on Native American families and tribal cultures. Three Feathers Associates [1989] estimates that 95% of Native Americans are affected directly or indirectly by alcoholism. The authors of this article believe that 100% is the more accurate figure. Many children are the products of two, three, or more generations of alcoholic families, and the pattern of dysfunctional behavior caused by the alcohol has often passed from one generation to another.

Recently, however, a growing number of Native Americans have begun their recovery from alcoholism, and the denial surrounding this problem is gradually breaking down. More emphasis and tribal resources are now devoted to primary prevention and to healing the effects of growing up in an alcoholic family. Consider, for example, the rapid growth of the recently organized National Association for Native American Children of Alcoholism (NANACOA). Despite these encouraging signs, though, substance abuse remains a major problem.

In most cases, the parents who come to the attention of a CPS agency are either actively drinking or are caught up in a codependent relationship with an alcoholic. As suggested above, most grew up in dysfunctional homes where they learned to make heavy use of denial, avoidance, and blaming of others as primary methods of coping. They also learned the three rules for living in an alcoholic family: don't let yourself feel, don't trust others, and don't talk about the problem. Many continue to struggle so intently with their own pain and conflicts that they are unable to attend to the needs of their children. The parents' problems are often interrelated with those of other family members. To reduce risk to the child, the problem of chemical dependency must be addressed by the CPS worker.

## **The Struggle to Establish an Identity**

Developing a sense of identity (e.g., Who am I; Where do I belong) is a challenge for all people. Some live their whole lives without ever arriving at a satisfactory identity or self-concept. Individuals who are members of an ethnic or cultural minority group face a special challenge in establishing an identity. Native Americans, for example, must learn to live in two worlds—the world of the Tribe and the white world shaped most strongly by

European cultures. To function effectively, they must become bicultural. This is difficult, and it can be especially difficult when the individual is of mixed blood or was raised by non-Native Americans, such as the native child placed with Caucasian foster or adoptive parents.

A confusion over one's identity results in self-doubt and frustration, which can, in turn, push or pull the individual into extreme efforts to develop a sense of self. Some Native Americans, for example, may completely reject or deny their ancestry and pretend to be white; others may reject everything that represents the white world. Some, who were not previously close to tribal culture, may immerse themselves in cultural and tribal activities in an effort to find or build an identity.

When the foundation is not solid, our sense of identity and belonging can be fragile. For example, a move to a new community or a life crisis can reactivate or intensify questions about who one is and where one belongs. And needless to say, being subjected to a CPS investigation can precipitate a crisis leading to a loss of self-confidence and increased feelings of isolation.

## **Extended Family Structure**

Native Americans are typically part of an extended family structure. Aunts may be called mother, uncles may be called father. An individual's cousins may be treated as brothers and sisters. Grandparents are often key decision-makers and frequently play a central role in the parenting of young children. Other members of the extended family usually assume child care responsibilities and may discipline children.

For the Native American, this family structure is essential to economic and social survival. Members of the extended family are expected to share what they have and take care of each other. Within the extended family, the individual learns the importance of loyalty to the family and of maintaining peaceful relations among its members. When making important decisions, an individual will consult with other members. Much importance is attached to the process of gaining approval from others before proceeding on a course of action.

The extended family structure and its many members can be a tremendous source of support, and it can compensate for inadequacies in a biological parent's ability as a parent. It is one of the greatest strengths and assets of Native American people, but it is also possible for an entire extended family to be dysfunctional, especially if many of its members are alcoholic. In such cases, the power and solidarity of the extended family then become a barrier to the parent's correction of problems that place a child at risk of abuse or neglect.

## **High Birth Rate—Young Parents**

The mean age of Native Americans in the United States is now about 22 years, and the median age is 18. This demographic fact reflects a high birth rate, especially among young women [Campbell 1989]. For many Native American parents, the birth of their first child takes place while they themselves are still teenagers. Needless to say, the high level of sexual activity and the large number of pregnancies among teens is a societal problem, not just a problem among Native Americans. Among Native Americans youths, however, problems of low self-esteem, frequent use of alcohol, and disenchantment with school can easily pull these teens into irresponsible sexual activity and parenthood for which they are poorly prepared. Unless the young parent has a strong and functional extended family ready and able to assist in child care, he or she will be placed under enormous stress and the child may be at risk for abuse or neglect.

Because they have learned from their parents and grandparents to distrust government, Native American teens are easily overwhelmed and frightened by government agencies, especially those associated with law enforcement and the court. When their fear and suspicion are coupled with law enforcement and the court. When their fear and suspicion are coupled with their immaturity, they often respond to CPS in extreme and unpredictable ways, including running away with or without the child.

## **Living in a Tribal Community**

Life in a tribal community is much like living in a very small town where everybody knows everybody else and their business. The lives of people in a Native American community are even more interwoven because so many are related by blood, marriage, or long-time associations; privacy and confidentiality are nearly nonexistent.

If Native American parents are investigated for child abuse or neglect, everyone in the community soon knows about it. Gossip and rumors can have a devastating effect on an individual in a tightly knit community, which can intensify the parents' embarrassment and shame and their impulse to flee. It also places friends and relatives in a position where they feel obligated to take sides, either for or against the parents. Some friends or relatives may feel an obligation to approach the CPS agency and volunteer their thoughts on the matter or ask what they might do to help the parents and their child.

As in all communities, local politics and the power structure influence the social fabric of the tribal community. Whom you know and whom you are related to can affect your chances of gaining access to opportunities and resources, which can affect how the parents are treated—or how they think they will be treated—by the tribal police, tribal court, and tribal agencies.

A parent's or a family's access to power, or lack thereof, also affects the CPS investigation. It can be difficult to properly investigate the parenting behavior of a powerful tribal member. A parent may look to a powerful relative to stop the investigation, or in another instance, a powerful relative may try to use the CPS agency to fight his or her battles as part of an ongoing family squabble.

The fact that the CPS worker and the parent know each other or might even be related adds to the complexity of the CPS worker-client relationship. A lack of social distance between professional and client can be an advantage in some service and treatment settings, but in law enforcement and CPS it usually creates discomfort for all involved. For the parents, it usually adds to their shame and fuels their feelings of unfairness and anger. For the CPS worker, it creates a situation where personal issues can affect professional judgment and objectivity.

## **Summary**

In summary, we list interrelated, situational, cultural, and community factors that may provoke an extreme fight-or-flight reaction by Native American parents confronted with an accusation of abuse or neglect and a CPS investigation. Generally, the parent is directly or indirectly affected by alcoholism and/or codependency; is young, lacking in parenting skills, and easily overwhelmed by parental responsibilities; is emotionally overtaxed by a history of loss and incomplete grieving; is overwhelmed and exhausted by the daily grind of poverty; has low self-esteem and lacks self-confidence; is often a product of a dysfunctional family to which he or she feels obligated and loyal and is easily influenced by family members; feels embarrassed and shamed by the community's knowledge of abuse or neglect; has a tendency to run away rather than confront problems directly; is reluctant to talk about or even mention sexual matters; is fearful and distrustful of child welfare agencies and of social workers who can place children in foster care; believes that once a child goes into foster care, the child will always remain in care; is fearful of the power associated with tribal politics and the tribal court; does not believe he or she will be protected by or treated fairly by tribal and/or state courts and by tribal and/or state child welfare agencies; or is easily confused and intimidated by complex organizations, government programs, laws, and agency procedures.

In addition to techniques commonly used to engage the non-voluntary and hard-to-reach client [Sheafor et al. 1991], CPS workers serving Native American parents should emphasize: reducing parents' need to fear the worker and the agency; explaining the placement will be avoided if at all possible and if placement does occur, the child will be returned to the parents as soon as the conditions placing the child at risk have been effectively



dealt with; involvement and support by members of the parent's extended family; culturally relevant and appropriate parent training; treating parents with genuine respect and fairness so as to counteract their expectation that they will be subjected to discrimination and prejudice; empowerment of the parents to counter feelings of helplessness and powerlessness; use of culturally relevant programs to confront problems of substance abuse and codependency; sensitivity to the parents' history of loss and the stages of grieving; and addressing the problems of poverty and the parents' need for concrete services (e.g., financial assistance, housing, day care, job, job training).

The foregoing description explains, for the most part, why some Native American parents involved with a CPS agency react and behave in ways that get them labeled as uncooperative and resistant, and also explains why some parents become so frightened and intimidated that they give up and seemingly abandon their children.

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# **CULTURAL ISSUES AND RESPONSES: DEFINING CULTURAL COMPETENCE IN CHILD WELFARE**

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## **OVERVIEW**

### **HISTORICAL PERSPECTIVE**

The use of child welfare services for the protection of children is a relatively new development in the history of the world, especially for children of color. However, support and protection for children is as old as culture itself. Cultures around the world have historically had natural helping systems designed to ensure their future. Culturally-proscribed ways to nurture and protect children have included beliefs and practices which contributed to the development of strong families. Parenting, for example, was based on values and teachings that preserved the integrity of the society. Community norms, mores, and values guided families with regard to their child rearing and those who did not comply were often chastised or ridiculed into compliance. In many cultures the interdependence of the extended family provided an environment in which a child was served by a nurturing network of adults. A system of care existed which nurtured the whole child □ physically, spiritually, and emotionally.

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Extended family systems insured that no one was overburdened with the care of a difficult child. In some cultures, beliefs that such children had special gifts ensured that they received proper care. Through dream interpretation, herbal remedies, purification customs and other ways various peoples were able to prevent serious problems before they occurred. In addition, culture helped identify roles for children as well as adults and regulated behavior and provided rules for interaction. By employing these and other practices each culture maintained an informal system of child welfare services. Today, various cultures still have informal systems. These informal systems exist alongside the formal system.

While natural systems at one time served the members of each respective culture, changes in the world made it difficult for those systems to withstand the influence of European domination. The impact of genocide, colonization, slavery, forced assimilation, and discrimination was to deprive some peoples of their traditional networks and to fragment and weaken others. Miraculously, many cultures have survived this phase of world history with their natural capacity to promote positive parenting at least somewhat intact. However, the nature of these natural systems have been seldom understood or valued by the formal system in existence today.

The welfare of minority children was largely ignored by the formal system of the dominant society until the middle of the century. It was not until recently that children of color were even considered by the dominant society as teachable, as we now think of that term. People of color have historically been seen as uncivilized and inferior and excluded from social services. In 1927, the California Conference of Social Work supported the denial of social services to Mexican Americans (Morales 1976 as cited in Lum 1986 p. 15). In 1911, the National Urban League was formed by Blacks in response to the unavailability of services to people of color. In the 1920s, the helping professions turned their attention to intra-psychic processes. Blacks were rarely perceived as amenable to such treatment since there were so many other survival issues that took precedence (Lum 1986). As late as the 1950s the failure of ethnic minorities of color to assimilate was perceived as resulting from their own failing (Dieppa, 1983 p. 116 as cited in Lum 1986). In the 1960s theories about minority cultures changed and the cultural deprivation idea was introduced. While this notion was liberal in intent, it completely ignored the richness of minority cultures.

The civil rights movement, subsequent legislation and a changing social consciousness opened the doors of many services and institutions previously closed to minorities. Many more people of color gained access to services and the education of minority professionals increased and peaked in the 1970s. However, despite improved access to services the existing formal systems continued to fail to adequately serve children of color.

In a review of available data Stheno (1982) related a variety of troubling findings. Five patterns are reported by Stheno: higher rates of out-of-home placement among minority children than among white children; different, more restrictive patterns of referral and diagnosis for

Black youths than for white youth; disproportionate numbers of Black children in less desirable placements; greater proportions of Black children served in the public sector than in the private sector; and less social services support received by minority parents than by non-minority parents.

The data is clear: the system of care continues differential treatment of minority children in various services systems.

Why? What portion of these issues are simply system of care issues that all children face and what portion is due to minority status? What can we do as corrective measures? Who can best respond to these needs? These and other questions have been a matter of serious debate in recent years as child welfare professionals have struggled with how to make the system more responsive to the needs of minority children and their families. Neither the questions nor the solutions are simple and while advocates from minority communities clamor for culturally-responsive services the professional world has had very little notion of what that means. The formal system continues to fail to recognize or value the strengths of minority cultures and the informal mechanisms extant within them which establish and maintain the welfare of children.

The child welfare system is beginning to address the issue of minority children from a new perspective: a perspective which emphasizes the cultural strengths of inherent in all cultures and examines how the system of care can more effectively deal with cultural differences and related service issues. This paper explores the model we call cultural competence as a response to these issues.

If there is a real progress in this area then we must begin to define what culturally competent services look like. When we refer to culturally competent services we are referring to systems, agencies and practitioners who

have the capacity to respond to the unique needs of populations whose cultures are different than that which might be called dominant or mainstream American. We have used the word *culture* because it implies the integrated pattern of human behavior that includes thought, communication, actions, customs, beliefs, values and institutions of a racial, ethnic, religious or social group. We have used the word *competence* because it implies having the capacity to function in a particular way. In this case, the capacity to function capably within the context of culture. While this paper focuses on ethnic minorities of color it should be clear that the terminology and the thinking behind this model applies to everyone □ everyone has, or is, part of a culture.

From a system level to agencies to the practitioner we must begin to clearly say what it is that we would be doing if, in fact, we were meeting the needs of minority children who are in need of child welfare services.

## **PROBLEMS AND ISSUES**

The purpose of this section is to present a brief review of some of the issues and problems which affect the provision of child welfare services to minority group children. Minority people today face a variety of social, health and mental health problems. Since these problems and issues have received extensive treatment elsewhere in the literature what appears here is a synopsis.

### **Policy**

Numerous policy issues affect service delivery to children who of minority cultures. First and foremost is the lack of a minority focus. Most states have not had a specific focus in this area. Many do not even count the number of minority children who receive services nor have they until they recently considered it important to do so. Few states include minority representation on policymaking boards and commissions and few minorities have been in key policymaking positions in management. Few states have addressed the issue of differential service delivery. While it has been clear for some time that minority children experience a

different point of entry into the system, few, if any, policies have addressed the issue. Policymakers have not known what to do nor have they had the resources to experiment with demonstration projects. The pervasive rate of out of home placement for minority children in non-minority homes continues to be a problem. Despite the Indian Child Welfare Act Indian children continue to be placed in out of home care at high rates. Trans-racial placement has become a major mental health issue for minority children who suffer from difficulties with identity formation, inadequate coping skills and loss of support systems.

Some states and counties are increasingly reliant on contracted services to children. Minority children have consistently been under-represented in private agencies with services designed to meet the needs of the dominant society. Little has been done in the area of contracting to assure that the private sector equip itself to effectively serve the minority child. Likewise, minority providers have too infrequently been identified, supported, or funded to serve their own children.

In some areas of the country minority governed and operated programs have developed. A debate has risen over whether separate services should be encouraged or whether existing mainstream agencies should become more accessible to minority clients. In reality, both approaches are essential to the continued improvement of services to minority children. The minority agency tends to add to the knowledge base for minority practice and is often able to provide services more cost effectively than mainstream agencies. However, in most areas minority children will inevitably be served in the mainstream agency. This factor is especially important when one considers the shift in population predicted by the year 2000 when nearly one-half of the client population will be minority. In addition, the focus today on the development of minority professionals is inadequate to meet the needs of the future.

### **Training**

The training of minority child welfare professionals has been problematic in two ways. There is a shortage of trained minority persons to work in the field and the existing curricula for service providers inadequately address the needs of the minority community. The latter deficit is, in part, related to the lack of knowledge base in working cross-culturally. Until about ten years ago, there was little relevant literature to guide practice and even less in the policy area. While the literature has expanded greatly in the past decade it has not been widely

disseminated nor embraced by the mental health educators. Cross-cultural practice has not been institutionalized in most professional schools to the extent necessary. Where progress has been made, content has focused on the development of cultural knowledge about specific groups rather than on understanding culture and its function in human behavior. The field lacks standards to guide education in this area, because it has yet to define what one should know to be competent in serving minority clients.

Lack of a knowledge base has also troubled the pursuit of developing minority professionals. Schools training child welfare professionals have failed to consult the minority community about needed curricula and have failed to create learning environments congruent with minority learning needs. Also, the educational system for child welfare providers has too often focused on upper level degrees and not developed a continuum of service providers ranging from para professional to professional. When minority persons have successfully completed training they sometimes find that the education offered by the non-minority institution serves to alienate them from their community rather than make them a resource. Formal education all too often further assimilates the professional into the dominant society value system separating them from the very resources which are the greatest assets of their community. The minority professional soon learns that to become a credentialed professional can make one suspect in the eye of your own people. This is further complicated by the fact that educational opportunities are seldom within ones own community. Lack of appropriate content, restricted access, culturally unresponsive learning environments, and lack of community input into the process keeps the number of minority service providers at a minimum.

## **Resources**

A number of resource issues affect service delivery to minority children. The greatest of these is accessibility. Child welfare services for minority children are inaccessible in a variety of ways. Minority communities may be isolated geographically from services, or access may be restricted by language, distrust, or cultural differences. For instance, it is difficult for the members of some groups to seek services when their perception may be that the child welfare system is an extension of the hostile state interested in scrutinizing the client rather than in helping them. Some minority persons avoid services where they do not see

people that look like themselves or people who respect them. They have come to expect the non-minority worker to be unable to relate to their needs and in some cases to even be a threat to their families. Whether access is restricted by physical barriers or emotional/cultural one, minority children do have access to the same level of services enjoyed by the rest of society.

Minority operated and controlled programs have developed to deal with this lack of access issue. However, their struggle for survival has been intense. Such agencies acutely feel the need for more trained minority professionals. These programs are often started as demonstrations and then find it difficult to get core operating support. They are seldom the beneficiaries of the private sector in the same way that mainstream established non-minority agencies are and continually struggle for survival. With scarce resources it is difficult for such programs to develop culturally-specialized approaches or materials for use with their clients. Often, innovative practice and administrative approaches go undisseminated and unreplicated.

Both minority and non-minority agencies lack such resources as culturally-specific parent training curricula, community education tools, prevention videos, etc. Although some of this type of material has been developed, better dissemination efforts are essential. Further, both types of agencies most often lack the technology which would help them tap into the vast resources of the informal helping networks of the family, community, church,

or natural helper. There exists a need for the development of new practice theory and approaches for minority communities.

## Practice

Practice issues that impact service delivery to minority children are varied and complex. Minority practice theory and practice approaches have been developing over the last several years but there is vast room for improvement. Some of the practice issues are cross-cultural issues, others are applicable regardless of who the service provider is. Cross-cultural issues include such things as historic distrust. Historic distrust is a dynamic which can occur between a helper of the dominant society and a client of a minority community. Part of what they bring to the helping relationship is the history of the relationship between their peoples. Usually, the client is much more acutely aware of this than the helper. Helpers are usually culturally unaware of or do not know how to

work through this issue and interpret it as resistance. Another issue involves language and communication behaviors. Each culture has customary patterns for speech, turns at talk, and etiquette for how conversations proceed. Most helpers are unfamiliar with the patterns of their clients' culture, and thus, are not able to communicate effectively. Standard assessment techniques such as interviews and testing are culturally biased. Interviewers often fail to consider client adjustments to culturally different environments and misinterpret behavior. For example, minority individuals are viewed negatively when they do not exhibit the traits that the American mainstream value, i.e., punctuality, work, achievement, independence, etc.

Another factor which influences practice is the maintenance of stereotypic images of minority people by the dominant society. Unfortunately the media, textbooks and pop culture have conditioned most people to have negative impressions of minority individuals and cultures. Many helpers have unrealistic fears of their minority clients and stereotypic ideas of their lives. Even when mental health professionals learn more about a culture there is a tendency to simply replace old stereotypes with new ones and assume that all Indians do thus and Black families relate so. Most practitioners have not had the opportunity to learn the dynamics that are inherent in working cross-culturally and thus fail to establish rapport with their minority clients.

Both individual professionals and entire agencies are at various levels of capacity to deal with the issues discussed here. Many have made progress and are providing responsive services. Others are just beginning to look at the problems. Following is a framework which is intended to help agencies begin a process of self-assessment and development.

## CULTURAL COMPETENCE CONTINUUM

Cultural competence is a set of congruent behaviors, attitudes and policies that come together in a system, agency or professional and enable that system, agency or professional to work effectively in cross-cultural situations. Again, the word *culture* is used because it implies the integrated pattern of human behavior that includes thought, communication, actions, customs, beliefs, values and institutions of a racial, ethnic, religious or social group. The word *competence* is used

because it implies having the capacity to function effectively. A culturally-competent system of care acknowledges and incorporates □ at all levels □ the importance of culture, the assessment of cross-cultural relations, vigilance towards the dynamics that result from cultural differences, the expansion of cultural knowledge and the adaptation of services to meet culturally unique needs.

Certainly this description of cultural competence seems idealistic. How can a system accomplish all of these things? How can it achieve this set of behaviors, attitudes and policies? Cultural competence may be viewed as a goal towards which agencies can strive. Accordingly, becoming culturally competent is a developmental process. No matter how proficient an agency may become, there will always be room for growth. It is a process

in which the system of care can measure its progress according to the agency's achievement of specific developmental tasks. As the tasks are defined the system will be guided toward progressively more culturally competent services. First, it is important for an agency to internally assess its level of cultural competence.

To better understand where one is in the process of becoming more culturally competent, it is useful to think of the possible ways of responding to cultural differences. Imagine a continuum which ranges from cultural proficiency to cultural destructiveness. There are a variety of possibilities between these two extremes. Here we describe six points along the continuum and the characteristics that might be exhibited at each position.

**Cultural Destructiveness.** The most negative end of the continuum is represented by attitudes, policies and practices which are destructive to cultures and consequently to the individuals within the culture. The most extreme example of this orientation is programs which actively participate in cultural genocide — the purposeful destruction of a culture. An example of cultural genocide is the systematic attempted destruction of Native American culture by the very services set up to help Indians, i.e., boarding schools. Equally destructive is the process of dehumanizing or sub-humanizing minority clients. Historically, some agencies have been actively involved in services that have denied people of color access to their natural helpers or healers, removed children of color from their families on the basis of race or purposely risked the wellbeing of minority individuals in social or medical experiments without their knowledge or consent. While we currently do not see many examples of this extreme in the mental health system, it provides us with

a reference point for understanding the various possible responses to minority communities. A system which adheres to this extreme assumes that one race is superior and should eradicate lesser cultures because of their perceived subhuman position. Bigotry, coupled with vast power differentials, allows the dominant group to disenfranchise, control, exploit or systematically destroy the minority population.

**Cultural Incapacity.** The next position on the continuum is one at which the system or agencies do not intentionally seek to be culturally destructive but rather lack the capacity to help minority clients or communities. The system remains extremely biased, believes in the racial superiority of the dominant group and assumes a paternal posture towards lesser races. These agencies may disproportionately apply resources, discriminate against people of color on the basis of whether they know their place and believe in the supremacy of dominant culture helpers. Such agencies may support segregation as a desirable policy. They may act as agents of oppression by enforcing racist policies and maintaining stereotypes. Such agencies are often characterized by ignorance and an unrealistic fear of people of color. The characteristics of cultural incapacity include: discriminatory hiring practices, subtle messages to people of color that they are not valued or welcome, and generally lower expectations of minority clients.

**Cultural Blindness.** At the midpoint on the continuum the system and the agencies provide services with the express philosophy of being unbiased. They function with the belief that color or culture make no difference and that we are all the same. Culturally blind agencies are characterized by the belief that helping approaches traditionally used by the dominant culture are universally applicable; if the system worked as it should, all people — regardless of race or culture — would be served with equal effectiveness. This view reflects a well intended liberal philosophy; however, the consequences of such a belief are to make services so ethnocentric as to render them virtually useless to all but the most assimilated people of color.

Such services ignore cultural strengths, encourage assimilation and blame the victim for their problems. Members of minority communities are viewed from the cultural deprivation model which asserts that problems are the result of inadequate cultural resources. Outcome is usually measured by how closely the client approximates a middle class non-minority existence. Institutional racism restricts minority access to professional training, staff positions and services.

Eligibility for services is often ethnocentric. For example, foster care licensing standards in many states restrict licensure of extended family systems occupying one home. These agencies may participate in special projects

with minority populations when monies are specifically available or with the intent of rescuing people of color. Unfortunately, such minority projects are often conducted without community guidance and are the first casualties when funds run short. Culturally blind agencies suffer from a deficit of information and often lack the avenues through which they can obtain needed information. While these agencies often view themselves as unbiased and responsive to minority needs, their ethnocentrism is reflected in attitude, policy, and practice.

**Cultural Pre-Competence.** As agencies move toward the positive end of the scale they reach a position we will call cultural pre-competence. We have chosen this term because it implies movement. The pre-competent agency realizes its weaknesses in serving minorities and attempts to improve some aspect of their services to a specific population. Such agencies try experiments, hire minority staff, explore how to reach people of color in their service area, initiate training for their workers in cultural sensitivity, enter into needs assessments concerning minority communities, and recruit minority individuals for their boards of directors or advisory committees. Pre-competent agencies are characterized by the desire to deliver quality services and a commitment to civil rights. They respond to minority communities' cry for improved services by asking, What can we do? One danger at this level is a false sense of accomplishment or of failure that prevents the agency from moving forward along the continuum. An agency may believe that the accomplishment of one goal or activity fulfills their obligation to minority communities or may undertake an activity that fails and are, therefore, reluctant to try again.

Another danger is tokenism. Agencies sometimes hire one or more (usually assimilated) minority workers and feel that they are then equipped to meet the need. While hiring minority staff is very important it is no guarantee that services, access or sensitivity will be improved. Because minority professionals are trained in the dominant society's frame of reference they may be little more competent in cross-cultural practice than their co-workers. Minority professionals, like all professionals, need training on the function of culture and its impact on client populations. The pre-competent agency, however, has begun the process of becoming culturally competent and often only lacks information on what is possible and how to proceed.

**Basic Cultural Competence.** Culturally competent agencies are characterized by acceptance and respect for difference, continuing self-assessment regarding culture, careful attention to the dynamics of difference, continuous expansion of cultural knowledge and resources, and a variety of adaptations to service models in order to better meet the needs of minority populations. The culturally competent agency works to hire unbiased employees, seeks advice and consultation from the minority community and actively decides what it is and is not capable of providing to minority clients.

**Advanced Cultural Competence.** The most positive end of the scale is advanced cultural competence or proficiency. This point on the continuum is characterized by holding culture in high esteem. The culturally proficient agency seeks to add to the knowledge base of culturally competent practice by conducting research, developing new therapeutic approaches based on culture and publishing and disseminating the results of demonstration projects. The culturally proficient agency hires staff who are specialists in culturally competent practice. Such an agency advocates for cultural competence throughout the system and improved relations between cultures throughout society.

In conclusion, the degree of cultural competence an agency achieves is not dependent on any one factor. Attitudes, policies, and practice are three major areas where development can and must occur if an agency is to move toward cultural competence. Attitudes change to become less ethnocentric and biased. Policies change to become more flexible and culturally impartial. Practices become more congruent with the culture of the client from initial contact through termination. Positive movement along the continuum results from an aggregate of factors at various levels of an agency's structure. Every level of the agency (board members, policymakers, administrators, practitioners and consumers) can and must participate in the process. At each level the principles of valuing difference, self-assessment, understanding dynamics, building cultural knowledge and adapting practice can be applied. As each level makes progress in implementing the principles and as attitudes, policies and practices change, the agency becomes more culturally competent.



## **THE CULTURALLY COMPETENT SYSTEM OF CARE**

The culturally competent system of care is made up of culturally competent institutions, agencies and professionals. We have identified five essential elements which contribute to a system, institution or agency being able to become more culturally competent. The culturally competent system would: value diversity, be capable of cultural self-assessment, be conscious of the dynamics inherent when cultures intersect, have institutionalized cultural knowledge, and have developed adaptations to diversity. Further, each of these five elements must function at every level of the system. Attitude, policies and practices must all be congruent within all levels of the system. Practice must be based on accurate perceptions of behavior, policies must be impartial, and attitudes should be unbiased. As mentioned earlier unbiased does not mean color blind. It means recognition and acceptance of the difference of another with respect and valuing. Following is a further examination of the elements mentioned above.

### **VALUING DIVERSITY**

To value diversity is to see and respect its worth. A system of care is strengthened when it is aware and accepts that the people it serves are from very different backgrounds and will make different choices based on culture. While all people share common basic needs, there are vast differences in how people of various cultures go about meeting or prioritizing those needs. These differences are as important as the similarities. Acceptance that each culture finds some behaviors, interactions, or values more important or desirable than others can help the system of care interact more successfully with differing cultures. In the system of care, awareness and acceptance of differences in communication, life view, and definition of health and family, are critical to the successful delivery of services.

### **CULTURAL SELF ASSESSMENT**

The system of care must be able to assess itself and have a sense of its own culture and its relationship to other cultures. When planners and administrators of the system understand how that system is shaped by its culture, then it is easier for them to assess how the system interfaces with other cultures. System leaders can then choose courses

of action which minimize cross-cultural barriers. For example, if in the language of the system family refers to nuclear family and in another culture family means extended family, then concepts such as family involvement will require some adjustment or they simply will not work. Only by better knowing the culture of the existing system of care can the complexities of cross-cultural interfacing be better understood.

### **DYNAMICS OF DIFFERENCE**

What occurs in cross-cultural system interactions might be called the dynamics of difference. When a system of one culture interacts with a population from another, both may misjudge the other's actions based on learned expectations. Both bring to the relationship unique histories with the other group and the influence of current political relationships between the two groups. Both will bring culturally prescribed patterns of communication, etiquette, and problem solving. Both may bring stereotypes with them or underlying feelings about serving or being served by someone who is different. The minority population may exhibit behaviors which are uncomfortable to the system expressing tension and frustration. It is important to remember that this is creative energy engendered by the tension which is a natural part of cross-cultural relations especially when one of the cultures is in a politically dominant position. The system of care must be constantly vigilant for the dynamics of misinterpretation and misjudgment.

Without an understanding of cross-cultural dynamics, misinterpretation and misjudgment are likely to occur. It is important to note that this misunderstanding is a two way process. Thus, the label dynamics of difference. These dynamics give cross-cultural relations a unique character that strongly influences the

effectiveness of the system. By incorporating an understanding of these dynamics and their origins into the system the chances for productive cross-cultural interventions are enhanced.

## **INSTITUTIONALIZATION OF CULTURAL KNOWLEDGE**

The system of care must sanction and, in some cases, mandate the incorporation of cultural knowledge into the service delivery framework. Every level of the system needs accurate information and continuous access to it. The practitioner must be able to know the client's concept

of health, family and be able to effectively communicate. The supervisor must know how to provide cross-cultural supervision. The administrator must be able to know the character of the population the agency serves and how to make the services accessible. The board member or bureau head must be able to form links with minority community leaders so as not to plan ill-fated interventions. The system must develop mechanisms to secure knowledge when it does not readily possess it. It must make the development of knowledge possible through research demonstration and dissemination. It must facilitate network building and open lines of communication, while at the same time adapting its structure and process to better respond to the needs of all children.

## **ADAPTATION TO DIVERSITY**

Each element described here builds a context for a cross-culturally competent system of care. The system can adapt or adjust its approach to help create a better fit between the needs of the minority group and the services available. Styles of management, definitions of who is included in the family, and service goals are but a few things that can be changed to meet cultural needs. Agencies, understanding the impact of oppression on mental health, can develop empowering interventions. For example, minority children repeatedly receive negative messages from the media about their cultural group. Programs can be developed that incorporate alternative culturally enriching experiences and that teach the origins of stereotypes and prejudices. By creating such efforts the system can begin to institutionalize cultural interventions as a legitimate helping approach. Only as professionals examine their practice and articulate effective helping approaches will practice improve. Each agency which engages in these efforts will add to the knowledge base.

Becoming culturally competent is a developmental process for the individual and for the system. It is not something that happens because we read a book or attend a workshop or even because we happen to be a minority person. It is a process born of commitment to provide quality services to all and a willingness to risk.

## **CONCLUSION**

In conclusion, it is becoming increasingly clear that in order for the Child Welfare League of America to be successful in reaching its goal of cultural responsiveness, careful attention must be paid to the needs of minority children. CWLA must help member agencies plan, design, and implement services that are appropriate, accessible, and delivered in a culturally competent manner.

The CWLA Colloquium on Cultural Responsiveness is a beginning step in laying the groundwork for meeting the challenge of effectively serving minority children.

Improving services to children of color becomes even more imperative when the rapidly changing demographic makeup of the nation is considered. It is projected that, by the year 2000, those now called minorities will outnumber what is now the majority in some states. Should such trends continue, the challenges that face the nation in planning and producing a system of care for children will change rapidly as well. The opportunity currently exists to plan and adapt in a thoughtful, culturally sensitive way a culturally competent system of care which could greatly impact the improvement of services to minority children, youth, and their families.

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## THE CANADIAN METIS\*

The Metis Nation evolved in the historic Northwest region of Canada in the 18<sup>th</sup> and 19<sup>th</sup> centuries. Born of a mixture of French and Scottish fur traders and Cree, Ojibwa, Saukteaux, Dene, and Assiniboine women, the Metis in the Northwest Territories developed as a people, distinct from either Indian or European.

Following the annexation of the Northwest Territories by Canada in 1869-1870, the political economy of the Metis was destroyed. The Manitoba Act (1870), an Act Representing the Appropriation of Certain Dominion Land in Manitoba (1874), and the Dominion Lands Act (1879) recognized Metis claims to Aboriginal title, but the federal government moved to unilaterally extinguish these claims through individual land grants and scrip. Denied the recognition of their collective rights, the Metis became Canada's forgotten people. Only in Alberta was any action taken to alleviate Metis distress through the establishment of Metis settlements by the provincial government in 1938. The Metis were officially recognized as one of Canada's Aboriginal Peoples in the Canadian Constitution of 1982.

The estimated number of Metis in Canada varies widely, from 300,000 to 800,000. According to 1996 Census data, there are over 210,000 Metis in Canada, representing 26 percent of the Aboriginal population.

Most Metis live in Western Canada, both in remote and urban communities and in Metis-only and mixed communities. There are over 300 Metis communities. Most communities are English-speaking, with some communities using Michif or other Aboriginal languages. The Metis are distinguished by their unique Michif language.

\*This article has been adapted from documents produced by the Metis National Council of Canada. The documents indicate that the Metis National Council was established in 1938 and has been recognized as the voice of the Metis Nation in constitutional negotiations at the national level. The Council acts as an advocate and negotiator for the Metis people with the Government of Canada.

The Metis are one of three distinct Aboriginal peoples of Canada, recognized under the 1982 Constitution. Fiercely independent, the Metis were instrumental in the development of western Canada. But unlike the Indian and the Inuit, the historic role played by the Metis has not been acknowledged, nor have their inherent rights to land and self-government been respected by governments.

The word Metis comes from the Latin *miscere* , to mix, and was used originally to describe the children of native women and French men. Other terms for these children were Country-born, Black Scots, and Half breeds.

The Metis quickly became intermediaries between European and Indian cultures, working as guides, interpreters, and provisioners to the new forts and new trading companies. Their villages sprang up from the Great Lakes to the Mackenzie Delta. The Metis Homeland encompasses parts of present-day Ontario, British Columbia, the Northwest Territories, Alberta, Saskatchewan, and Manitoba.

Metis culture was a fusion of French, English, and Indian influences that took root and flourished until the late 1800s. The Metis developed a unique language called Michif. Their fiddlers combined jigs and reels into their music. Metis attire included woven sashes, embroidered gun sheaths, deer hide caps, quilled and beaded pipe

bags. The Metis developed technologies such as the Red River Cart. Expert hunters, they made formidable soldiers.

They also developed a unique political and legal culture, with strong democratic traditions. The Metis had elected provisional governments to organize buffalo hunts. By 1816, the Metis had challenged the Hudson Bay Company's monopoly in the fur trade and began to develop a national consciousness.

The Metis formed the majority of the population at the Red River Colony. Louis Riel's provisional government negotiated the entry of Manitoba into Canadian confederation in 1870. But federal promises of land in the Manitoba Act were not fulfilled. After 10 years of delay, the government introduced the now-notorious scrip system. These certificates for land or money replaced direct land grants. Scrip was snapped up by speculators who followed the Scrip Commissions. Aware that the Metis were defrauded of their land, the government ignored the abuse and facilitated the business of the speculators.

The Royal Proclamation of 1763 made the Crown responsible for the well-being of aboriginal peoples and forbade the dismembering of their lands. But the federal government refused to acknowledge its responsibilities for the Metis, and their political rights as a sovereign people were not recognized.

Following an unsuccessful rebellion of Metis and other peoples led by Louis Riel in 1885, for the next century, the federal government did not acknowledge any responsibility for the Metis. As a consequence, the Metis suffered from racism and poverty. But the Metis continued to press their claims with Canada: To be recognized as a sovereign people, with their own culture and traditions, with inherent claims to land and self-government.

In 1936, Alberta government granted 1,280,00 acres of land for Metis Settlements, a precedent that has allowed contemporary Metis of Alberta to obtain limited control of housing, health, child welfare, and legal institutions.

## References

[1] The term "Indian" in this paper is used to include collectively the United States' aboriginal populations and their descendents, Alaskan natives, Eskimos, Aleuts, and Native Hawaiians. It is used interchangeably with the term "Native American" and with the understanding that each Native American nation, tribe, and community has its own distinct culture and history.

{2} 25 U.S. C. Sec. 1901 *et seq.*

[3] Surveys conducted in 1969 and 1974 reported that approximately 25 to 35 percent of all Indian children were separated from their families and placed in adoptive or foster homes. Gaylene McCartney, *The American Indian Child Welfare Crisis: Cultural Genocide or First Amendment Preservation*, 7 Colum. Hum. Rts. L. Rev. 529(1975).

[4] Angie Debo, *A History of the Indians of the United States* 41 (1970); Francis Prucha, *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790-1834*, 11-14 (1962).

[5] H.R. Rep. No. 1386, 95 th Cong., 2d. Sess. (1978), reprinted in 1978 U.S.C.C.A.N. 7530, 7541 (hereinafter House Report). See also Robert Weyler, *Blood on the Land* 149 (1982).

[6] See Kirke & Lynn Kickingbird, *A Short History of Indian Education*, Am. Indian J. 17-21 (Sept. 1979).

[7] Peter Farb, *Man's Rise to Civilization* 257-59 (1968).

[8] 25 U.S.C. sec. 1903(3).

[9] *Id.* Sec. 1902.

[10] House Report, *supra* note 5, 7531.

[11] 25 U.S.C. Sec. 1911(a) provides that the Indian child's tribe has exclusive jurisdiction if the child is a ward of the tribal court or "resides or is domiciled within the reservation. . . except where such jurisdiction is otherwise vested in the State by existing Federal law."

Section 1911(b) provides that the state and the Indian child's tribe have concurrent jurisdiction if the child is not domiciled or residing within the reservation. However, sec. 1911(b) shows a preference for tribal court jurisdiction by requiring a state court to transfer the proceedings to tribal court upon the petition of the child's parent(s) or tribe. The state court may refuse to transfer only if (1) the tribal court declines jurisdiction, (2) a parent objects to the transfer, or (3) the state court finds "good cause" not to transfer.

[12] 25 U.S.C. Sec. 1903(4) defines an Indian child as any unmarried person who is under the age of 18 and is either (1) a member of an Indian tribe or (2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. The ICWA applies to custody proceedings involving an Indian child who has not been formally enrolled in a tribe at the initial stages of the proceeding but who is eligible for enrollment. *Swenson v. Oglala Sioux Tribe*, 849 P.2d 925 (Idaho 1993)*petition for cert. Filed*, No. 93-18 (June 1993)(Clearinghouse No. 48,232).

[13] These include foster care placements, termination of parental rights, preadoptive placements. 25 U.S.C. Sec. 1903(1). However, the ICWA does not apply to child custody proceedings that are part of juvenile court prosecutions or placements of children resulting from a divorce proceeding. *In re Guardianship of Q.G.M.* 808 P.2d. 684, 688 (Okla. 1991). In a recent appellate court decision, the Minnesota Court of Appeals decided that intrafamily custody disputes are not excluded from the ICWA and that the proposed placement of an Indian child in a grandparent's home is a "foster care placement" within the meaning of 25 U.S.C. Sec. 1911©. *In re Custody of A.K.H.*, No. C4-93-32 (Minn. Ct. App. June 29, 1993).

[14] In *Mississippi Band of Choctaw v. Holyfield*, 490 U.S. 30 (1989), the Supreme Court stated that "Congress intended a uniform federal law of domicile for the ICWA." *Id.* At 47. It also articulated five principles governing domicile determinations: (1) a child acquires domicile at birth and that domicile continues until a new one is acquired, (2) the domicile of a minor child is determined by the domicile of the parents, (3) the domicile of an illegitimate child is the same as the mother's domicile, (4) the domicile of an abandoned child is the domicile of the last abandoning parent, and (5) a tribal member cannot waive a tribe's jurisdiction by giving birth and executing a consent for adoption off the reservation. *Id.* At 48, 52-53.

[15] 25 U.S.C. sec. 1912. State courts are divided on the issue of whether the notice provisions apply to voluntary adoption proceedings. 25 U.S.C. sec. 1913. See, e.g., *Catholic Social Services v. C.A.A.*, 783 P.2d 1159, 1160 (Alaska 1989), *cert. Denied*, 495 U.S. 948 (1990); *Sayers v. Beltrami County*, 472 N.W.2d 656, 661 (Minn. Ct. App. 1991), *rev'd on other grounds*, 481 N.W.2d 547 (Minn. 1992). *But see Holyfield*, 490 U.S. at 50 n.25 (Congress intended the ICWA to reach voluntary placements).

[16] 25 U.S.C. sec. 1911(b). *See infra* pt. III (discussion of problems in implementing the ICWA's transfer provisions).

[17] 25 U.S.C. sec. 1912(d).

[18] *Id.* Sec. 1915(a)-(c). *See infra* pt. III.

[19] 25 U.S.C. sec. 1914.

[20] The BIA Guidelines are interpretations of various provisions of the ICWA by the Department of the Interior. They are not binding authority. BIA, Dep't of the Interior, *Guidelines for State Courts: Indian Child Custody Proceedings*, 44 Fed. Reg. 67,584 (Nov. 26, 1979) [hereinafter *Guidelines*].

[21] *Id.* At 67,592.

[22] *Id.*

[23] *In re Robert T.*, 246 Cal. Rptr. 168 (Cal. App. 6 Dist. 1988).

[24] *Id.* at 174.

[25] *Id.*

[26] *Department of Social Services v. Coleman*, 399 S.E.2d 773 (S.C. 1990).

[27] *Id.* at 776.

[28] *Id.*

[29] *In re Adoption of T.R.M.*, 525 N.E.2d 298 (Ind. 1988), *cert. Denied*, 490 U.S. 1069 (1989).

[30] 525 N.E.2d at 302.

[31] *Id.* at 308.

[32] *See also In re C.W.*, 479 N.W.2d 105 (Neb. 1992). In *In re C.W.*, the state court refused to transfer a termination proceeding to tribal court, finding the Supreme Court dictates in *Mississippi Band of Choctaw v. Holyfield*, 490 U.S. 30 (1989), “remotely applicable” and limiting the decision to cases in which the mother’s domicile is the reservation and, thus, when the tribal court has exclusive jurisdiction pursuant to section 1911(s). 479 N.W.2d at 117. See also Barbara Ann Atwood, *Fighting Over Indian Children: The Uses and Abuses of Jurisdictional Ambiguity*, 36 UCLA L. Rev. 1051, 1058 (1989).

[33] *In Interest of Armell*, 550 N.E.2d 1060 (Ill. Ct. App. 1990).

[34] *Id.* at 1067.

[35] In *Holyfield*, the United States Supreme Court held that, pursuant to the ICWA, the tribal court, rather than the state court, had jurisdiction over Indian child welfare proceedings involving children. The children’s parents, who resided on the reservation attempted to evade ICWA’s placement preferences by temporarily moving off the reservation in order to give birth to twins and allow them to be adopted by non-Indians. Less than a month after their birth, the state court approved their adoption. The Choctaw Tribe challenged the validity of the decree, arguing that, since the tribal court had exclusive jurisdiction, the state court lacked jurisdiction. 490 U.S. at 52. Central to the Court’s decision on the jurisdiction issue was a determination that the child’s domicile was that of their parents—the reservation. See *supra* note 14 for further discussion of the case.

[36] 550 N.E.2d at 1066 (quoting *Holyfield*, 490 U.S. at 53) (emphasis added).

[37] For example, the Northwest [now National] Indian Child Welfare Association and the North East Assistance and Training (NEAT) organizations provide technical and legal assistance to tribal Indian child welfare programs in their areas. NEAT also promotes coordinated interagency (BIA and Indian Health Services) cooperation in all areas of Indian child welfare, including child abuse.

[38] For example, an intergovernmental agreement was negotiated in 1987 between the Washington State Department of Social and Health Services and the Colville Confederated Tribes. One of the key jurisdictional provisions of the Colville agreement is a declaration that the State and the Tribes “recognize that their ability to enforce child support obligations, orders and judgments will be enhanced with the establishment of procedures for the reciprocal recognition and enforcement of child support orders.” The agreement provides that the Colville Tribe will give full faith and credit to any state child support order when the custodial parent works or resides within the Colville Reservation. The State, in turn, agrees to give full faith and credit to any child support order entered by the Colville Tribal Court.

[39] 25 U.S.C. Sec. 1902.

[40] “The former prioritizes the rights of the individual over those of the community. In contrast, Indian cultures focus on the collective rights of the community, permitting individual rights to bow more readily to the needs of the community” Donna Goldsmith, *Individual vs. Collective Rights: The Indian Child Welfare Act*, 13 Harv. Women’s L.J. 1 (1990).

[41] 25 U.S.C. sec. 1919.

[42] For additional reading and resources on the Indian Child Welfare Act, the following materials are useful: Indian Law Support ctr., 1992 Update to the ICWA and Laws affecting Indian Juveniles; Nat’l Indian Law Library (Boulder, CO), The Indian Child Welfare Act Bibliography; Peter Gorman & Michelle Paquin, *A Minnesota Lawyer’s Guide to the Indian Child Welfare Act*, 10 Law & Inequity: J. Theory & Prac. 311 (1992).

[43] Irving M. Levine. “Ethnicity and Mental Health: A Social Conservation Approach.” Paper presented at the White House Conference on Ethnicity and Mental Health. Washington, D.C. June 1976.

[44] John G. Red Horse, “American Indian Families: Perspectives on the Helping Process,” in *We Can Help*, ed. Laurence S. Hughes (Evanston, Ill.: American Academy of Pediatrics, 1979), pp. 9-11. See also D’Arcy McNickle, *Native American Tribalism* (London: Oxford University Press, 1973).

[45] N. Scott Monaday, *The Names* (New York: Harper and Row, 1976).

[46] Ed Bearheart, “Religion as a Variable in Family Practice.” Paper presented at the Minneapolis Indian Alcohol Counselor Workshop, Minneapolis, Minnesota, Spring 1976. The tribal religion cited here is conservative and strict rules are observed. Only Indians are permitted to attend sacred ceremonies or rituals, and these are the necessary paths to spiritual completeness. Moreover, they believe that not all Indians can enjoy a happy afterlife—this requires an Indian name and knowledge of the tribal language.

[47] John Red Horse, John Ledingham, and James T. Decker, “American Indian Elders: Perspectives on Cultural Behavior and Needs.” Paper presented at the Annual Meeting of the Society for the Study of Social Problems, Boston, Massachusetts, Summer, 1979.

[48] John G. Red Horse et al., “Family Behavior of Urban American Indians,” *Social Casework* 59 (February 1978): 67-72.

[49] P. L. 95-608.



[50] 25 USC sec. 1901 et seq.

[51] For example, in *Doe v. Hughes, Thorsness, Ganz, et al.*, 838 P.2d 804 (Alaska 1992), the Alaska Supreme Court awarded damages against a law firm that had not conservatively followed the requirements of the ICWA, resulting in protracted litigation and extensive costs to the adoptive parents of an Indian child.

[52] The primary piece of legislative history for the ICWA is H.R. Rep. No. 1386, 95 th Cong., 2d Sess. (1978) and is reprinted at 1978 U.S. Code, Cong. & Admin. News 7530 (hereinafter referred to as “House Report”).

[53] For example, 40% of all adoptions in South Dakota in a defined time period were of Indian children, even though Indians were only 7% of the juvenile population. In Washington the adoptive placement rate of Indian children was 19 times greater than the rate for non-Indian children.

[54] House Report at 9.

[55] 25 U.S.C. sec. 1901(4), (5).

[56] The Act defines an Indian child as an unmarried person under 18 who is either a member of the tribe or eligible for membership and the biological child of a member. 25 U.S.C. sec. 1903(4).

[57] This term is defined to “mean and include” foster care placements, termination of parental rights proceedings, pre-adoptive placements, and adoptive placements. Placement and custody issues in the context of delinquency or divorce proceedings are specifically excluded. 25 U.S.C. sec. 1903(1). E.g., *Matter of Baby Boy Doe*, 849 P.2d 925 (Idaho 1993). As will be discussed later in this article, not all states follow this test for application of the ICWA.

[58] An Indian custodian is defined as any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical custody has been transferred by the child’s parent.

[59] 25 U.S.C. sec. 1912(3).

[60] 109 S. Ct. 1597. See Bussiere, *Supreme Court Affirms Tribal Jurisdiction Over Indian Children*,” *Youth Law News* (May-June 1989).

[61] 109 S. Ct. 1597, 1611.

[62] 25 U.S.C. sec. 1903(1)(iv).

[63] *Mississippi Band of Choctaw v. Holyfield*, 109 S. Ct. 1597, 1609, n.25 (1989).

[64] E.g., *In re Appeal in Pima County Juv. Action No. S-903*, 635 P.2d 187 (Ariz.App. 1981); *In re Adoption of K.L.R.F.*, 515 A.2d 33 (Pa.Super. 1986); *Matter of Baby Boy Doe*, 849 P.2d 925 (Idaho 1993).

[65] 25 U.S.C. sec. 1913.

[66] For example, the non-custodial parent’s preferential right to placement of a child upon termination of the custodial parent’s parental rights is not addressed anywhere in the ICWA or its legislative history. See 25 U.S.C. sec. 1915(a) (placement preferences). The act assumes that the parental rights of both parents will be disposed of at the same time. There is a brief mention in the Act’s legislative history of the constitutional rights

of parents (with regard to automatic party status), but no discussion of the preferential custodial rights of biological parents exists.

[67] 25 U.S.C. sec. 1913(a). The consent must be recorded in open court unless the parent requests confidentiality. House Report at 23.

[68] *Id.* An invalid consent would be grounds for overturning the adoption at any time the invalid nature of the consent is discovered. *Holyfield*, *supra*. 490 U.S. at 64 n.12 (dissenting opinion). But see *Matter of Adoption of T.N.F.* 781 P.2d 973 (Alaska 1990) (applying state statutes of limitation to an ICWA invalidation action).

[69] 25 U.S.C. sec. 1913(c).

[70] See *Quinn v. Walters*, 845 P.2d 206 (Or.App. 1992), appeal pending.

[71] 25 U.S.C. sec. 1916(a).

[72] 25 U.S.C. sec. 1915(a). The Supreme Court in *Holyfield* called the placement section of the ICWA “the most important substantive requirement imposed on state courts.” 490 U.S. at 36-37. Preferences are specified in the Act for foster care and adoptive placements as well. 25 U.S.C. sec. 1915(b).

[73] 25 U.S.C. sec. 1911(a).

[74] 25 U.S.C. sec. 1912(a) (emphasis added).

[75] E.g., Oregon Revised Statutes sec. 109.310(6); New Mexico Statutes Annotated Sec. 32A-5-27 D.

[76] *Catholic Social Services, Inc. v. C.A.A.*, 783 P.2d 1159 (Alaska 1989).

[77] In *Holyfield*, the Supreme Court applied section 1911(c) to a voluntary adoption proceeding. 490 U.S. at 38 n.12.

[78] In some states, such as Alaska, adoption is a two part process, one part involving termination of parental rights and the other involving the adoption petition. See *Matter of J.R.S.*, 690 P.2d 10 (Alaska 1984). An Indian tribe would have the right to intervene in the termination part of the proceeding under the ICWA, but not the adoption part. In other states adoption is a unified process, where parental rights are formally terminated when the decree of adoption is entered. Since this type of proceeding involves termination of parental rights as well as adoption, Indian tribes should have the right to intervene in an adoption proceeding in these states under section 1911(c). See 25 U.S.C. 1903(1)(ii) (termination of parental rights proceeding is any action resulting in the termination of the parent-child relationship).

[79] *J.R.S.*, *supra*; In re *Baby Girl A.*, 282 Cal.Rptr. 105 (Cal.App. 4 Dist. 1991).

[80] *Catholic Social Services*, *supra*.

[81] In re *Crystal K.*, 276 Cal.Rptr. 105 (Cal.App. 3 Dist. 1990).

[82] See In re *Custody of S.B.R.*, 719 P.2d 154 (Wash.App. 1986). An early case, *Application of Bertelson*, 617 P.2d 121 (Mont. 1980) held that the ICWA does not apply to “intra-family” custody disputes, but no other state has agreed with that decision.

[83] *Matter of Adoption of T.N.F.*, 781 P.2d 973 (Alaska 1989).

[84] Matter of Adoption of T.N.F., 781 P.2d 973 (Alaska 1989).

[85] In re J.R., No. 57934 (Okla. Supreme Court, Feb. 2, 1982; 25 U.S.C. sec. 1903(9)).

[86] Matter of Adoption of a Child of Indian Heritage, 543 A. 2d 925 (N.J. 1988). Establishment of paternity is not limited to state mandated paternity procedures. The New Jersey Supreme Court adopted federal constitutional standards to analyze whether a father was a “parent” for purposes of the ICWA.

[87] Quinn v. Walters, supra; Matter of Appeal in Maricopa County Juv. Action No. A-25525, 667 P.2d 228 (Arix.App. 1983).

[88] 25 U.S.C. sec. 1903(6). It is possible that the parent of an Indian child may no longer have the legal capacity to consent to the adoption of an Indian child once that child is in the custody of the Indian custodian under tribal law or custom.

[89] 25 U.S.C. sec. 1901(4).

[90] See Matter of Adoption of a Child of Indian Heritage, 543 A.2d 925 ( N. J. 1988).

[91] 109 S. Ct. 1597, 1608-9.

[92] 109 S. Ct. 1597, 1610.

[93] Matter of Adoption of Baby Boy L., 643 P.2d 168 (Kan. 1982).

[94] E.g., Matter of S.C., 833 P.2d 1249 (Okla. 1992). The Court in S.C. went so far as to state that the “existing Indian family” principle was not a judicial exception to the ICWA, but was the express intent of Congress in the Act.

[95] Matter of Adoption of Infant Boy Crews, 825 P.2d 305 (Wash. 1993).

[96] Other courts have refused to follow the Crews decision, finding it particularly inappropriate for state courts to set themselves up to decide if the ICWA should apply when Congress cited state courts as part of the problem which they intended to remedy by enacting the Act. Matter of Baby Boy Doe, supra; Quinn v. Walters, supra. See 25 U.S.C. sec. 1901(5).

[97] E.g., Matter of Adoption of Baade, 462 N.W.2d 485 (S.D. 1990) (overruling Claymore v. Serr, 405 N.W.2d 650 (S.D. 1987) The South Dakota Supreme Court ruled that it had, in light of Holyfield, given too much weight to the interests of the parents as against the tribe in Claymore.

[98] In re Junious M., 193 Cal. Rptr. 40 (Cal.App. 1 Dist. 1983); In the Interest of Armell, 550 N.E.2d 1060 (Ill.App. 1 Dist. 1990).

[99] The Oklahoma Supreme Court in the S.C. case cited these proposed amendments as evidence that Congress supported its interpretation creating the Indian family exception, since the amendments were not passed, but this misrepresents the actual events that occurred.

[100] 25 U.S.C. sec. 1915(a).

[101] 44 Federal Register 67584 (Nov. 26, 1979). Theses guidelines were not issued as regulations because the BIA was unsure of its authority to order state courts to implement its interpretation of the ICWA.

[102] 25 U.S.C. sec. 1915(e).

[103] 25 U.S.C. sec. 1913(c).

[104] *In re Adoption of K.L.R.F.*, supra; *Matter of Appeal in Pima County Juv. Action*, supra.

[105] *Matter of Adoption of a Child of Indian Heritage*, supra.

[106] *Mississippi Band of Choctaw v. Holyfield*, supra; *Matter of Adoption of Halloway*.

[107] *Matter of Adoption of a Child of Indian Heritage*, supra; *In re Crystal K.*, supra. This rule is consistent with non-Indian custody cases that give first preference to the non-custodial parent when the custodial parent consents to adoption.

[108] *Matter of Appeal in Maricopa County Juv. Action*, supra; *Matter of Adoption of a Child of Indian Heritage*, supra.

[109] 25 U.S.C. sec. 1915(c).

[110] House Report at 23-24.

[111] *Mississippi Band of Choctaw v. Holyfield*, supra (quoting with approval *Matter of Adoption of Halloway*, supra).

[112] *Matter of Adoption of Baade*, supra; *In re Adoption of Lindsey C.*, 280 Cal. Rptr. 194 (Cal.App. 1 Dist. 1991).

[113] *In re Baby Girl A.*, supra.

[114] *Matter of M.E.M.*, 725 P.2d 212 (Mont. 1986).

[115] *Adoption of M. v. Navajo Nation*, 832 P.2d 518 (Wash.App. 1992).

[116] 25 U.S.C. sec. 1914, which mandates invalidation of state court actions that violate the Act, does not apply to violations of the placement provisions.