



Advanced Indian Child Welfare Act: Active Efforts

Trainer:

Date:

Agenda

- Welcome, Introductions and acknowledgements
- Competencies and learning objectives
- Self Assessment Quiz
- 30 years later....
- Different “efforts” requirements in a non-ICWA and ICWA case.
- Law and hypothetical case scenarios
- Role of participants
- Highlighting practices in other jurisdictions
- Closure

Welcome, introductions and acknowledgements

- This curriculum was developed by the Administrative Office of the Court in collaboration with the ICWA Advisory team and facilitated by Shared Vision Consultants.
- For a full list of advisory group members please refer to the trainee guide

Prioritization of Competencies and Learning Objectives

- Please read the competencies and learning objectives for this module.
 1. Identify by initialing which competency and/or learning objectives are most important for you to learn today.
 2. Is there anything else that you would like covered that isn't listed?



Self assessment quiz

- Please take five minutes to answer the questions on your self assessment quiz....

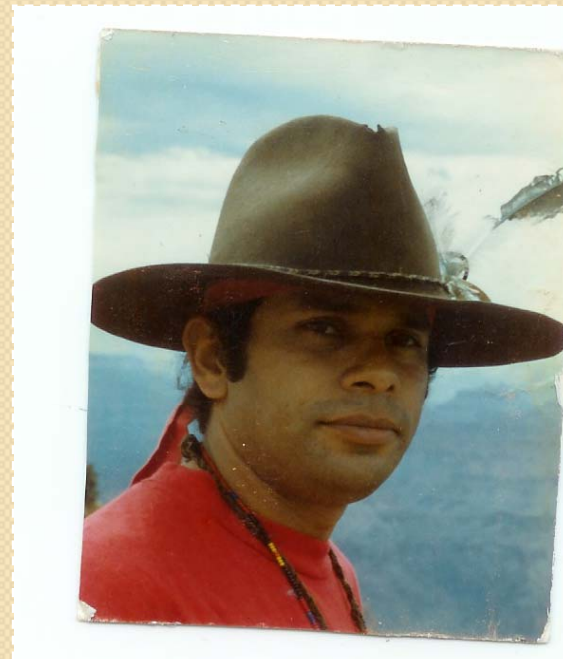


30 years later

- In small groups brainstorm what you think is the purpose of ICWA?
- Does it have a valuable purpose? If not why not? If so why?
- How is it still relevant 30 years later?



Let's watch the video
"Continuing the
Dialogue". As you watch
please check some of
your answers on the self
assessment quiz.



VIDEO

Other Quiz Answers

- There are over 300 tribal courts in the U.S.(Q1)
- Membership in a tribe can only be determined by the tribe. (Q4)
- The Bureau of Indian Affairs (when it was part of the war department) did not have the philosophy that “Indian tradition should be preserved. (Q7)

Other Quiz Answers

- Over 50% of California's Indian population traces their native ancestry to tribes outside of California. (Q8)
- There are over 100 federally recognized tribes in California. (Q10)



Small group exercise:

- **What should attorneys and judges expect regarding the requirements of active efforts in ICWA cases? how would an ICWA case differ from a non-ICWA case?**
 - A. Prior to the matter coming to court?
 - B. Prior to Disposition?
 - C. Post Disposition?

BREAK



What is the law regarding active efforts?

- ICWA: 25 U.S.C. 1912(d)
- Family Code 177(a)
- Probate Code 1459.5(b)
- Welfare and Institution Code 224.6 and 361.7
- Rule of Court 5.484

ACTIVE EFFORTS REQUIREMENTS

- **Applies in:**
 - **Family Court**
 - **Probate Court**
 - **Juvenile court:**
- **Dependency and Delinquency**
 - **Includes pre-detention efforts when considering if there are reasonable means to protect the child at home**

Indian Child Welfare Act

- **U.S.C. § 1912(d)**
- **If seeking involuntary foster care or termination of parental rights to an Indian child under state law:**
- **Satisfy the court that **ACTIVE EFFORTS** have been made to provide:**
 - Remedial services and rehabilitative programs to
 - Prevent the breakup of the Indian family **AND**
 - Have been unsuccessful

Welfare and Institution Code 361.7 *[Dependency]*

- As part of active efforts, the court shall consider the prevailing social and cultural standards of the child's tribe, including the tribe's family organization and child-rearing practices.
- “Active efforts shall utilize the available resources of the Indian child's extended family, tribe, tribal and other Indian social services agencies, and individual Indian care giver service providers.”

DELINQUENCY (Welf & IC § 224.3)

- Proceedings under Welf & IC §§ 601 and 602 are included in ICWA if the child is at risk of entering foster care or is in foster care
- The Active Efforts requirement applies to such children
- RULE 5.480(1)

Family Code

- The ICWA (**INCLUDING ACTIVE EFFORTS 177(A)**) applies to Family Court proceedings, that may result in the adoption of an Indian child, the termination of parental rights of the parents of an Indian child, or the granting of care and custody of an Indian child to someone other than the child's parents or Indian custodian where the parents or Indian custodian cannot have the child returned on demand.

Probate Code 1459.5(b)

- In all Indian child custody proceedings;
- Court to strive to promote the stability and security of Indian tribes and families;
- AND comply with the Indian Child Welfare Act.

Rule 5.484 (c) *[Juvenile Court]*

- Prior to placement order, court must find that active efforts were made.
- Must consider whether active efforts were in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.
- All available resources should be used, including the extended family, the child's tribe, Indian social services and Indian caregivers.

Requirements revisited

- **What should attorneys and judges expect regarding the requirements of active efforts in ICWA cases? how would an ICWA case differ from a non-ICWA case?**
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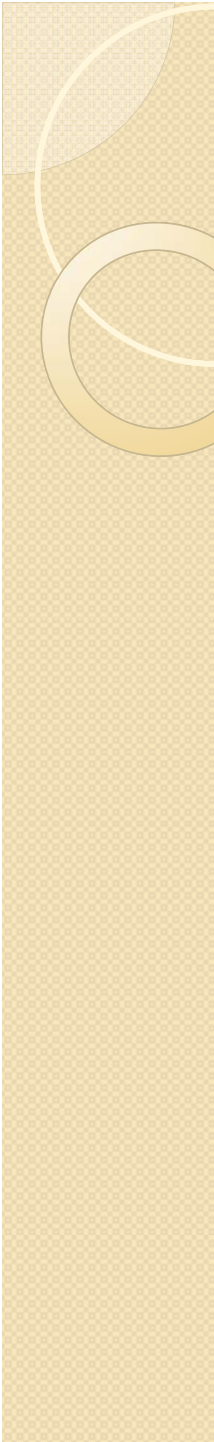


**Review case plans
and look at the
proposed findings
to see if they are
appropriate**

Wakeem's Story

- Please review the attached digital story of Wakeem. (Prepared by Tribal Star)

How could the child welfare and delinquency systems have better supported this young man to connect with his culture? At what times in the process should efforts have been made?



Using Wakeem's story as a framework what are the roles of each of these participants to ensure active efforts are made?

- Judge
- Tribe
- Parents
- Attorney (child and parents)
- Social Worker
- CASA
- Probation Officers
- Therapist
- Group home staff

What difference can active efforts make?

- Locating family and tribal members who can provide continuity for the child
- Recognizing the tribe's interest and stake in its cherished children
- Accessing benefits available through the tribe;
- Improving safety, permanency and well-being for tribal children
- Supports the “active efforts” finding which the court is legally required to make under ICWA

Examples of active efforts



Please refer to the handout comparing reasonable and active efforts. What is done in your county to provide “active efforts”?

Highlighting practices in other jurisdictions

- *Sonoma County ICWA protocol*
- *Butte County regarding Emergency Investigations*
- *Lake County – Differential response contract*

Highlighting practices in other jurisdictions continued.

- *LA County* -
- Tulare County –
- Riverside County – TDM
- Kings County –
- Ancestral chart

Resources

- California Dependency Online Guide
 - www.courtinfo.ca.gov/dependencyonlineguide
 - Contact dependencyguide@jud.ca.gov for more information
 - ICWA 101 and 102 AOC
 - Judge's handbook
 - <http://www.firstpeople.us/web-graphics/seamed-backgrounds/web-graphics-native-american-seamless-tiles-014.html>

- <http://www.courtinfo.ca.gov/programs/cfc/c/programs/description/TribalProjectUnit.htm>

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- [Tribal Star for the Wakeem video](http://pcwta.sdsu.edu)
<http://pcwta.sdsu.edu>
- AOC staff Vida Castaneda, and her family for family photographs