

ICWA/WICWA Essentials for Child Welfare and the Courts

Children's Justice Conference 2026



Today's Agenda

Introduction to ICWA and WICWA

ICWA/WICWA Essential: Tribal Inquiry

ICWA/WICWA Essential: Active Efforts and Tribal Collaboration

ICWA/WICWA Essential: Supporting WICWA Placement Preference

ICWA/WICWA Essential: Qualified Expert Witness

ICWA/WICWA Essential: ICWA Notice

ICWA/WICWA Essential: Local Indian Child Welfare Advisory Committee

Closing Reflections and Questions

The Importance of ICWA and WICWA



ICWA was passed in 1978 in response to the **alarming removal rates** of Indian children



ICWA and WICWA protect **the best interests of Indian children** by promoting family preservation and reunification



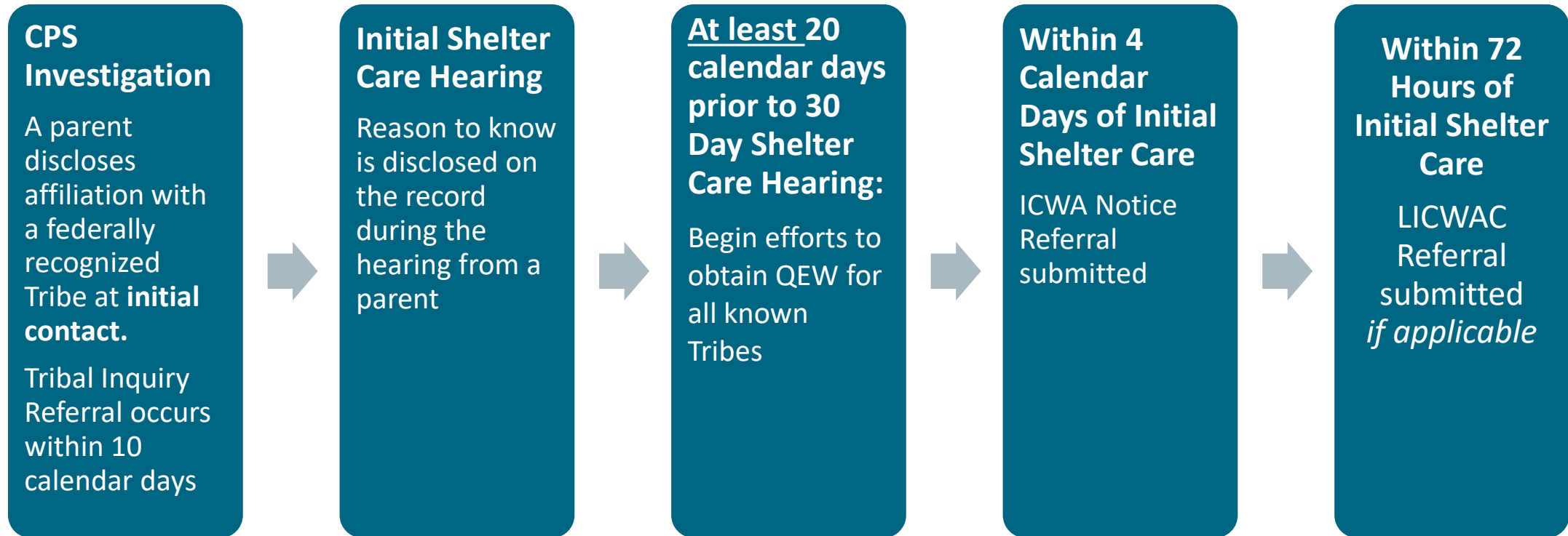
ICWA and WICWA prioritize placements that **maintain familial, Tribal and cultural ties**



DCYF Language Clarification: Known and Unknown Tribes

Known Tribe	Unknown Tribe
<p>Known Tribes: when there is reason to know children have Tribal heritage or Indian ancestry from either:</p> <ul style="list-style-type: none">a. Specific Tribe or Tribes (examples: Blue Lake Rancheria, Choctaw Nation, Native Village of Scammon Bay)b. Tribal or cultural group (examples: Cherokee, Chippewa, Sioux)	<p>Unknown Tribes: when there is reason to know children have Tribal heritage or Indian ancestry, but no specific Tribe, Tribes or cultural groups have been identified after follow-up questioning.</p> <p>This includes references to state or geographic regions.</p>

Case Overview Timeline



ICWA/WICWA Essential: Tribal Inquiry

Determining a child's Indian status must be made as soon as possible to serve the best interests of the Indian child and to protect the interests of the child's Tribe **RCW 13.38.070(2)**.



Tribal Inquiry

DCYF uses the inquiry process to verify whether children are recognized as Indian children when they and their families are involved in:

- Child Protective Services (CPS)
- Family Assessment Response (FAR)
- Family Voluntary Services (FVS)
- Family Reconciliation Services (FRS)

Indian Identity Request

- Federal and state Indian Child Welfare Acts require that all Indian children be identified.
- This form must be completed by all parents, guardians or Indian custodians for **each** child in the household.

Name of Child _____ Person ID Number _____

Date of Birth _____ Case Number _____

I, _____ and I, _____
Mother's Name Father's Name

hereby acknowledge _____ is of the following tribal heritage or Indian ancestry

Mother: Indian ancestry: Yes No
Tribe(s): _____
 Identity of the Tribe unknown

Father: Indian ancestry: Yes No
Tribe(s): _____
 Identity of the Tribe unknown

Mother's Signature _____ Date _____
 Parent refused to sign Parent provided verbal report via phone Parent unavailable for signature

Father's Signature _____ Date _____
 Parent refused to sign Parent provided verbal report via phone Parent unavailable for signature

Name of person(s) other than parents providing information _____
Relationship to child _____

Case Worker Signature _____ Name _____ Date _____

The DCYF caseworker must:

- Upload the completed form under the **Child's Name** in FamLink.
- If one or both parents indicates tribal heritage or Indian ancestry:
○ Complete a Family Ancestry Chart (DCYF 04-220) in FamLink




Tribal Inquiry

If Tribal heritage or Indian ancestry is reported, a **Family Ancestry Chart** is completed with the parents/Indian Custodians for each child.

Minimum requirements:

- Parents' names/DOB
- Grandparents' names/DOBs
- Which grandparent has Tribal heritage or Indian ancestry?



WASHINGTON STATE
Department of
Children, Youth,
and Families

Family Ancestry Chart

To Assist Tribe(s) To Determine Membership Eligibility

CASE NAME [Redacted]	FATHER [Redacted]	PATERNAL GRANDFATHER [Redacted]	GREAT GRANDFATHER [Redacted]
CASE NUMBER [Redacted]	Tribe(s) [Redacted]	Tribe(s) [Redacted]	Tribe(s) [Redacted]
CHILD PERSON ID NUMBER [Redacted]	Date and Place of Birth [Redacted]	Date and Place of Birth [Redacted]	Date and Place of Birth [Redacted]
APPLICANT (Child's Name) [Redacted]	Father's Aliases [Redacted]	PATERNAL GRANDMOTHER [Redacted]	GREAT GRANDMOTHER [Redacted]
Tribe(s) [Redacted]		Tribe(s) [Redacted]	Tribe(s) [Redacted]
Date of Birth [Redacted]		Date and Place of Birth [Redacted]	Date and Place of Birth [Redacted]
Place of Birth [Redacted]			GREAT GRANDFATHER [Redacted]
		MATERNAL GRANDFATHER [Redacted]	Tribe(s) [Redacted]
INFORMATION SOURCES [Redacted]	MOTHER [Redacted]	Tribe(s) [Redacted]	Date and Place of Birth [Redacted]
	Tribe(s) [Redacted]	Date and Place of Birth [Redacted]	GREAT GRANDMOTHER [Redacted]
	Date and Place of Birth [Redacted]		Tribe(s) [Redacted]
	Mother's Maiden Name [Redacted]		Date and Place of Birth [Redacted]

Tribal Inquiry Process



Diligent search of familial and Tribal affiliations on behalf of each child through use of approved databases and available research tools.



Delivery of an **Inquiry to Indian Tribe** (DCYF 09-539) to each identified Tribe to ensure they are aware of a new referral open to DCYF.



Completion of a comprehensive **Family Ancestry Chart** (DCYF 04-220) comprised of a child's Tribal and non-Tribal lineage.



Record management and communication with the caseworker within 24 hours of receipt of a Tribal response to ensure collaboration.





ICWA/WICWA Essential: Active Efforts



Washington State Department of
CHILDREN, YOUTH & FAMILIES

Defining Active Efforts Part I.

“**Active Efforts** means affirmative, active, thorough, complete, and timely efforts intended primarily to maintain or reunite children who are or may be Indian children with parents, Indian custodians or legal guardians.”

-Definition from DCYF ICW Policy and Procedures



Defining Active Efforts Part II.



Requires DCYF to provide more support, engagement, and services than reasonable efforts



Inclusive of due diligence efforts to confirm or verify if children are recognized by their Tribes



Provided to the maximum extent possible in a manner consistent with the prevailing social and cultural conditions and way of life of children's Tribes



Conducted in partnership with children and their parents or guardians, extended family members, Indian custodians, and Tribes



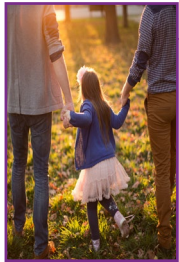
Tailored to the facts and circumstances of the case



Involves actively working with parents to address barriers to parents' or Indian custodians' success

Applying Active Efforts: Key Concepts

Active Efforts has **evolved with case law** since ICWA and WICWA were enacted.
Below are key concepts for applying Active Efforts:



Provided for **both parents** and any guardians or Indian Custodians



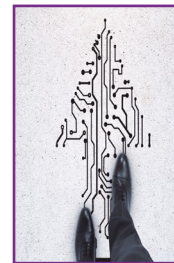
Provided in a **culturally appropriate** manner that is cognizant of Indian families' mistrust of government due to centuries of abuse




Any barrier to reunification must be identified and all barriers to reunification must be addressed



Active Efforts made earlier in the case do not relieve workers of ongoing Active Efforts duties



Self-evaluation, reflection and willingness to change strategy when efforts are unsuccessful is required



ICWA/WICWA Essential: Placement Preference



Washington State Department of
CHILDREN, YOUTH & FAMILIES

ICWA and WICWA Placement Preferences

ICWA Placement Preferences

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
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



WICWA Placement Preferences

1. Extended family member
2. Foster home licensed, approved or specified by the child's Tribe
3. Indian foster home licensed, approved or specified by an authorized non-Indian licensing authority.
4. Child foster care agency approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
5. Non-Indian child foster care agency approved by the child's Tribe.
6. Non-Indian family that is committed to:
 - Promoting and allowing appropriate extended family visitation.
 - Establishing, maintaining, and strengthening the child's relationship with their Tribes.
 - Participating in the cultural and ceremonial events of the child's Tribe.



ICWA/WICWA Essential: Qualified Expert | Witness (QEW)



Defining a Qualified Expert Witness (QEW)

Qualified Expert Witness (Contracted)

- Qualified individuals with a Department of Enterprise Services statewide or DCYF contract to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- These individuals must be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe.

Qualified Expert Witness (Tribally Designated)

- Qualified individuals designated by the Tribe to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child
- Should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe.



Required Order of Preference for QEW

1st preference for a QEW:

- Be a member of the child's Indian Tribe or is chosen and recognized by the Tribe as knowledgeable regarding Tribal customs specific to family organization or child rearing practices.



Required Preference for QEWs: Contracted QEWs with DCYF

2nd preference for a QEW:

- Has substantial experience in the delivery of child and family services to Indians and has extensive knowledge of social and cultural standards and child rearing practices within one of the following in preferred order:
 - Indian Child's Tribe
 - Indian Tribes with cultural similarities to the Indian child's Tribe
 - Delivery of child and family services to Indians if no Tribe has been identified
 - Is a professional who has substantial education and experience in a specialty area related to the Tribe

When is a QEW Required?

Dependency and Permanency Court Process Timeline						
Hearing Type	Earliest 30-Day Shelter Care	Dependency Fact Finding	Dependency Disposition	DCYF-Initiated Guardianship	Termination of Parental Rights (TPR)	Other
Timeframe	30 days following the Initial Shelter Care Hearing *QEW Requirement Starts Here	(within 75 Days of filing a Dependency Petition)	(within 90 days of filing a Dependency Petition)	Child or youth has been in guardian's care for at least six consecutive months.	Child or youth has been in out of home care for 12 of the last 19 months (unless the court makes a good cause finding).	At any point in the case.
QEW Requirement	QEW is required at the 30-Day Shelter Care Hearing as of 2022 (In Re: J.M.W.).	QEW is required to provide "live testimony" at the Fact-Finding Hearing as of 2025 (In Re: C.J.J.I.)	QEW continues to be required.	QEW continues to be required.	QEW continues to be required.	QEW is required only if court ordered.



The Role of the DCYF Caseworker in Obtaining a QEW

ICW Policy & Procedure

- Since the ICW Policy revisions in 2024, DCYF is now responsible for obtaining a QEW
- ***This cannot be done by the AAGs.***



Active Efforts to Obtain a Tribally-Designated QEW

- Make and document efforts to obtain a QEW from all known Tribes for all identified hearings requiring a QEW
- Refer to MOA for QEW guidance



Requesting a Contracted QEW

- Request a contracted QEW fourteen calendar days prior to the hearing if:
 - ✓ There is no Tribally designated QEW despite active efforts
 - ✓ There are no Known Tribes or
 - ✓ No Tribes have intervened or participated





ICWA/WICWA Essential: ICWA Notice

When there is reason to know a child is or may be an Indian child, DCYF must provide ICWA Notice for:

- 30-day Shelter Care Hearings
- Guardianship Fact-Findings
- Termination of Parental Rights (TPR) Fact-Findings



Importance of ICWA Legal Notice



Ensures Tribes have the opportunity to intervene in a state court proceeding.



Also ensures Tribes have the opportunity to obtain jurisdiction if they choose.



Gives Tribes the opportunity to confirm compliance with placement preferences.



ICWA Legal Notice Process

1

- At the Initial Shelter Care Hearing, the court finds there is Reason to Know the child is or may be an Indian child as defined in RCW 13.38.040 and 25 U.S.C. § 1903(4).
- Shelter Care Order states DCYF will send Legal Notice.

2

- **Within 4 days** of the Initial Shelter Care Hearing, the caseworker submits an ICWA Notice Referral to the ICW Legal Unit.

3

- ICW Legal Unit prepares the ICW Legal Packet.

The ICW Legal Packet includes:

- ✓ ICW Legal coversheet DCYF 09-138
- ✓ Family Ancestry Charts DCYF 04-220
- ✓ Tribal Response to ICWA Notice DCYF 09-538
- ✓ Business Reply Envelope addressed to ICW Legal

4

- The Office of Attorney General sends the certified Legal Notice with the ICW Legal Packet to Tribes, and the Bureau of Indian Affairs.

Tribe(s) must receive certified Legal Notice **no less than 10 days prior to a 30-day Shelter Care hearing.**



ICW Legal Unit



Conducts diligent searches of familial and Tribal affiliations on behalf of each child through the use approved databases and available research tools.



Prepares a **Tribal Response to ICWA Notice** (DCYF 09-538) form for each identified Tribe to allow for timely response and consistent record management.



Completes a comprehensive **Family Ancestry Chart** (DCYF 04-220) comprised of a child's Tribal and non-Tribal lineage.



Finalizes the **ICW Legal Coversheet**, ensuring the accurate ICWA Designee and address for each Tribe receiving Legal Notice.

ICW Legal Unit



Manages all incoming Tribal responses to Legal Notice received via USPS, electronically or through use of the QR code.



Maintains ICW records in FamLink for inclusion in the Court report.



Alerts the assigned caseworker of a Tribe's response within 24 hours of receipt to ensure immediate collaboration.



Ensures weekly distribution of all received Tribal responses to the 11 AGOs representing 39 counties across WA State.

Due Diligence

The ICW Legal unit sends Tribal Response to ICWA Notice DCYF 09-538 form to each Tribe who has not responded

60 days after the hearing date referenced in Legal Notice.

The ICW Legal unit sends Tribal Response to ICWA Notice DCYF 09-538 form to each Tribe who has not responded

120 days after the hearing date referenced in Legal Notice.

Caseworkers reach out to any Tribe who has not yet responded to Legal Notice, at least **twice monthly** via telephone, email, mail for the purpose of collaboration and verification of the child's Indian status.

Caseworkers also request assistance from the BIA in contacting all Tribe(s) that have not responded to the Legal Notice of the proceeding.



ICWA/WICWA Essential: Local Indian Child Welfare Advisory Committee



Local Indian Child Welfare Advisory Committee (LICWAC)

LICWACs are volunteer committees made up of Tribal representatives, elders, community members, and Tribal agency staff who review and advise on child welfare cases where:

There is Reason to Know the child is or may be an Indian Child and the child is affiliated with:

- ✓ An Unknown Tribe (no specific Tribe or cultural group identified).
- ✓ A federally recognized Tribe with which the child's Indian status is pending (ICWA legal notice will be sent to the identified Tribes).
- ✓ A federally recognized Tribe that intervened and has requested LICWAC involvement.



LICWAC can support maintaining a child's Tribal and cultural connections when a Tribe is not participating in the case.



LICWAC Roles & Responsibilities



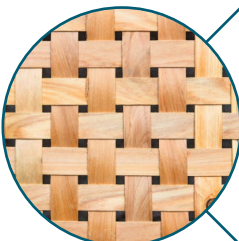
Advise & Encourage

- Offer cultural and Tribal guidance on individual cases
- Review ICWA/WICWA compliance and advise on active efforts



Ensure & Support

- Recommend placement options that maintain cultural connections
- Help identify family and community support
- Ensure culturally relevant resources are offered to Indian children and their families



Strengthen & Advocate

- Strengthen collaboration between Tribes and child welfare offices
- Preserve cultural heritage of Indian children by preventing unjust removal, seeking reunification with parents or placement with relatives



How LICWAC Supports Active Efforts

Active Efforts Requirement

- Identify Indian child & notify Tribe as early as possible
- Provide services consistent with prevailing social & cultural traditions
- Seek to keep children connected to their Tribes, community & culture
- Meaningful efforts beyond simply referring to service

LICWAC and Active Efforts

- Help confirm Tribal affiliation & facilitate communication
- Suggest Tribal or community programs that align with family culture
- Identify extended family and kinship placements
- Recommend Tribal mentors, ceremonies & cultural plans
- Review & provide feedback on active effort documentation & case planning



LICWAC Best Practices for Caseworkers

Refer to LICWAC within 72 hrs. of Initial Shelter Care, when RTK exists

Collaborate, don't consult only when required

Respect Tribal expertise—listen and learn

Incorporate LICWAC recommendations into case plans and documentation

Follow up with LICWAC to show accountability and ongoing partnership



Overview

Each of the ICWA/WICWA essentials we covered play a critical role in upholding the protections for Indian children today.



Thank you!
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