



Serving our Native American Communities of Michigan

CWTI New Worker Institute
ICWA 101
Facilitator:
Stacey Tadgerson, Director
Native American Affairs (NAA)



Overview

- Fast Facts
- Statistics
- Historical Background
- ICWA Mandates
- DHS NAA Policy
- Identifying American Indian Children
- Notification to Tribes
- Tribal Intervention
- Active Efforts
- Placement Priorities
- Qualified Expert Witness (QEW)
- Cultural Competency
- DHS Organization/NAA
- Tribal Consultation
- Next Steps
- Q & A
- Resources



Fast Facts

- There are 562 Federally Recognized Tribes in the U.S.
- There are over 630 First Nations in Canada
- Michigan has the largest population of American Indians east of the Mississippi
- Michigan is one of ten U.S. states with a significant American Indian population
- 1% of the U.S. population are American Indian. In Michigan, that = 130,000



Michigan: Fast Facts

- Michigan is one of ten U.S. states with the highest population of American Indians (U.S. Census Bureau)
- Michigan has the largest population of American Indian residents east of the Mississippi (U.S. Census Bureau)
- There are 12 federally recognized Tribes in Michigan (BIA)
- 67% of American Indians live in urban areas (U.S. Census)

Statistics



Michigan Indian Child Welfare

- FY 2010 2nd quarter DHS data indicates 207 American Indian children in care
- FY 2010 2nd quarter DHS data indicates 86 licensed American Indian foster care homes
- FY 2010 2nd quarter DHS data indicates 50 American Indian children eligible for adoption
- FY 2010 2nd quarter DHS data indicates 217 Indian Outreach Services (IOS) cases



Urban Indians

- Many are not eligible for Tribal Services due to not living in the Tribal Service Area
- Many are not recognized by a federally recognized Tribe
- Reasons: Long-term residents, forced residents, permanent residents, medium & short-term visitors

<http://www.nuifc.net/programs/research/>

Urban Indian Statistics

- Off-reservation Native children are involved in 5.7 child abuse and neglect cases per 1,000 children per year in comparison to a rate of 4.2 per 1,000 per year for the total U.S. population.
- Urban Indian women have considerably lower rates of prenatal care and higher rates of infant mortality than even their reservation counterparts within the same state.

<http://www.nuifc.net/programs/research/>

Historical Background

Perspective

- Past U.S. treatment of Native Americans via Treaties, Laws, & Executive Orders have had long-lasting effects upon our Tribal communities (a.k.a. Historical Trauma)
- Only in recent history have Native Americans had the opportunity to decide "what is in the best interest of their Tribes" (30-38 years)

Contextual View of History

- Treaty – Ceding land & waterways
- Termination – Indian Wars, Allotment, & Boarding Schools
- Removal – Relocation & Creation of reservations
- Self-Determination – Indian Education & Self-Determination Act (Self-Governance & Gaming Compacts) & Religious Freedom Act

http://www.youtube.com/watch?v=i4ExGtLxb_w&feature=related

Indian Child Welfare Act (ICWA)

ICWA History

- Indian Reorganization Act of 1934 led to the Indian Adoption Project



ICWA History (Cont.)

- In 1968 the Devils Lake Sioux Tribe of North Dakota began efforts to change these practices



ICWA History

- The Indian Child Welfare Act was enacted in 1978



§1902 Congressional declaration of policy stated:

- Congress hereby declares that it is the policy of this Nation to protect the best interest 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.

http://www4.law.cornell.edu/uscode/html/uscode25/usc_sec_25_00001901----000-.html

Indian Child Welfare Act (1978)

- A minimum of 25 percent of all Indian children were either in foster homes, adoptive homes, and/or boarding schools, against the best interest of families, tribes, and Indian communities.
- About 85 percent of Indian children were placed in either a white foster home or white adoptive homes.
- Whereas most non-Indian communities can expect to have children out of their natural homes in foster or adoptive homes at a rate of 1 per every 51 children, Indian communities know that their children will be removed at rates varying from 5 to 25 times higher than that.
- Congress recognized the wholesale removal of Indian children from their Tribal cultures into non-Indian Foster and Adoptive Homes; and sought to end this practice.

http://www4.law.cornell.edu/uscode/html/uscode25/usc_sec_25_00001901----000-.html

ICWA



- To protect the best interest of Indian children
- Promote the stability and security of Indian tribes and families

Indian Child Welfare Act Mandates

- Identify Indian Child(ren)
- Notification to Tribes
- Placement Priorities
- Tribal Intervention
- Jurisdiction (Exclusive/Concurrent)
- Active Efforts
- Qualified Expert Witness (QEW)
- Culturally Competent Services
 - NARF: Practical Guide to the Indian Child Welfare Act (<http://www.narf.org>)



Native American Affairs DHS Policy



New Policy

Four Main Manual Sections:

- *Indian Outreach Services (IOS)
- *Native American Affairs (NAA)
- *NAA Glossary (NAG)
- *Tribal Agreements (TAM)

Indian Outreach Services

IOS 100 to IOS 365 Sample Manual Item Headings

- Indian Outreach Worker (IOW) – IOS 110
- Indian Outreach Services (IOS) – IOS 100
- Service Program Description – IOS 205
- Program Philosophy – IOS 210
- Target Population – IOS 215
- Service Activities – IOS 220
- IOW Responsibilities & Referral Form (DHS-382) – IOS 320

Native American Affairs

Format Features NAA 100 to NAA 610

- Indian Child Welfare Specific Sections and Language for CPS, FC, JJ, and Adoption
- Hyperlinks Between Child Welfare Policy & NAA Policy
- Links to Definitions
- Tribal Contact Information

Native American Affairs Manual

- Stresses the importance of developing a rapport with the Tribes as partners in the care of Indian children
- Location:
 - On-line Manual (DHS Staff/DHS Net)
 - Public DHS website (Private Agencies & Clients)
 - www.michigan.gov/dhs

Identifying American Indian Children



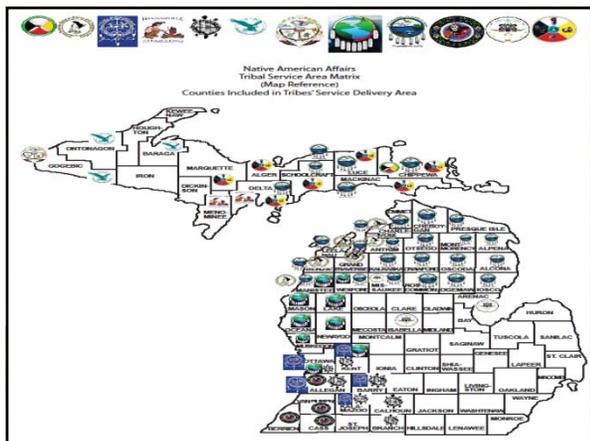
NAA 200 – Identifying American Indian Child(ren)

- Consult the Native American Affairs Manual for each new case
- Contact an Indian Outreach Worker (IOS) in near counties (DHS-382)
- Contact the Tribe upon investigation, opening of the case within 3 business days
- Use “shot-gun” approach: All Tribes in the state of family origin or all Tribal affiliation (All Chippewa Tribes) for those that cannot name Tribe
- DHS 120 (US)/DHS 121 (Canadian) – SOP 3 business days
- Utilize the ICWA poster (<http://www.michigan.gov/america/nindians>) in first contacts & PCC's
- Do not utilize pre-conceived notions of what an “Indian” looks like
- Understand family disenfranchisement from Tribal roots



Indian Child Welfare in Michigan

- ICWA Poster (DHS/SCAO)
- Tribal Service Area Map (NAA/DHS)
- Culture Card
 - <https://store.samhsa.gov/shin/content/SMA08-4354/SMA08-4354.pdf>
- Native American Affairs (NAA) Policy
 - <http://www.michigan.gov/dhs>
 - Online DHSnet (for DHS staff)



Notification to Tribes



Notification to Tribes

- Bureau of Indian Affairs (BIA)
 - Recognizes U.S. Tribes (See BIA website for criteria)
- Tribes verify (Contact a Tribal Enrollment Office)
 - Descendant or Blood Quantum genealogy
- DHS-120 (US)/DHS-121 (Canada) – Forms
- Must receive notification 10 days before any hearing for an Indian child welfare case

Tribal Intervention

Tribal Intervention

- Tribes have a right to intervene at any point in an Indian child welfare case; unless good cause to the contrary is ruled
- Varies across Tribes due to capacity & service's available
- Spectrum: Transfer to Tribal Court, collaborative case planning; or case monitoring
- Equal party in an Indian child welfare case

Tribal Jurisdiction

- Exclusive – Known to live on or be domiciled on a reservation/trust lands; considered a Tribal court case
- Concurrent – Off reservation/trust lands; State court; Tribes have right to make requests
- All Tribes no matter if in the same state or county of an active case have a right to participate
- Court Resource: [SCAO ICWA Benchbook Guide](http://courts.michigan.gov/scao/resources/publications/manuals/cws/ICWAcResourceGuide.pdf)
*<http://courts.michigan.gov/scao/resources/publications/manuals/cws/ICWAcResourceGuide.pdf>

Intervention continuum

- “[R]ight to intervene at anytime,” means *any* time in CPS/FC/Adoption/JJ cases
- Tribal capacity may be the reason there has been no communication from the Tribe (1 person is the caseworker/director/casa/grant writer, or lack of Tribal services to provide the family, etc...)
- Tribal recommendations must be taken into consideration & given priority; if good cause to the contrary is evident state worker must provide evidence/rationale in court as to DHS decision *not* follow Tribal recommendation

Active Efforts

Active Efforts

- Case Management – Effort to reunify a family must engage a family by some “action” made by the worker
- More involved than “reasonable” efforts
- Must be documented and able to provide evidence of active efforts for hearings
- MI Supreme Court Ruling – In re Lee; need not be extemporaneous



Best-practice

- Active efforts to provide remedial services to prevent family breakup must have been provided prior to removal
- The definition of “active efforts” is intentionally undefined in detail in ICWA. This defining process is left to tribes and states to work together on
- No list or “cookie-cutter” definition to narrow focus in on
- Implies “action” of the worker in the case; not just telling the client what “they need to do”
- “Active efforts” applies specifically to those services and activities that affect the reunification plan
- ICWA mandates the state to make active efforts
 - to provide remedial and rehabilitative services to the family prior to the removal of an Indian child from his or her parent or Indian custodian, except to prevent imminent damage or harm to the child, and
 - to reunify an Indian child with his or her parent or Indian custodian



Best-practice (continued)

- Active efforts is different than reasonable efforts
- Examples of reasonable efforts v. active efforts
 - Referring for services v. arranging services and helping families engage in those services
 - Managing a case v. proactively engaging in diligent casework activity
 - Meeting the minimum requirements set by policy v. creatively meeting the needs of children and families
- Active efforts include using methods and providing services that are culturally appropriate



Best-practice (continued)

- Every ICWA case must receive active efforts, which should include at a minimum, a diligent assessment of:
 - The reasons for removal of the child
 - The risk for further harm of the child
 - The ability of the parent or Indian custodian to safely care for the child



Cont. Application Guidelines for “Active Efforts”

- How long do active efforts have to be applied?
 - The state should make active efforts throughout the review period or until the plan changes to something other than return to the parent
- When do the parents/Indian custodians need to be involved?
 - Their obligation to participate begins when the court makes a finding on the allegations of abuse/neglect and takes jurisdiction



Cont. Application Guidelines for “Active Efforts”

- What if parents/custodians refuse to participate?
 - The active efforts finding will be based on the offer of services
- When the parents/custodians accept to participate in services prior to adjudication of the petition, an active efforts finding will be based on the services provided



Cont. Application Guidelines for “Active Efforts”



- What if the referral made for services falls through?
 - The active efforts finding should be made based on the state's effort to provide the service in a more creative manner
- What if there are no appropriate services for family reunification that are readily available?
 - The state is to make active efforts to develop, modify, and coordinate services that will address the conditions and circumstances that are the bases for juvenile court jurisdiction
 - Access to cultural and tribal services, and frequent face-to-face contact between the worker and the child and family needs to occur



Cont. Application Guidelines for “Active Efforts”

- A cornerstone in the application of active efforts is active and early participation and consultation with the child's tribe in all case planning decisions



Cont. Application Guidelines for “Active Efforts”



- In consultation with the tribe, the state should offer relevant services to all members of the household who will have responsibility to provide care for the child even if the person does not have legal rights to the child
- Culturally relevant case planning methods should be used, especially those that create unique family-specific service plans



Placement Priorities



Placement Priorities

- Extended Family (Relative Placement) – biological family; may be non-native
- Tribal Home – Home of child's Tribal affiliation
- Other Tribal Home – Not of child's Tribal affiliation
- Native American Placement Agency/Institution – Michigan has two (MICWA & BINOGII)



Placement Priorities

- Tribes should be consulted for placement options and preferences
- Unless there is good cause to the contrary, workers should try to place child in Tribe's placement preference
- Priority order
- Tribe's may have a child welfare code regarding placement that is different order or criteria

Qualified Expert Witness (QEW)



QEW

- There presently is not a list created that the state can distribute to assist with locating a QEW
- Tribes have requested that all QEW be generated at the Tribal level
- Speaks to child rearing practices of that child's Tribe
- May be a Tribal Social Service's staff or ICWA Committee representative
- See SCAO ICWA Benchbook Guide in NAA Manual or on SCAO website

Obtaining a QEW

- Contact the child's Tribe (Social Service's, ICWA Committee, or Tribal Court) for a Tribal QEW
- Contact another Tribe of the same affiliation (Chippewa/Cree/etc...) for a QEW reference
- Contact a Native American Placement Agency to see if they have a QEW referral
- Contact a local DHS Indian Outreach Worker (caution: some Tribes will not prefer this option)
- Contact the Director of Native American Affairs (NAA) to assist in locating a QEW
- Contact NICWA or NARF

Best-practice

- Knowledge of tribal customs as they pertain to family organization and childrearing
- Prevailing social and cultural standards and childrearing practices
- Big question: If the child remains in the home is it likely to result in serious emotional or physical damage?
- BIA guidelines

Hearings

Show cause:

- Clear and Convincing
- Abuse or neglect or danger of abuse or neglect
- Best interest of child
- Likelihood of serious emotional or physical damage
- Active efforts

Adjudication:

- Clear and Convincing
- Youth in Need of Care
- Best interests of child
- Likelihood of serious emotional or physical damage
- Active Efforts



Termination Hearing

- Beyond a Reasonable Doubt
- Review petition
- Best interests of child
- Likelihood of serious emotional or physical damage
- Active Efforts



Cultural Competency



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"How's this: you teach us how to irrigate and plant corn, and we'll decimate your tribe and name a baseball team after you."

Ojibwe

- Chippewa
- Odawa/Ottawa
- Potawatomi
- People of the Three Fires
- Woodland Indians
- Anishnabe
- Midwest/Great Lakes Region: Minnesota – Michigan up into the Canadian provinces
- Language: Ojibwe (Anishnabemowin)

Things to consider

- Urban Indian Center programming/services
- Go onsite to a Tribal event &/or community
- Invite Tribes to your meetings
- Tribal Departments: Comprised of your peers at the Tribal level
- Tribal representatives have credentials, expertise, or traditional experience that reflect their unique culture

Etiquette

- Understand Tribal code (laws)
- Be respectful of title (Tribal Judge is the equivalent of a State Court Judge and should be spoken to as such)
- Understand elder significance for these communities
- Understand levels of assimilation (See articles for working with American Indians on NAA website)
- Ask the client what terminology they are comfortable with: Native American, American Indian, Anishnabe, etc...

DHS

Office of Native American Affairs

Service Elements

- Native American Affairs (ONAA) located in the Office of Interagency and Community Services, Central Office.
- Created in 1978
- Indian Outreach Workers (IOWs), twelve workers located in Baraga, Chippewa, Delta, Gogebic, Isabella, Kent, Luce, Mackinac, Marquette, Menominee, Van Buren, and Wayne counties



Office of Native American Affairs

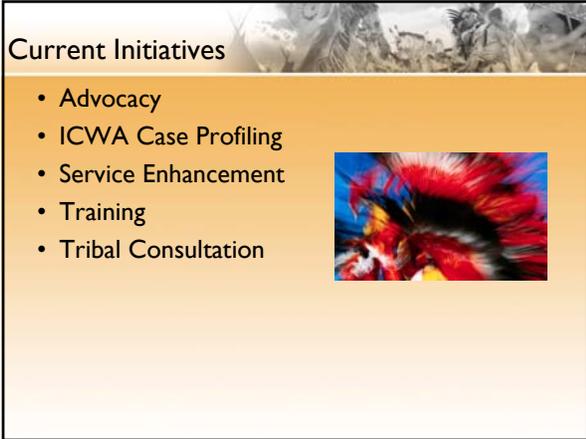


- 12 Federally Recognized Tribes
- Michigan State Historic Tribes
- Urban Indians
- Canadian Indians



Current Initiatives

- Advocacy
- ICWA Case Profiling
- Service Enhancement
- Training
- Tribal Consultation



Tribal Consultation



Tribal Sovereignty

- A government-to-government relationship between the United States and federally recognized Tribes
- Established by Laws, Treaties, Statutes, & Executive Orders

Myths:	Truths:
Not Race - Based	Stems from Laws



Tribal State Partnership (TSP)

- Cohort of Tribal Social Service Directors & staff, DHS Director & Executive staff, DHS County Directors, Native American Affairs, CWTI, IOS, State Court Administrators Office, state agencies, AI Placement agencies, & non-profit Indian agencies addressing Indian child welfare



TSP

- Evolved from Native American Task Force (1975)
- Meets quarterly in St. Ignace, or Mt. Pleasant, MI
- Addresses DHS Tribal Consultation responsibility (TITLE XX) & statewide Indian child welfare reform
- Subcommittees: Training, Information Management, IOW Utilization, Legal/Funding, & Consent Decree
- Schedule and minutes are posted on the NAA website

DHS Intersect

- ICWA Case Profiling & Monitoring (CPS/FC/Adoption/Guardianship/J)
- Tribal & Urban State Partnerships
- IV-D (Child Support)
- TANF
- ETV & YIT
- Tribal Consultation (Tribal/State Agreements)
- Adult Services
- Child Care Development Fund
- IV-E (FC \$)
- IV-B (Child Services)
- Head Start/Early Head Start
- Emergency Preparedness
- CWTI Training Facilitator
- MI Child Death Advisory Board
- IOS Services

Q & A

Resources

- <http://www.michigan.gov>
- <http://www.indianz.com>
- <http://www.ihs.gov>
- <http://www.narf.org>
- <http://www.nicwa.org>
- <http://www.ncai.gov>
- <http://www.doi.gov/bia/>
- <http://indian.senate.gov/public/>

Contact Information

Stacey M. Tadgerson, Director
Native American Affairs
Department of Human Services
235 S. Grand Ave.; Suite 1504
Lansing, MI 48909
517.241.7752 or TadgersonS@michigan.gov
<http://www.michigan.gov/americanindians>

Thank you for your participation



- Bamaa pii minwaa kawaabmin!