

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT

DIRECTIVE

No.: 1272

Issued: 11/30/11

Post Until: 12/30/11

SUBJECT: JUVENILE - INDIAN CHILD WELFARE ACT (ICWA)

The Probation Department has established the procedures delineated in this Directive to ensure compliance with the following:

- Indian Child Welfare Act (25 U.S.C. §§ 1901-1923 (i)) (ICWA, 1978)
- California Welfare and Institutions Code (WIC) Section 727.4
- California Rules of Court governing court proceedings for minors of Indian heritage
- California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) 31-515
- County of Los Angeles ICWA Protocol for Delinquency court

In the Delinquency system, ICWA applies to all Indian minors who are at risk of entering foster care placement, termination of parental rights proceedings and adoptive placements.

ICWA is intended to protect Indian culture and give a strong voice to tribal governments concerning child custody proceedings. Tribes are entitled to be notified of proceedings involving minors who are members of their tribe in order for the Tribe(s) to have a say in the treatment and placement (foster care) of these minors.

In all cases, Indian minors shall be provided appropriate culturally sensitive services, utilizing Indian community programs whenever possible.

Identifying Indian Minors

As defined by ICWA, an Indian child is any unmarried person who is under the age of 18 years and is either a member of a federally-recognized Indian tribe or is the biological child of a member and eligible for membership. Formal enrollment is not required for the child to be a member or eligible for membership in a tribe.

The following steps are taken to identify Indian minors at the time of detention or during the investigation process:

Intake Detention Control (IDC)

During the Juvenile Hall intake process, the IDC DPO shall:

- Ask each minor if he/she is of Indian heritage and record the response in the ICWA section of the Detention Report
- Ask minor's parent(s)/legal guardian(s) or relatives, if parent(s)/legal guardian(s) are not available, if minor is of Indian heritage and record the response in the ICWA section of the Detention Report
- Contact the Placement Permanency and Quality Assurance (PPQA)/ICWA Liaison at **323.357.5545**, for each case where a minor claims Indian heritage

MANUAL HOLDERS: CROSS-REFERENCE YOUR MANUALS TO THIS DIRECTIVE WHERE APPROPRIATE

Investigations (Initial and Subsequent)

DPO of record shall:

- Ask each minor and his/her parent(s)/legal guardian(s) if the minor is of Indian heritage and document in the Juvenile Worksheet (Prob. 1571, Rev. 10/11) and Pre-Plea/Disposition Report (Prob. 1570, Rev. 10/11) under **Residence Status/ICWA Section**
- Ask the minor's relatives, if parent(s)/legal guardian(s) are not available, if the minor is of Indian heritage and record the response in the Juvenile Worksheet (Prob. 1571, Rev. 10/11) and Pre-Plea/Disposition Report (Prob. 1570, Rev. 10/11) under **Residence Status/ICWA Section**
- If the minor is of Indian heritage, obtain their tribe and reservation and include information in the Pre-Plea/Disposition Report under ethnicity on the **Face Sheet** and additional information (Tribe and Reservation, etc.) under **Residence Status/ICWA Section (see Juvenile Manual Section 1301-1 AND 1301-8)**
- If recommending Suitable Placement and the minor is of Indian heritage:
 - notify the PPQA/ICWA Liaison **at 323.357.5545** if there is no documentation of previous notification in the PDJ file
 - inform the PPQA/ICWA Liaison **at 323.357.5545** in order for the Liaison to arrange for an ICWA expert witness to testify at the Disposition hearing
- Document all referrals to the PPQA/ICWA Liaison and contacts with the tribe(s) in the Case Notes section of the automated system:
 - ICWA Identification: Case Notes>ICWA>Identification:
"On ____ (date and time), ____ (Staff Title/Name) had ____ (location/type of contact) with ____ (identify who) who stated that the minor is of Indian heritage; specifically ____ Tribe and Reservation. Add any additional information provided."

OR

- ICWA/No Indian Heritage: Case Notes>ICWA>No Indian Heritage:
"On ____ (date and time), ____ (Staff Title/Name) had ____ (location/type of contact) with ____ (identify who) who stated that the minor is not of Indian heritage; specifically ____ Tribe. Add any additional information provided."
- ICWA Liaison Contacts: Case Notes>ICWA>Liaison Contacts
- ICWA Tribal Contacts: Case Notes>ICWA>Tribal Contacts

Placement Permanency and Quality Assurance (PPQA)/ICWA Liaison

The PPQA/ICWA Liaison, when notified that a minor is of Indian heritage, shall:

- Mail all required notifications (Judicial Council Form ICWA-030 – see attachment) regarding delinquency court proceedings to the identified tribal representative(s) (minor's heritage may be from more than one tribe)
- Arrange for the appearance of expert witnesses when needed for the hearings
- Sends copies of the notices and any responses to the applicable Delinquency court utilizing the Information to Court Officer (Prob. 804, Rev. 4/06) form and to the DPO of record for the PDJ file.
- Document contacts in the Case Notes section of the automated system:
 - ICWA Tribal Contacts: Case Notes>ICWA>Tribal Contacts
 - ICWA Notifications: Case Notes>ICWA>Notifications (to tribal representatives)
 - ICWA Expert Witness: Case Notes>ICWA>Expert Witness

Suitable Placement Orders

In all instances where Suitable Placement is ordered for an Indian minor, ICWA criteria shall be used in determining a suitable placement, in accordance with Placement Administrative Services procedures.

Supervision Requirements

Indian minors shall be provided with services that aim at strengthening the family structure and preserving the minor's cultural ties. A number of tribal resources and Indian community programs are available that might meet the minor's needs and should be considered before referring to other service providers. For assistance in locating Indian resources, contact the Juvenile Consultant.

Questions regarding this Directive should be directed to the Juvenile Consultant at 562.940.2533.


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