

May 11, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 23-46

The purpose of this letter is to engage, support, and assist county child welfare services agencies and county probation departments with Indian Child Welfare Act implementation by providing an overview of amendments to Welfare and Institutions Code section 224.2 related to the Indian Child Welfare Act (25 United States Code sections 1901 et seq.) and the federal Bureau of Indian Affairs regulations implementing the Indian Child Welfare Act. (25 Code of Federal Regulations Part 23.) This letter is a follow-up to All County Letter No. 20-38, which indicated the California Department of Social Services would release further policy and best practice guidance to provide additional support for implementing the amendments to the California Welfare and Institutions Code provisions made in order to conform state law with the 2016 amendments to the Bureau of Indian Affairs regulations. This letter is the first in a series devoted to this topic and will focus on “inquiry,” “reason to believe,” “further inquiry,” “reason to know,” and “notice” requirements.



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May 11, 2023

ALL COUNTY LETTER NO. 23-46

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL CHIEF PROBATION OFFICERS
ALL COUNTY ER PROGRAM MANAGERS
ALL CDSS REGIONAL OFFICES

SUBJECT: INDIAN CHILD WELFARE ACT INQUIRY, REASON TO BELIEVE,
REASON TO KNOW, AND NOTICE REQUIREMENTS

REFERENCE: [ASSEMBLY BILL 3176 \(CHAPTER 833, STATUTES OF 2018\);](#)
[ASSEMBLY BILL 2944 \(CHAPTER 104, STATUTES OF 2020\);](#)
[ALL COUNTY LETTER NO. 18-140;](#)
[ALL COUNTY LETTER NO. 20-38;](#)
[ALL COUNTY LETTER NO. 22-95;](#)
[TITLE 25 UNITED STATES CODE CHAPTER 21 1901 ET SEQ.;](#)
[25 CODE OF FEDERAL REGULATIONS PART 23;](#)
[WELFARE AND INSTITUTIONS CODE SECTION 224.1,](#)
[WELFARE AND INSTITUTIONS CODE SECTION 224.2,](#)
[WELFARE AND INSTITUTIONS CODE SECTION 224.3,](#)
[WELFARE AND INSTITUTIONS CODE SECTION 306,](#)
[WELFARE AND INSTITUTIONS CODE SECTION 306.6,](#)
[WELFARE AND INSTITUTIONS CODE SECTION 361.31, AND](#)
[WELFARE AND INSTITUTIONS CODE SECTION 827;](#)
[86 FEDERAL REGISTER 54709;](#)
[CHILD WELFARE SERVICES MANUAL OF POLICIES AND](#)
[PROCEDURES DIVISION 31 REGULATIONS](#)

The purpose of this All County Letter (ACL) is to engage, support, and assist county child welfare services (CWS) agencies and county probation departments with Indian Child Welfare Act (ICWA) implementation by providing an overview of amendments to [Welfare and Institutions Code \(WIC\) section 224.2](#) related to the ICWA ([25 United States Code \(USC\) §§ 1901 et seq.](#)) and the federal Bureau of Indian Affairs (BIA) regulations implementing the ICWA. ([25 Code of Federal Regulations \(CFR\) Part 23.](#)) This ACL is a follow-up to [ACL No. 20-38](#), which indicated the California Department of

Social Services (CDSS) would release further policy and best practice guidance to provide additional support for implementing the amendments to the California WIC provisions made in order to conform state law with the 2016 amendments to the BIA regulations. This ACL is the first in a series devoted to this topic and will focus on “inquiry,” “reason to believe,” “further inquiry,” “reason to know,” and “notice” requirements.

BACKGROUND

The ICWA was enacted in 1978 to prevent the breakup of Indian families and to protect the best interests of Indian children, their families, and tribes. However, the implementation and interpretation of ICWA has been inconsistent across states; creating significant gaps in protection and increasing the number of Indian children in care. As a result, the BIA promulgated regulations to address the need for consistent interpretation and implementation of the minimum Federal standards ICWA provides to ensure that all Indian children and their families receive the same rights and protections across all states. The ICWA establishes minimum standards for state court proceedings including dependency, juvenile justice, probate guardianship, and adoption proceedings involving Indian children when the proceeding may result in a voluntary or involuntary placement or adoption of the Indian child. California has since enacted its own Indian child welfare laws, which incorporate and expand upon the minimum federal standards contained in the ICWA itself, adopted and clarified by the BIA in 2016 into statute with the passage of [Assembly Bill \(AB\) 3176](#) (Chapter 833, Statutes of 2018), effective January 1, 2019, and [AB 2944](#) (Chapter 104, Statutes of 2020), effective January 1, 2021. Thus, California statutes dictate that county CWS agencies and probation departments have a responsibility to understand and meet ICWA standards in order to ensure the safety of California’s Indian children and help Indian children remain safely in, or return to, their homes whenever possible.

The CDSS is releasing a series of ACLs as a follow-up to [ACL No. 20-38](#), which indicated the CDSS will release further policy and best practice guidance to provide additional support for implementing AB 3176. The series of ACLs provide additional details and guidance to expand upon the policies outlined in [ACL No. 20-38](#), which include:

- Inquiry/Further Inquiry/Reason to Believe/Reason to Know/Notice
- Emergency Removals/Emergency Placement/Placement Preferences
- Active Efforts
- Voluntary/Involuntary Proceedings
- Qualified Expert Witness
- Jurisdiction

This ACL will be focused on “inquiry,” “reason to believe,” “further inquiry,” “reason to know,” and “notice” requirements.

INQUIRY

In California, “Indian child” means an unmarried person who is under age 18 and is either a member of a federally recognized tribe or is eligible for membership in such a tribe and is the biological child of a member of a tribe. ([WIC § 224.1\(a\)\[cross-referencing the ICWA definitions at 25 USC § 1903\(4\) & \(8\)\]; CWS Manual of Policies and Procedures \(MPP\), Division 31 § 31-002\(i\)\(4\)\(A\).](#)) It also includes “an unmarried person who is 18 years of age or over, but under 21 years of age, who is a member of an Indian tribe or eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe, and who is under the jurisdiction of the dependency court, unless that person or their attorney elects not to be considered an Indian child.” ([WIC § 224.1\(b\)](#); see also [MPP § 31-002\(i\)\(4\)\(B\)](#).) Social workers and probation officers should never assume a child may or may not be an Indian child. Each tribe is a sovereign nation with its own laws. Only a tribe possesses the authority to determine whether a person is or is not eligible to be a member or citizen of that tribe, and the tribe’s determination is conclusive. ([WIC § 224.2\(h\)](#).) A parent’s or child’s Indian status is thus a political classification, not a racial one. Please refer to the CDSS’s [ICWA Desk Reference](#) for more information on political relationships.

The ICWA and California Indian child welfare law serve, among other things, to ensure that children with political relationships with tribes are identified as early as possible to afford the child’s tribe the full opportunity to participate and partner with the county on all aspects of decision-making regarding the child and full participation in any court proceeding arising from county intervention. The laws also serve to recognize the sovereignty of federally recognized tribes. Furthermore, for children of non-federally recognized tribes, California law permits the court to allow the tribe’s involvement in the Indian child custody case, and the Department encourages similar outreach and involvement of the agency with those tribes.

The ICWA and California Indian child welfare law must be applied as soon as possible after the county is made aware of alleged abuse or neglect of the child, i.e., at a hotline referral or when a child is taken into temporary custody of a county due to an emergency situation. It also must be applied at first contact with a family seeing to relinquish a child for adoption. Thus, early determination of a child’s and/or their parents’ membership in a tribe is necessary.

The first step for ensuring ICWA compliance is to actively inquire about whether there is any information that a child is or may be an Indian child. The provision under [WIC section 224.2\(a\)](#) states that “the court, county child welfare department, and the probation department have an *affirmative and continuing* duty to inquire whether a child

is or may be an Indian child.” This requires proactive and ongoing efforts by the county, including regularly asking the child (where age-appropriate), the parents and extended family members, and other interested persons for any information that indicates the child is or may be an Indian child. Once the county learns of any information that indicates the child is or may be an Indian child, it also requires communication with any identified tribes to determine whether the child or the child’s biological parent(s) are members of the tribes. This “affirmative and continuing duty” requires proactive work by the county to determine whether there is any information that the child may be an Indian child and, if so, whether that information leads the county to know, or have reason to know, that the child is an Indian child.

At the very first contact by a county CWS agency or probation department regarding a child, including when a party reports child abuse or neglect to a county child welfare hotline or when the child is placed into the temporary custody of the agency under WIC sections [305.6](#) or [306](#), the intake and investigation process must include inquiry. Inquiry means asking directed questions to the child, parents, Indian custodians, guardians, and/or reporting parties regarding if there is any information indicating that the child may be an Indian child and where the child, parents, or Indian custodian are domiciled. ([WIC §§ 224.2 \(a\) & \(b\)](#)). The results of this inquiry shall inform ongoing inquiry that must occur throughout the county’s involvement unless and until there is a definitive determination by any tribe that the child is an Indian child or until the court makes a determination, based on the results of inquiry and/or notice, that the ICWA does not apply.¹

When first receiving a report to the hotline or taking a child into temporary custody, the social worker or probation officer must ask if there is any information indicating that the child may be an Indian child. If this inquiry results in information indicating that the child may be an Indian, the social worker or probation officer must document that information and, if the report is not evaluated out immediately, follow-up with the child, the child’s parents, legal guardian and/or Indian custodian, extended family members,² and others who have an interest in the child.

At the first contact with the family, as indicated in the Emergency Response Protocol ([MPP § 31-105](#)), the social worker or probation officer must ask the child (if

¹ If the child meets the definition of “Indian child” through more than one tribe, then the child must be treated as an Indian child and all tribes should be treated as the child’s tribe until one tribe is identified as the child’s tribe as described in [WIC section 224.1\(e\)](#).

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.” ([25 USC § 1903\(2\)](#).) Therefore, it is up to the child’s tribe to determine, in the first instance, if an individual is an “extended family member,” and, depending on tribal law or custom, a relationship to the child by blood or marriage is not necessarily required.

developmentally appropriate), the child's parents, legal guardian and/or Indian custodian, available, known extended family members, and other persons with an interest in the child, if there is any information that indicates the child is or may be an Indian child. The inquiry shall include asking these persons for the names and contact information for other family members or interested persons who may have information about whether the child is an Indian child. The results of this inquiry also must be documented.

It is important to understand that because of the historical removal of Indian children from their families, many parents do not know if they are members of tribes or have tribal heritage. Parents may also choose not to disclose if they are tribal members or have tribal heritage. For these reasons, inquiry must extend to other members of the family. Moreover, because of the multi-ethnic nature of the population of the United States, the reporting party, the child themselves, the child's family, and/or other persons familiar with the child may identify the child as a race or ethnicity other than Native American. It is therefore critical for inquiry to occur with as many family members and persons with an interest in the child as possible and for inquiry to involve more than simply asking if the child or any family members are "Indian" or "Native American."

The investigating agency's duty of inquiry, which is ongoing throughout the investigation, includes affirmatively asking the child, parents, legal guardian, Indian custodian, extended family members, and any other persons who have an interest in the child as to whether the child is or may be a member of a tribe, or the biological child of a member of a tribe, or eligible for membership in a tribe. Because domicile³ on a reservation creates a presumption that a child is an Indian child, inquiry should include questions about where the child, the parents, or Indian custodian is domiciled. Each response must be documented in the case record, including the date/time, location, name of person interviewed, communication method, and attempts. Agency personnel should engage in good-faith efforts to communicate honestly and respectfully and ask culturally responsive questions during the inquiry process. ([MPP § 31-110.31.](#))

Counties should defer to any local protocols when communicating with tribes. In the absence of local protocols, best practice is to communicate with the family and tribe consistent with culturally responsive, trauma-informed care, as members of tribal communities may experience intergenerational trauma that makes them apprehensive about engaging with CWS agencies.

³For purposes of child welfare, "[d]omicile" in the case of an Indian child, means: (A) [f]or a parent or Indian custodian, the place at which a person has been physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain indefinitely even though the person may be currently residing elsewhere. (B) [f]or an Indian child, the domicile of the Indian child's parents or Indian custodian or guardian. In the case of an Indian child whose parents are not married to each other, the domicile of the Indian child's custodial parent." ([MPP § 31-002\(d\)\(5\).](#))

A sample set of questions developed by CDSS in partnership with California tribes is attached (see Attachment A).

Inquiry should be thoroughly documented in the case file and on Judicial Council's form [ICWA-010\(A\)](#) (*Indian Child Inquiry Attachment*). Additionally, please refer to page four of [ACL No. 20-38](#) for a sample inquiry script that may be used to engage with a tribe when the tribe is first contacted. Inquiry is continued at every stage of intake and investigation, and agencies are advised that a single attempt does not constitute completed "inquiry." Additionally, asking only one or two persons with an interest in the child is insufficient. Inquiry requires attempts to identify and question relatives, extended family members, and other interested persons who may have information related to the child's or parents' membership in a tribe, and regular follow-up with contacts as additional relevant information becomes known.

The goal of inquiry is to identify Indian children as early as possible in the agency's involvement. Because tribes have exclusive authority to determine who their members are, the information obtained through inquiry is to be provided to tribes as early as possible for them to make a membership determination or to advise the agency what additional information is needed about the child. For tribes to make their determination, they need information about the child's background, such as the parents', grandparents', or great grandparents' full given names, dates of birth and death, locations of birth and death, adoption and/or birth certificate information, and the last known tribal members in the family. For more information and for clarity on who the CWS agency must question regarding Indian status, refer to the [MPP section 31-101.52](#).

The ICWA and California Indian child welfare law requires that agencies engage in active efforts to prevent the breakup of the Indian family⁴ prior to removal of a child from their parent, legal guardian or Indian custodian. In order to make such active efforts, an agency needs to identify whether a child is an Indian child as early as possible in the child welfare investigation.

Early communication with the tribe can result in a successful plan being made with the family, which is likely to improve the child's safety and well-being. A reporting party's response at the time of intake that there is no information suggesting the child is or may be a member of, or the biological child of a member of, or eligible for membership in, a tribe is not a sufficient basis to cease to inquire at future stages of the investigation or case, as the reporting party may have no information or limited information about the child's or the parents' tribal membership/citizenship. The investigating agency's

⁴ For more information about active efforts, see the [ICWA Desk Reference](#) at 11-28. An ACL addressing active efforts in more detail is forthcoming.

ongoing duty to inquire therefore begins at the very first contact regarding a child, even if court intervention or removal of the child seems unlikely. ([WIC § 224.2\(a\).](#))

When there is reason to know the child is or may be an Indian child, the [Judicial Council form ICWA-030](#) (*Notice of Child Custody Proceeding for Indian Child*) shall be completed. At the first juvenile court appearance of each party in any dependency or delinquency case, “the court shall ask each participant present in the hearing whether the participant knows or has reason to know that the child is an Indian child” and “instruct the parties to inform the court if they subsequently receive information that provides reason to know the child is an Indian child.” ([WIC § 224.2\(c\).](#)) Parents or guardians must complete a [Judicial Council form ICWA-020](#) (*Parental Notification of Indian Status*) at their first court appearance. ([MPP § 31-125.82.](#))

REASON TO BELIEVE AND FURTHER INQUIRY

Inquiry may give a social worker or probation officer “reason to believe” the child is or may be an Indian child. A person may have a reason to believe that the child is or may be an Indian child when there is any information which provides the basis for establishing “reason to know” the child is or may be an Indian child discussed further below. This could happen when someone tells a social worker or probation officer they think the child or parents are connected to a tribe, even if the person providing the information does not know whether the parents or child are members or eligible for membership. The primary purpose of [AB 2944](#) (Chapter 104, Statutes of 2020) regarding “inquiry” and “notice” was to clarify that the newly added “reason to believe” standard is meant to be a low threshold to trigger further inquiry ([MPP § 31-125.225\(a\)\(5\)](#)) into the child’s status. The “reason to believe” provisions of AB 2944 clarify the requirement that the court, social worker, or probation officer must engage in further inquiry regarding a child’s possible Indian status as soon as practicable. ([WIC § 224.2\(e\)\(1\).](#))

“Reason to believe” a child is an Indian child exists when the social worker, probation officer, or court has “information suggesting that either the parent of the child or the child is a member or may be eligible for membership in an Indian tribe.” ([WIC § 224.2\(e\)](#); [MPP § 31-101.111.](#)) This information may include, but is not limited to:

- Any person provides information that tends to indicate the child is an Indian child;
- Information that suggests, but does not establish, that the child, parents, legal guardian or Indian custodian reside or are domiciled on a reservation or Alaska Native village;
- Information that suggests, but does not establish, child, parents, legal guardian or Indian custodian receives Indian health and/or education services.

- Information that suggests, but does not establish, that the child is currently or has been in the past subject to the jurisdiction of a tribal court;
- Information that suggests, but does not establish, that the child has an Indian custodian.

If during inquiry, any information is presented that gives the social worker or probation officer “reason to believe” the child is an Indian child, the agency must engage in further inquiry. ([WIC § 224.2\(e\)](#).) Further inquiry must include, at a minimum, engaging with the family by interviewing the parents, guardians, Indian custodian(s), and extended family members about the relevant family background required by [WIC section 224.3\(a\)\(5\)](#) and [WIC section 224.2\(e\)\(2\)\(B\)](#). Each response should be documented in the case record.

At a minimum, depending on the information already gathered, further inquiry might include but not be limited to the following questions:

- Is the child a member of or eligible for membership in one or more federally recognized Indian tribes or Alaska Native villages? If yes, then which tribe or tribes may the child be a member of?
- Is either biological parent of the child a member of a federally-recognized tribe? If yes, then which tribe?
- Is the domicile or residence of the child, the child's parent, guardian or the child's Indian custodian on a reservation or in an Alaska Native village?
- Does the child's biological family identify as having ancestry or heritage with one or more federally-recognized Indian tribe or Alaska Native village?
- Does the child, or any of the child's relatives, receive services or benefits from a tribe or tribes? If yes, which tribe or tribes?
- Does the child or any of the child's relatives receive services or benefits available to Indians from the federal government?

Additionally, further inquiry should include asking whether there are any family members or close friends who may have information about the child's status as an Indian child. If so, to the extent possible, the agency should get the names and contact information for that person or persons, interview them as well, and document such interviews in the case record

Parents or families may not always have the information readily available that is needed to establish a reason to know whether a child is a member or may be eligible for membership in an Indian tribe. Many families may only have ambiguous oral histories of their Indian ancestry. With that in mind, sufficient information to trigger further inquiry might include any information suggesting there could be more information available that would determine whether the child is a member or is eligible for membership in an Indian tribe. **If a social worker or probation officer is unsure if a statement about**

Indian ancestry rises to the level of “reason to believe a child is or may be an Indian child,” it is best practice to continue further inquiry with the child, the parents, legal guardian or Indian custodian, the extended family members and other interested parties in order to obtain the most complete information possible.

As soon as the agency receives information suggesting that the child may be a member of an identified tribe or tribes, the agency must initiate contact with the tribe(s). ([WIC § 224.2\(e\)\(2\)\(C\)](#).) A tribe may already be familiar with the family and know the child is a member or eligible for membership and the biological child of a member. The tribe may also be able to assist the agency in determining what additional information is needed to determine if the child is an Indian child. Contact with the tribe or tribes and any other person that may reasonably be expected to have information regarding the child’s membership status, or eligibility is integral to performing further inquiry. As with initial inquiry, agency personnel should engage in good-faith efforts to communicate honestly and respectfully with the tribe during further inquiry and defer to any local protocols when communicating with tribes. Counties should always engage with tribes in a culturally responsive, trauma-informed manner that reflects respect for the historical trauma experienced by tribal communities.

Absent a local protocol, county personnel may contact a federally recognized Indian tribe’s designated agent for receipt of ICWA notices to confer regarding the child’s and/or their family’s membership status with the tribe. For tribes without a designated agent, the county may contact the tribe to determine who the appropriate individual is to confer about membership status. Additionally, agencies must seek assistance from the CDSS or the BIA through their local agency offices, the [Pacific Regional Office in the Sacramento area](#), or the [Central Office in Washington, D.C.](#) if assistance is needed in identifying the names and contact information of the tribes in which the child may be a member or eligible for membership to perform further inquiry. ([WIC § 224.2\(e\)\(2\)\(B\)](#) and [MPP § 31-110.35 – 31-110.353](#).)

The BIA publishes annually in the [Federal Register](#) a list of designated tribal ICWA agents that can be used to contact individual tribes for further inquiry. This information is also available on the BIA [website](#). In the event that this list is out of date, additional help identifying and locating contact information for a child’s tribe must be sought by emailing the CDSS at ICWAinquiry@dss.ca.gov. Please be advised that sending an email to the CDSS ICWA Inquiry mailbox does not satisfy all of the mandatory “further inquiry” requirements. The CDSS mailbox is only able to assist with providing names and contact information for the tribe(s) in which the child is or may be a member.

The agency should contact the Office of Tribal Affairs at TribalAffairs@dss.ca.gov if they are unable to ascertain tribal contact information from the BIA and the CDSS ICWA Inquiry mailbox. **The agency should not send the Office of Tribal Affairs the ICWA-**

030 form but may call or email if the agency needs assistance reaching out to a tribe.

The social worker or probation officer must then contact *any and all* other persons who may have information about the child's tribal membership, citizenship status, or eligibility. ([WIC § 224.2\(e\)\(2\)\(C\)](#).) This contact helps to ensure the voice of the family is heard and culturally responsive decisions are made. These additional contact efforts are a part of the investigating social worker's or probation officer's due diligence for fulfilling further inquiry requirements.

Further inquiry efforts to the tribe can be conducted with a telephone call, email, or facsimile. ([WIC § 224.2\(e\)\(2\)\(C\)](#).) However, if a specific tribe requires all inquiries to take a particular form (such as by mail), further inquiry should be made in the manner required by the tribe. All attempted inquiries or engagement with, and responses received from, the child, parents, Indian custodian, extended family members, tribal representatives, ICWA agents, and other persons should be documented in the child's case record and such documentation should include as much information as possible regarding the child's family members who are believed to be members of a tribe.

As sovereign governments, only tribes can make membership determinations and establish their own criteria for membership. The agency is to share all available information identified by the tribe(s) as necessary to make a membership or eligibility determination as well as information on the current status of the child and the case. ([WIC § 224.2\(e\)\(2\)\(C\)](#).)

If the tribe responds affirmatively that the child or parent is or may be a member of a tribe, the social worker or probation officer should document the tribe's determination as thoroughly as possible in the case record. Once a tribe determines that the child is a member, or their biological parent is a member and the child is eligible for membership, then the child should be treated as an Indian child.

INFORMATION SHARING

When contacting the tribe or tribes to determine the child's membership status, the agency must also share information on the current status of the child and the case. ([WIC § 224.2\(e\)\(2\)\(C\)](#).) Thus, social workers and probation officers can share the status of the case and the child with the tribe before membership or eligibility is established.

[ACL No. 18-140](#) provides additional details about information-sharing allowable with tribes but does not include the changes to [WIC section 224.2\(e\)\(2\)\(C\)](#) that were made by AB 2944, which bolsters a tribe's right to specified information prior to determining the child's membership or eligibility. However, in order for a tribe to have access to

inspect (or receive copies of) a child's case file, the tribe must first confirm that the child is a member or eligible for membership. ([WIC § 827\(a\)\(1\) and \(f\).](#))⁵

REASON TO KNOW

Pursuant to [WIC section 224.2\(d\)](#), a social worker or probation officer has "reason to know" the child is an Indian child if:

- A person having an interest in the child informs the court that the child is an Indian child.
- The child, their parents, or Indian custodian resides or is domiciled on a reservation or in an Alaska Native village.
- A participant in the proceeding or other interested person informs the court that they have information indicating that the child is an Indian child.
- The child gives the court reason to know they are an Indian child.
- The court is informed that the child is or has been a ward of a tribal court.
- The court is informed that either parent or the child possesses an identification card indicating membership or citizenship in an Indian tribe.

Social workers and probation officers are accountable for understanding the difference between "reason to believe" and "reason to know" because they are distinct legal standards. Having "reason to believe" a child is or may be an Indian child triggers the duty to engage in further inquiry. **If, on the other hand, a social worker, probation officer, or the court has "reason to know" the child is an Indian child, all of ICWA's procedural and substantive protections apply to the case unless and until the court makes a finding that the child is not an Indian child.** ([WIC § 224.2\(i\)\(1\).](#))

In accordance with the [MPP section 31-131](#), when there is "reason to know" the child is an Indian child, the investigating agency must:

⁵ Once a tribe has determined that the child is an Indian child, then individuals who are 1) tribal court personnel, 2) attorneys for any of the parties, including a tribe intervening in the state court proceeding, tribal hearing officers or the equivalent, tribal probation officers or tribal law enforcement officers or the equivalent, 3) attorneys representing the petitioning tribe in a tribal dependency action or similar proceeding, 4) members of a tribal child protective agency or similar agency, 5) tribal members of a child's multidisciplinary team or tribal persons or agencies providing treatment or supervision of the child, tribal family court judges or the equivalent, 6) a tribal family law judge, commissioner, or other hearing officer or equivalent assigned to decide custody issues related to the child, 7) a tribal law-authorized or tribal court-appointed investigator actively involved in a tribal guardianship or similar case, and 8) employees of a tribal child support agency working to establish paternity and enforcing child support orders, may inspect the county juvenile case file ([WIC §§ 827 \(a\)\(1\)\(A\), \(a\)\(1\)\(E\), \(a\)\(1\)\(F\), \(a\)\(1\)\(H\), \(a\)\(1\)\(K\), \(a\)\(1\)\(L\), \(a\)\(1\)\(M\), & \(a\)\(1\)\(N\), and \(f\).](#)). Only individuals who fall within categories 1, 2, 3 and 4 of the preceding sentence, however, are entitled to copies of documents contained in the juvenile case file ([WIC § 827 \(a\)\(5\) and \(f\).](#)).

- Use due diligence to identify and engage with all tribes the child may be a member of, or eligible for membership in, to verify if the child is a member or whether a biological parent is a member and the child is eligible for membership ([WIC § 224.2\(g\)](#)) and document all such efforts in the case record. ([MPP § 31-125.73](#).)
- If the child is under the jurisdiction of a tribal court, that court has exclusive jurisdiction and the investigating agency must contact the tribe by the next working day. The legal requirements for exclusive jurisdiction include that the agency make arrangements with the tribe to transfer the child to the custody of the tribe. The agency must transfer custody of the child to the tribe within 24 hours of the tribe's confirmation the child an Indian child who is already a ward of the tribal court or is subject to exclusive tribal jurisdiction. ([WIC § 306\(d\)](#).) If the agency is unable to confirm tribal jurisdiction or is unable to transfer custody of the child to the tribe, it must proceed in state court and inform the court at the first hearing that the child may be subject to tribal jurisdiction. If at that point the agency receives confirmation from the tribe, the agency must move to dismiss the petition. ([WIC § 306\(e\)](#).)
 - Although in many states a tribe has exclusive jurisdiction over Indian children who reside or are domiciled on the tribe's reservation, this is not the case for California tribes unless the tribe has been approved by the Department of the Interior to reassume exclusive jurisdiction in accordance with the [CFR, Title 25, section 13 et. seq.](#)
- Provide the parents, legal guardian, Indian custodian, and the tribe(s) with notice, as described further below.
- Make active efforts to offer remedial services and rehabilitative programs to prevent removal, unless emergency removal is necessary to prevent imminent physical damage or harm to the child. ([WIC § 306\(f\)\(4\)](#), [MPP § 31-125.732](#).)
- Comply with ICWA placement preferences if there is any removal, including an emergency removal, of the child from the custody of the parents or Indian custodian. ([WIC § 361.31\(b\)](#).)

Please refer to the [ICWA Desk Reference at II-28](#) and Attachment B for additional information related to "inquiry" and "reason to know."

NOTICE

If the social worker or probation officer knows or has reason to know the child is an Indian child, notice must be provided in accordance with [WIC section 224.3](#). Providing notice ensures that the parents, Indian custodians, and tribe(s) know and have an opportunity to respond to any matters involving an Indian child. Tribe(s) have the right to intervene or participate in the proceedings if they choose, but cannot do so without notice of the hearing. For every hearing that may result in the foster care placement,

termination of parental rights, pre-adoptive placement, or adoptive placement of an Indian child, sufficient notice requires the following:

- A [Judicial Council form ICWA-030](#) (*Notice of Child Custody Proceeding for Indian Child*) must be sent to the child's parents or guardians; Indian custodian, if applicable; tribe(s); and
 - If the identity or location of the child's parent(s) or Indian custodian cannot be determined, seek assistance from the Secretary of the Interior's designated agent and the Pacific Regional Office of the BIA in Sacramento, as specified in [25 CFR 23.11\(b\)12](#).
- Additionally, attachments and the petition must be included, as well as a copy of the child's birth certificate, where available. These may vary from county to county, and from case to case.
- If the child's tribe indicates that it intends to intervene, any reports prepared for the hearing must also be provided. The child's tribe can indicate its intention to intervene verbally or in writing (including by phone or email).

The notice must be sent by registered or certified mail with return receipt requested, and must be sent far enough in advance that it will be received at least ten days prior to the hearing, except for the detention hearing in which case notice must be given as soon as possible after the filing of the petition. ([WIC § 224.3\(d\)](#).) Notice must be addressed to the tribal chairperson, unless the tribe has designated another representative to receive ICWA notice. ([WIC § 224.3\(a\)\(2\)](#).) The list of designated agents for service of ICWA notice may be found on the [BIA website](#).

If the child's tribe is known, notice must be sent to that tribe and does not need to be sent to any other tribes, nor does it need to be sent to the BIA regional office or Secretary of the Interior's designated agent. **If the child's tribe is not known**, but there is reason to know the child is an Indian child, notice must be sent to all tribes of which the child may be a member or eligible for membership until one or more tribes confirms membership or eligibility.

Although a child may meet the definition of Indian child with more than one tribe, there may be only one "Indian child's tribe" for purposes of Indian child custody proceedings. ([25 U.S.C. § 1903\(5\)](#); [WIC § 224.1\(e\)](#).) If the child meets the definition of an Indian child through more than one tribe, notice must be provided to all the tribes unless and until the child's tribe is identified. ([WIC § 224.1\(e\)](#).) In such cases, the court must give the tribes the opportunity to determine among themselves which tribe shall be designated the Indian child's tribe. ([WIC § 224.1\(e\)\(3\)](#).) In these cases, the court defers to the agreement among the tribes and must designate the agreed upon tribe as the child's tribe. ([WIC § 224.1\(e\)\(4\)](#).) If the tribes cannot agree, then the court, after considering a number of statutorily established factors, must designate which tribe is the

Indian child's tribe based on the court's determination as to which tribe the child has the most significant contacts. ([WIC § 224.1\(e\)\(5\)](#).) Once a tribe is designated as the child's tribe, either by tribal agreement or after the court's consideration of the required factors, notice need only be provided to the child's tribe. ([WIC § 224.3\(a\)\(3\)\(A\)\(ii\)](#).)

Where there is reason to know a child is an Indian child, but tribal membership has not been formally determined by any tribe, notice must be provided to the child's tribe or tribes unless:

- 1) The tribe(s) "have made a determination that the child is not a member or citizen, or eligible for membership or citizenship." ([WIC § 224.3\(a\)\(3\)\(A\)\(i\)](#)); or
- 2) The court has determined which of multiple tribes is the child's tribe. ([WIC § 224.3\(a\)\(3\)\(A\)\(ii\)](#).)

Only after one of these two events occurs is the CWS agency relieved of its responsibility to provide notice to each tribe of which it is known the child is an Indian child. ([WIC § 224.3\(a\)\(3\)\(A\)](#).)

It is best practice for the county to collaborate with the child's tribe(s) to provide services to the child and family unless the court orders otherwise. The county must exchange information with all participating tribes to the same extent as with other government agencies as is necessary for the government agencies' performance of duties. ([81 Federal Register 38778 & 38811](#).) Additionally, while designating a single tribe as the child's tribe is required in statute, the social worker is encouraged to work with other interested tribes as this could help secure additional child and family services, furthering active efforts. If, for example, both parents are members of different tribes and each tribe is able and willing to offer supports and services to the family, it is best practice for the agency to consult and collaborate with both tribes (unless the child's tribe objects).

Proof of notice, including copies of notices sent, all return receipts, and responses received, must be filed with the court in advance of the hearing. ([WIC § 224.3\(c\)](#).)

Once the child's tribe intervenes or verifies that the child is a member or is eligible and the biological child of a member, the ICWA-030 is unnecessary; notice and the court reports (and all attachments) may be provided in the usual form for parties to a juvenile court hearing. ([WIC § 224.3\(b\)](#).)

Notice is a critical part of ensuring tribes know of the voluntary and involuntary child custody proceedings involving Indian children, allowing active efforts to start upon contact between the CWS agency and the child, allowing the tribe an opportunity to jointly investigate the matter with the CWS agency once it determines whether the child is a tribal member or eligible for membership, and providing the tribe the opportunity to be heard and determine whether to participate in the proceedings. Thus, the investigating agency's notice needs to be complete and accurate, or the tribe may not

have enough information to make a determination or be involved as described. Therefore, notice without the required information is inadequate.

DOCUMENTATION OF ICWA INFORMATION

For all child welfare referrals/cases, as explained above, inquiry must occur at first contact, and the duty to inquire for cases where there is reason to believe a child is or may be an Indian child continues until the court makes a finding that adequate further inquiry and due diligence as required in this section have been conducted and there is no reason to know whether the child is an Indian child. ([WIC § 224.2 \(1\)\(2\)](#).) The information related to ICWA shall be documented in the statewide child welfare case management system and physical case file for each referral and updated throughout the life of the case. Guidance around how to document and update the ICWA eligibility fields in the Child Welfare Services/Case Management System (CWS/CMS) was issued in [ACL No. 22-95](#). To further emphasize the requirement and the importance of correctly entering this information for every referral/case, the information contained in [ACL No. 22-95](#) will also be included in this ACL.

DOCUMENTATION OF ICWA ELIGIBILITY IN THE CWS/CMS

The *ICWA Eligible* field in the *Other Client Information* grid on the ID Page of the child/youth's *Client Notebook* within the CWS/CMS, includes the options:

- Yes
 - Marked when the court determines that ICWA applies.
- No
 - Marked when it is confirmed by the court that ICWA does not apply.
- Not Asked
 - The 'ICWA Eligible' field on the ID tab of the child/youth's Client Notebook **defaults to "Not Asked."** If the social worker does not update this field, it will remain as "Not Asked" and inquiry efforts will not be accurately reflected in CWS/CMS. It is imperative to update this field and any other ICWA information as inquiry efforts occur.
- Pending
 - Marked when the court has not made a determination that ICWA applies.

It is important to make sure to mark the appropriate box for each child/youth so that accurate data is captured.

If *Not Asked* is marked in the ICWA Eligible field of the child/youth's *Client Notebook*, the person responsible for entering referral data into the CWS/CMS (hereafter referred

to as “Hotline screener”) should offer an explanation in the *Screener Narrative* about why inquiry was not done with the reporting party.

If the Hotline screener asks about ICWA and the reporting party does not know if the child is or may be an Indian child, the Hotline screener should mark *Pending* and indicate in the *Screener Narrative* that the reporting party did not know.

If the Hotline screener marks *Not Asked* or *Pending*, the investigating social worker has a duty to continue to inquire until the court determines whether there is a reason to know that ICWA applies and to update the ICWA Eligible field on the ID page of the child’s/youth’s *Client Notebook* as soon as ICWA eligibility is determined. If *Not Asked* or *Pending* is marked in the ICWA Eligible field of the child/youth’s *Client Notebook* at the conclusion of the investigation, the investigating social worker will describe in the *Investigation Narrative* why the inquiry was not performed or completed. The court investigator or case carrying worker will also update the ICWA Eligible field if they find more information throughout the court investigation or throughout the life of the case. Please refer to Attachment C, which outlines how to document ICWA information as well as Indian ancestry and tribal affiliation in the CWS/CMS.

For added clarity, the [MPP sections 31-131.3 through 31-131.33](#) instructs CWS agencies to treat a child as an Indian child and apply all provisions of the ICWA whenever it is known or there is reason to know the child is an Indian child. It is important to understand that once the agency knows or has reason to know that the child is an Indian Child, they are required to treat the child as an Indian Child and apply the ICWA until the court says otherwise, and should be marking “Yes” in the applicable ICWA eligibility fields, unless and until the court indicates otherwise. In voluntary cases, the agency still must go to the court pursuant to ICWA ([25 USC § 1913](#)) and [WIC section 16507.4\(b\)](#). Please refer to [ACL No. 22-95](#) for additional information on how to document ICWA eligibility.

As previously noted, this is the first in a series of ACLs that provides further support and assistance to counties relevant to the implementation of the ICWA, the 2016 BIA Final Rule, AB 3176, and AB 2944. Forthcoming letters will discuss emergency removal and emergency placement, placement preferences, active efforts, voluntary/involuntary proceedings, qualified expert witnesses, and jurisdiction. The CDSS continues to be dedicated to collaborating with tribes and improving outcomes for Indian children and families by enhancing CWS agency practices and making them consistent across the state.

When the child is Native American but does not meet the definition of “Indian child” within the meaning of ICWA, either because the child’s tribe is not federally recognized or because the child is not eligible for membership in their parent’s tribe, be it federally recognized or not, best practice calls for the caseworker to apply the principles of ICWA

when working with the family. In fact, in certain circumstances, the juvenile court has discretion to allow non federally recognized tribes to participate in juvenile dependency proceedings in essentially the same manner as a federally recognized tribe can participate in an ICWA case. ([WIC § 306.6](#).) Following the “spirit of ICWA” rather than the strict letter of the law helps promote resiliency for Native American children and ensures better outcomes for Native American families, who often share similar experiences and consequences of historic and intergenerational trauma. With regard to inquiry and notice, for example, the Spirit of ICWA calls for making non federally recognized tribes aware of the opportunity to participate in juvenile dependency proceedings. For more information on how to incorporate the spirit of ICWA into social work practice, please refer to the document, [Following the Spirit of the Indian Child Welfare Act](#), issued by the Judicial Council of California.

For questions regarding the information contained in this letter, please contact the Family Centered Safety and Support Bureau at 916-651-6160 or at childprotection@dss.ca.gov.

Sincerely,

Original Document Signed By:

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division

cc: All Federally Recognized Tribes

Attachments

SUGGESTED ICWA INQUIRY QUESTIONS

The following list of questions can be used as a starting point, including at the Hotline and throughout all stages of the investigation and/or case with every referring party and collateral, such as a child, parents, legal guardian, Indian custodian, extended family members, reporting party, or any others with an interest in the child to determine whether the child is a member of or eligible for membership in a federally recognized Tribe. As with working with any child or family, it is good practice to explain that you are trying to determine whether the child is or may be an Indian child because important protections and services apply to these cases.

FAMILY AND SOCIAL CONNECTIONS:

- Is the child or any of the child's great-grandparents, grandparents, or parents a member of a Tribe or an Alaska Native village? Might the child be eligible for membership in a Tribe or an Alaska Native village?
 - In what tribe(s) or Alaska Native village(s) is that membership/citizenship?
 - Does anyone in the child's biological family have identification paperwork (an enrollment card or other documentation) from the Tribe or Alaska Native village?
 - Has anyone in the biological family ever applied for membership/citizenship in a Tribe?
- If the answer to question 1 is yes, ask the following and document in the child's record:
 - What is the member/citizen's full name and, if applicable, maiden name?
 - What is their date and location of birth and/or death?
- Is there anyone in the family or family's social circle who would have more information about the parent or child's tribal membership or eligibility for membership? (Document names and contact information.)
- Does the child or any of the child's relatives receive services or benefits from a Tribe or the federal government due to their Indian status? Examples may include scholarships, grants, Tribal Temporary Assistance to Needy Families (Tribal TANF), per capita payments, Title VI eligibility in public schools, and health services at an Indian health clinic. (Document names, dates, and locations.)
- Is there any other information that suggests the child or their biological parents are members of an Indian Tribe?

RESIDENCY:

- Does the child or a family member (relative) reside on, or have they ever resided on, an Indian reservation, rancheria, or in an Alaska Native village? (Document names, dates, and locations.)
- Has the child or a family member ever attended a federal Indian school or tribal school? (Document names, dates, and locations.)

COURT INVOLVEMENT:

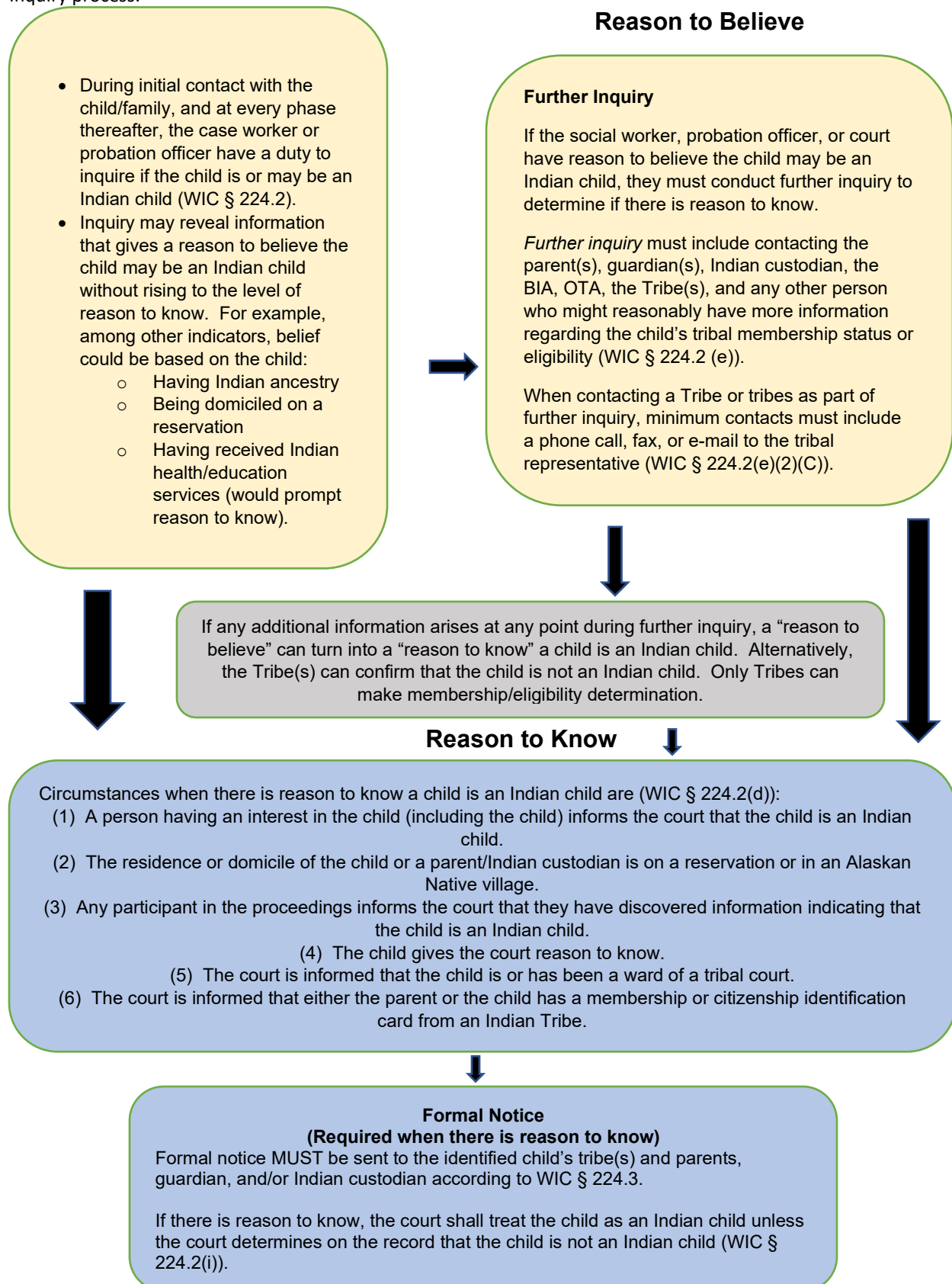
- Has the child ever been involved in a custody proceeding in a tribal court? (Document names, dates, and locations.)
 - Has the child or a biological family member ever been involved in a tribal court matter?
- Has the child or a family member ever been involved in a state proceeding where the court determined that the child or parent are Indian?

FOR FURTHER INQUIRY:

- Have you received any further information about the child's possible tribal membership status since we last met?
- Can you think of anyone else I should reach out to?
- Do you have any family records or documents I can review to follow up on?
- Have you or your attorney made any further efforts to find out more information since we last met?

Based on the prior information provided, was each identified tribe (and all associated bands) contacted to determine the child's eligibility or enrollment? Has the BIA and the California Department of Social Services been contacted?

The flow chart is not meant to be an exhaustive reflection of the requirements of inquiry and notice or the reason to believe/reason to know standards. This should be utilized as a helpful tool to remind social workers of the Inquiry process.



CHILD WELFARE SERVICES/CASE MANAGEMENT SYSTEM DOCUMENTATION

Use these instructions to document a child/youth's Indian heritage as well as to document ICWA notification. Inquiry sample questions can be found on Page 62 of the Office of Tribal Affairs' [ICWA Desk Reference](#) publication.

1. Open the child/youth's Client Notebook
2. Navigate to the ID tab



3. Scroll to the "Other Client Information" Grid and select the appropriate radio button in the "ICWA Eligible" field.

NOTE: This is not currently a mandatory field, however, this is a critical data point for ICWA compliance tracking purposes and must be completed for all referrals.

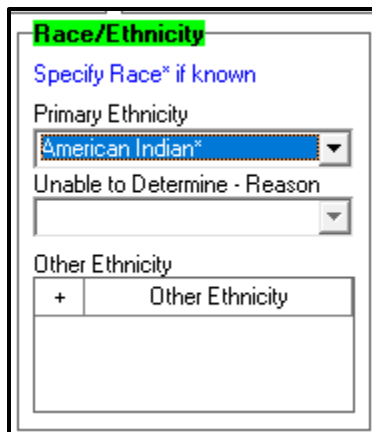
A screenshot of a software interface titled "Other Client Information". It contains two columns of radio button options. The first column is labeled "ICWA Eligible" and has options: Yes, No, Not Asked (selected), and Pending. The second column is labeled "Incapacitated Parent" and has options: Yes, No, Unknown (selected), and Not Applicable. At the bottom, there is a checkbox labeled "Child has Indian Ancestry". A red rectangular box highlights the "ICWA Eligible" section.

4. Click on the "+" in the upper left-hand corner to complete the "Indian Ancestry Notification" grid. This grid indicates when the county was notified that the child/youth has possible Indian Ancestry.

A screenshot of the same software interface as before, but with the "Indian Ancestry Notification" grid expanded. This grid contains a table with columns for a plus sign (+), County, and Date. The first row of the table has the number "1" in the first column. To the right of the table are two dropdown menus: "County" and "Date Informed". The "Date Informed" dropdown is highlighted with a yellow background.

ATTACHMENT C

5. If the child/youth is identified as an Indian Child, update/verify the “Primary Ethnicity” or “Other Ethnicity” to reflect “American Indian”



The screenshot shows a form titled "Race/Ethnicity" with a green header. Below the title is the instruction "Specify Race* if known". The form contains two main sections: "Primary Ethnicity" and "Other Ethnicity". The "Primary Ethnicity" section has a dropdown menu with "American Indian" selected. Below it is a field for "Unable to Determine - Reason" with a dropdown arrow. The "Other Ethnicity" section has a table with a "+" button and the text "Other Ethnicity".

Race/Ethnicity	
Specify Race* if known	
Primary Ethnicity	
American Indian	
Unable to Determine - Reason	
Other Ethnicity	
+	Other Ethnicity

6. Navigate to the Related Clients tab



7. Confirm that the relationships between the child/youth and relatives have been established correctly
8. Complete steps 1-7 for each eligible or pending eligible child/youth
9. Open **parent's** Client Notebook of the parent with Indian ancestry.
10. Navigate to the ID tab



11. Update/Verify the “Primary Ethnicity” or “Other Ethnicity” to reflect American Indian

ATTACHMENT C

Race/Ethnicity

Specify Race* if known

Primary Ethnicity

Unable to Determine - Reason

Other Ethnicity

12. Navigate to the I.C.W.A. tab and click on the “+” In the upper left-hand corner of the “Tribal Membership” grid. Then a dialogue box will pop up to record the following information:

- a. Tribe Location
- b. Tribal Affiliation
- c. Tribe

Summary | ID | Demog. | Address | Names | Related Clients | ID Num | Juv. Crim. | Search Log | AFD/FC | Attorneys | Service Providers | **I.C.W.A.** | Contributing Factors | Spec. Prj. | Adoption Info

ICWA

Tribal Membership

+ Tribal Affiliation	Tribe	Status	Parent

Tribe Location:
 Tribal Affiliation:
 Tribe:
 Membership Status:
 Status Date:
 Enrollment Number:

Ancestor Information

+ Relative Type

Tribal Membership [X]

Tribe Location:

Tribal Affiliation:

Tribe:

Select All
Deselect All

OK
Apply
Cancel
Help

ATTACHMENT C

13. The information entered/selected in the “Tribal Membership” Dialogue box will populate the “Tribal Membership” Grid.

The screenshot shows a software window titled "ICWA" with a sub-header "Tribal Membership". Inside, there is a table with the following structure:

+	Tribal Affiliation	Tribe	Status	Parent
1				
2				

Below the table, there are several input fields:

- Tribe Location: A dropdown menu with a yellow background.
- Tribal Affiliation: A dropdown menu with a yellow background.
- Tribe: A dropdown menu with a yellow background.
- Membership Status: A dropdown menu with a blue border.
- Status Date: A date picker with a blue border.
- Enrollment Number: A text input field.

14. Click on the “+” in the upper left-hand corner of the “Ancestor Information” grid, then you will be able to complete the grid (about the child’s grandparents, great-grandparents, etc.) with as much information as possible, including:
- Relative Type
 - Name
 - Date of Birth
 - Place of Birth
 - Date of Death
 - Place of Death
 - Other Names (If the “+” is selected in the upper left-hand corner of the “Other Names” grid, a dialogue box will open to enter the Name type, First Name, and Last Name. This information will populate the “Other Names” grid.)

ATTACHMENT C

Ancestor Information	
+	Name
1	
2	
3	

Relative Type	Name				
<input type="text"/>	Title	First	Middle	Last	Suffix
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Date of Birth	Place of Birth	Other Names
<input type="text"/>	<input type="text"/>	
Date of Death	Place of Death	
<input type="text"/>	<input type="text"/>	

Relative Tribal Membership	
+	Name Type
	Other Name

Tribal Ancestor Other Names						×
Name Type						<input type="button" value="OK"/> <input type="button" value="Apply"/> <input type="button" value="Cancel"/> <input type="button" value="Help"/>
<input type="text"/>	Prefix	First	Middle	Last	Suffix	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

15. Select the “+” in the upper left-hand corner of the “Relative Tribal Membership” grid (the information entered now will also refer to the relative selected in the “Ancestor Information” grid. Note: if the previously selected person is the parent’s parent, it is the child’s grandparents), then you will be able to enter:
- Tribe Location
 - Tribal Affiliation
 - Tribe
 - Enrollment Number (if available)

ATTACHMENT C

Relative Tribal Membership

+

Tribal Affiliation

Tribe

Tribe Location

Tribal Affiliation

Tribe

Enrollment Number

Current Address

Street No. & Name

City, State, Zip

Former Address

Street No. & Name

City, State, Zip

Tribal Membership

Tribe Location

Tribal Affiliation

Tribe

Select All

Deselect All

OK

Apply

Cancel

Help

16. Repeat steps 9-15 for each parent who indicates they may have Indian Ancestry and for each relative of the parent who may have Indian Ancestry, as a child may have more than one tribal affiliation.

17. Return to the child/youth's Client Notebook and navigate to the I.C.W.A. Page

I.C.W.A.

18. Information from the parent's Client Notebook, I.C.W.A. Page will populate to the child/youth's Client Notebook, I.C.W.A. Page. Complete the Tribal Membership information for each Tribe listed.

Summary | ID | Demog. | Address | Names | Related Clients | ID Num | Juv Crt.# | Search Log | AFDC-FC | Attorneys | Service Providers | I.C.W.A. | Contr

ICWA

Tribal Membership

	Tribal Affiliation	Tribe	Child Status	Parent
1				

Tribe Location

Tribe

Tribe

Continental U.S. Indian Tribes

Child Membership Status

Status Date

Enrollment Number

Family Tree

Membership Status / Date

ATTACHMENT C

19. Use the dropdown menu to select the Child Membership Status, Status Date, and Enrollment Number (if available) for each record in the tribal membership grid. If a tribe is specified, all dropdown options are available.

NOTE: The 60-day rule no longer applies under the provisions set forth in AB 3176. When there is reason to know that the child is an Indian child, the court shall treat the child as an Indian child **unless and until** the court determines on the record that ICWA does not apply ([WIC § 224.2\(i\)](#)). Due to this, “No Response After 60 Days” should not be marked at any point of the referral and/or case.

The screenshot shows a form with the following fields and options:

- Tribe Location:** Continental U.S. Indian Tribes
- Tribal Affiliation:** (empty dropdown)
- Tribe:** (empty dropdown)
- Child Membership Status:** Pending Verification (selected in dropdown menu)
- Status Date:** (empty dropdown)
- Enrollment Number:** (empty text field)
- Buttons:** Family Tree, Membership Status / Date
- Table:** A table with a header row labeled "Name" and an empty body row.

The dropdown menu for Child Membership Status is open, showing the following options: <None>, Claims Membership, Eligible, Member, No Response After 60 days, Not Eligible, and Pending Verification.

If no tribe is specified, only some of the dropdown options are available.

The screenshot shows the same form as above, but with the following changes:

- Tribe Location:** No Tribe Specified
- Tribal Affiliation:** No Tribe Specified
- Tribe:** Bureau of Indian Affairs
- Child Membership Status:** <None> (selected in dropdown menu)
- Status Date:** (empty dropdown)
- Enrollment Number:** (empty text field)
- Buttons:** Family Tree, Membership Status / Date
- Table:** A table with a header row labeled "Name" and an empty body row.

The dropdown menu for Child Membership Status is open, showing the following options: <None>, Claims Membership, Eligible, Member, No Response After 60 days, Not Eligible, and Pending Verification. The options "No Response After 60 days" and "Not Eligible" are greyed out.

20. Repeat steps 17-19 for every eligible child/youth's Client Notebook
21. Be sure to go back to the child/youth's Client ID Page and update the child/youth's ICWA eligibility status when you receive more information about the child/youth's ICWA status.