

March 15, 2024

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY
ALL COUNTY LETTER NO. 24-18

The purpose of this All County Letter is to provide guidance to county child welfare services agencies and probation departments regarding the requirements to make affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with their family. Active efforts provide remedial services and rehabilitative programs designed to prevent the break-up of Indian families and to connect Indian children and their families to culturally relevant services. To support counties in meeting the evidentiary standards in the federal Indian Child Welfare Act of 1978 (25 United States Code section 1901 et seq.) and in California law, as well as child welfare practice requirements contained in federal and state laws and regulations, this letter sets forth current requirements and best practices. This letter is the third in a series devoted to the implementation of Assembly Bill 3176 (Chapter 833, Statutes of 2018) and focuses on active efforts.



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March 15, 2024

ALL COUNTY LETTER NO. 24-18

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

SUBJECT: PROVIDING ACTIVE EFFORTS WHERE IT IS KNOWN, OR
THERE IS REASON TO KNOW, A CHILD IS AN INDIAN CHILD

REFERENCE: [ASSEMBLY BILL \(AB\) 3176 \(CHAPTER 833, STATUTES OF 2018\)](#) AND [AB 2944 \(CHAPTER 104, STATUTES OF 2020\)](#); [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTION 224.1,](#) [WIC SECTION 224.2,](#) [WIC SECTION 224.3,](#) [WIC SECTION 306,](#) [WIC SECTION 306.6,](#) [WIC SECTION 319,](#) [WIC SECTION 352,](#) [WIC SECTION 358,](#) [WIC SECTION 361,](#) [WIC SECTION 361.31,](#) [WIC SECTION 361.7,](#) [WIC SECTION 366,](#) [WIC SECTION 366.26](#) AND [WIC SECTION 16001.9;](#) [TITLE 25 UNITED STATES CODE](#) [CHAPTER 21 SECTIONS 1901 ET SEQ.;](#) [THE BUREAU OF INDIAN AFFAIRS;](#) [CHILD WELFARE SERVICES MANUAL OF POLICIES AND PROCEDURES](#) [DIVISION 31 REGULATIONS;](#) [ALL COUNTY LETTER \(ACL\) NO. 18-42,](#) [ACL NO. 19-87,](#) [ACL NO. 20-38,](#) [ACL NO. 22-35,](#) [ACL NO. 23-46](#) AND [ACL NO. 23-64;](#) [GUIDELINES FOR IMPLEMENTING THE INDIAN CHILD WELFARE ACT \(2016\);](#) [FOSTER YOUTH BILL OF RIGHTS;](#) [CALIFORNIA'S FIVE-YEAR PREVENTION PLAN](#)

The purpose of this ACL is to provide guidance to county Child Welfare Services (CWS) agencies and probation departments, collectively referred to as county agencies, regarding the requirements to make affirmative, active, thorough, and timely efforts intended primarily to maintain or reunite an Indian child with their family. Active efforts provide remedial services and rehabilitative programs designed to prevent the break-up of Indian families and to connect Indian children and their families to culturally relevant services.

To support counties in meeting the evidentiary standards in the Federal Indian Child Welfare Act (ICWA) of 1978 ([25 United States Code section 1901 et seq.](#)) and in California law, as well as child welfare practice requirements contained in federal and state laws and regulations, this letter sets forth current requirements and best practices. This letter is the third in a series devoted to the implementation of [AB 3176](#) (Chapter 833, Statutes of 2018) and focuses on active efforts.

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 Bureau of Indian Affairs (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 [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 agencies have a responsibility to understand and meet ICWA standards to ensure the safety of California's Indian children and help Indian children remain safely in, or return to, their homes whenever possible.

The California Department of Social Services (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 ([ACL No. 23-46](#))
- Emergency Removals/Emergency Placement/Placement Preferences ([ACL No. 23-64](#))
- Active Efforts
- Voluntary/Involuntary Proceedings
- Qualified Expert Witness
- Jurisdiction

This ACL will focus on active efforts requirements.

WHAT CONSTITUTES ACTIVE EFFORTS

Active efforts are affirmative, active, thorough, and timely efforts intended to maintain or reunite an Indian child with their family ([Welfare and Institutions Code \(WIC\) section 224.1\(f\)](#) and [Child Welfare Services \(CWS\) Manual of Policies and Procedures \(MPP\) Division 31, section 31-002\(a\)\(1\)\(A-K\)](#).) Active efforts must be made before county agencies seek court intervention and must continue to be made throughout the life of the case whenever it is known, or there is reason to know, a child is an Indian child. Except in cases of an emergency removal¹ pursuant to [WIC section 306](#), the agency must make active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family *prior to* removal ([WIC section 306\(f\)\(4\)](#) and [MPP 31-101.522](#).) Active efforts are efforts and services that exceed reasonable efforts. These efforts must be integrated into child welfare practice by engaging the Indian child, the Indian child's parents, extended family members, and the Indian child's custodian(s), and the tribe(s). These efforts must be made in a manner consistent with the prevailing social and cultural conditions and way of life and conducted in partnership with the Indian child's tribe(s). These efforts include, but are not limited to, identifying culturally appropriate services centered around helping the family to overcome barriers, including actively assisting the family in obtaining services. The active efforts requirement applies in all foster care, guardianship, or termination of parental rights proceedings involving an Indian child, including private adoptions. The court must conclude, prior to ordering an involuntary foster care placement or termination of parental rights, and at every review hearing ([WIC section 366\(a\)\(1\)](#)), that active efforts have been made to prevent the breakup of the Indian family and that those efforts have been unsuccessful ([WIC section 361.7\(a\)](#).)

Application of the ICWA's substantive and procedural protections is required in Indian child custody proceedings whenever there is reason to know² that a child is an Indian child and social workers and probation officers must make active efforts to prevent the break-up of tribal families or reunify them as quickly as it is safely possible ([WIC section 224.2\(d\)](#).) If there is reason to know that a child is an Indian child, the case must be treated as though the child is an Indian child unless and until a court makes a finding that the child does not meet the definition of an Indian child ([WIC section 224.2\(i\)](#).)

¹ [MPP section 31-002\(e\)\(7\)](#): "Emergency removal" in the case of an Indian child means the immediate physical removal of the child from the parent(s) or Indian custodian(s) that is necessary to prevent imminent physical damage or harm to the child.

² See [ACL No. 23-46](#) for additional guidance regarding "reason to know" and "reason to believe."

Active efforts must begin early in the family's child welfare or juvenile justice system involvement so that the county agency will already be meeting the active efforts requirements and can continue tribal engagement in assessing and supporting the family and addressing their needs.

Active efforts help to prevent removal from the home, aid in faster reunification with parents, guardians, or Indian custodians, and ensure that culturally relevant and individualized services are offered. An important component of active efforts is not merely referring, but also connecting tribal families to available services and resources that are reflective of each family's cultural values and practices. These services must be accessible regardless of the distance or availability. Active efforts may also involve assisting the family with tribal enrollment, including the completion of tribal membership applications. In providing active efforts, county agencies must develop partnerships with the tribe(s), extended family members, tribal social services agencies and other service providers who work with the Indian community. These may include:

- Tribal leaders,
- Tribal representatives, and/or
- Tribal Organizations/Service Providers

The county agency should develop contracts with the tribe(s), tribal service providers, and other providers who serve the Indian community whenever possible, specifically, to be able to refer parents, Indian custodians, and Indian children to culturally relevant services and address each family's individual needs. In order to facilitate identification of Indian children, communication between the county and the tribe(s), and the identification and provision of services to the child and their family, the county agency must engage with the child, the child's family, including extended family members, child and family support network, and all relevant tribes, and must work together as partners in serving and supporting Indian children and families.

ACTIVE EFFORTS WHEN THERE IS ONLY REASON TO BELIEVE THE CHILD IS OR MAY BE AN INDIAN CHILD

If an agency has reason to believe a child is an Indian child, they shall make further inquiry, including engaging actively with any identified tribe in which a child may be a member or eligible for membership, as described in [ACL No. 23-46](#). "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 section 224.2\(e\)](#).) An example of "reason to believe" is if someone shares that they have information suggesting that the child has Indian ancestry because the child's grandparent was an enrolled tribal member.

Additionally, where the facts demonstrate that it is likely that the child is an Indian child, but the facts do not yet rise to the level of “reason to know” that the child is a member of any identified tribe, a county would be well served by connecting the child and the family to culturally relevant services even before it is known or there is reason to know the child is an Indian child. Upon establishment of “reason to know” and/or verification that the child is an Indian child, the county will be required to establish that it made active efforts prior to removal of the child from the family. If there was strong evidence that the child is an Indian child, but that evidence does not rise to the level of reason to know as defined in [WIC section 224.2\(f\)](#), a court later could conclude that the county did not make active efforts to prevent the breakup of the Indian family once evidence is established that the child is an Indian child. This is a best practice issue where the county should confer with their legal counsel to determine whether tribal engagement is recommended even though “reason to know” has not yet been established.

ACTIVE EFFORTS REQUIREMENTS DURING INTAKE AND INVESTIGATION

Whenever there is a reason to know the child is an Indian child, it is critical to begin active efforts upon receipt of a child abuse or neglect referral, or upon the first contact with the child or family, whichever is earlier. Any pre-removal investigation involving the Indian child, when possible, should include engagement and collaboration with the family’s tribe(s) and extended family members and these efforts must be clearly documented in the case record. Early engagement also allows for more opportunities to partner with the tribe or tribal representative in coordinating services, including planning with the tribe to complete assessments and joint in-person visits with the child and family.

Because active efforts must begin before an Indian child is removed from their home, it is critical to determine whether a child is an Indian child at the earliest possible time, which is why inquiry begins at the first contact the county has about the child. When there is reason to believe that a case involves an Indian child, it is necessary for the county social worker and probation officer to use due diligence to identify and attempt to contact the child’s tribe(s) as well as the parent or Indian custodian(s), including absent parents, as soon as possible, in order to gather information relevant to the determination of whether the child is an Indian child. Once information establishes that the child is an Indian child, or that there is reason to know the child is an Indian child, the county must start making active efforts to prevent the breakup of the Indian family. When it is known, or there is reason to know that a case involves an Indian child, it is necessary for the county social worker to formally contact and involve the child’s tribe(s) while making active efforts ([WIC section 224.2\(f\)](#).) To identify the correct tribal contact, start with the tribe and/or tribe’s designated agent for receiving ICWA notices, who can be located on the [BIA’s](#) website, or follow any protocols that exist between the tribe and county for this purpose. To ensure the child remains safely in the home, county social workers should engage in active efforts in accordance with the [MPP section 31-135.23](#).

In some situations where the child is eligible for membership, but the family has lost tribal connections or is unsure of how to make those connections, as part of active efforts, the social worker can assist the family to reconnect with the family's tribe(s). It is important for the social worker to consider and understand what these families may be experiencing due to their historical and intergenerational trauma and assist in their healing. Assisting the family with connecting to their tribe's resources frequently helps provide support and opens the pathways to healing, resulting in better outcomes for the child and the parents, guardians, and Indian custodians.³

When an in-person investigation is necessary, active efforts during the investigation help maintain the family's cultural connections and supports a collaborative relationship with the tribe(s) ([MPP sections 31-110.32, 31-115.21, 31-120.2, 31-125.226.](#)) The social worker is responsible for explaining to the Indian child's family what to expect during intake and the investigation, along with explaining how the tribe(s) and/or tribal representative, may be an active participant in the investigation. The explanation should also address how the tribe will participate in all decision-making during the investigation. The county agency shall also explain how the tribe will play an active role in identifying necessary and culturally appropriate supportive services to be provided to the family. If there is an existing Memorandum of Understanding or some other local protocol or agreement with the tribe(s) regarding intake or tribal collaboration, those need to be followed and explained to the family. However, the burden of active efforts should not be on the tribe. The county agency must make certain that necessary supportive services are identified, regardless of if the tribe(s) are involved.

The social worker must immediately contact the tribe(s), any tribal representatives (including social workers) about the case, the child's immediate and extended family, and the child's and family's support network. This immediate contact may allow the county and tribal representative to partner and have a discussion prior to visiting the family, to collaboratively develop a plan to mitigate the identified safety threats, and to work together to identify the next steps prior to removal of the child from the home ([WIC section 306\(f\)\(4\).](#)) There are various ways to ensure components of active efforts are being offered. Some examples of active efforts include, but are not limited to:

- Consulting with the tribe in the completion of the Structured Decision Making (SDM®) Hotline Tool, when possible, and SDM® Safety and Risk Assessments. If the tribe is not able to assist with the completion of assessments, sharing the results with the tribe and engaging in open communication to obtain tribal input can also be an example of active efforts.
- Engaging the tribe in the development and completion of safety plans with the child and family ([MPP section 31-127.331\(b\).](#))

³ [Historical Trauma Resource Guide. Capacity Building Center for tribes](#)

- As part of family finding⁴ efforts, conducting a diligent search for the child's extended family members and contacting extended family members to gather information regarding family structure and support for the child, parents, or Indian custodians.
 - These efforts support the child being able to remain within their family or extended family if an emergency placement becomes necessary.
- Identification of and connection to services for the family and child to support family preservation.
- Encouraging and arranging regular visits, including trial home visits, with parents or Indian custodians and ensuring siblings stay together whenever possible, when removal is necessary.
- Ensuring that services and supports are provided to the caregivers to support the placement and needs of the children.
- Identifying community resources, including housing, financial assistance, transportation, mental health and substance abuse services, and peer support services, and actively assisting the child's parents or, when necessary, the child's family, in utilizing and accessing those resources ([WIC section 224.1\(f\)\(8\).](#))

Active efforts also involve working with the Indian child's tribe and family to develop an alternative plan to out-of-home placement and ensure that all placement options are consistent with the ICWA and [WIC section 361.31](#) (ICWA placement preferences). When culturally relevant services are identified and included in the case plan, active efforts must be made for the service providers and tribes to be involved in case planning and monitoring for the family, including, but not limited to Child and Family Teams (CFTs)⁵, safety planning, meetings, behavioral health planning, etc.

Even when an emergency removal is necessary, the CWS agency must continue making active efforts without delay after the removal has occurred. When a county is seeking to remove an Indian child from their home, written documentation in the case file and reports must show in detail the inquiry conducted and that active efforts were made to provide remedial services and rehabilitative programs to the family in an effort to prevent the removal of that child, unless the removal was on an emergency basis ([WIC section 319\(f\)\(2\).](#)) If the court determines the removal is necessary, the circumstances leading to the imminent physical damage or harm to the child should be clearly stated in the case record as well.

If a child must be removed in a non-emergency situation, the county social worker shall clearly document what efforts have been taken to help the parent, guardian, or Indian custodian so the Indian child may safely be returned to their custody. In such cases, failure to make active efforts prior to removal is contrary to both the letter and the "spirit

⁴ [ACL No. 18-42](#): Family Finding and Engagement

⁵ [CFT Tribal Engagement Guide](#)

of ICWA” and California’s Indian child welfare laws. Additionally, following the “spirit of ICWA” rather than the strict letter of the law helps promote resiliency for Native American and Alaskan Native children and ensures better outcomes for tribal families, who often share similar experiences and consequences of historic and intergenerational trauma. With regard to active efforts, for example, the “spirit of ICWA” calls for consulting and collaborating with a non-federally recognized tribe although it is not required by federal law; and state law ([WIC section 306.6](#)) authorizes, but does not mandate, the juvenile court to permit such tribes to participate in a dependency proceeding. 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.

When a child is removed from their Indian family, regardless of whether in an emergency or non-emergency situation, the court must order services to be provided as soon as possible to reunify the child and their family, if appropriate ([WIC section 319\(g\)](#).) Even if the court does not order such services, the county agency should continue to make active efforts to provide the remedial and rehabilitative services to the parents, legal guardian, or Indian custodian, and continue to partner with the tribe regarding placement and services for the child and the family. See [ACL No. 23-64](#), which provides guidance on emergency removals and placement preferences.

ACTIVE EFFORTS AND FAMILY FIRST PREVENTION SERVICES

The Family First Prevention Services Program provides an opportunity to make affirmative, active, thorough, and timely efforts to maintain an Indian child with their family. As described in [California’s Five-Year Prevention Plan](#), prevention efforts in the Title IV-E pathway are coordinated by the county child welfare or probation agency and must be done so in consultation and collaboration with tribes to ensure the provision of culturally appropriate prevention services in a manner consistent with active efforts to support Indian families in both rural and urban settings. Indian children and their families may be referred to Title IV-E eligible prevention services under any of the identified pathways or referred for assessment from outside sources such as a school or medical provider, including self-referrals. As county agencies develop their comprehensive prevention plans, they must engage and partner with local tribes to coordinate how local Title IV-E and community pathways will involve tribes and ensure consistency with the ICWA.

Prevention Services in the Title IV-E Pathway

Indian children may be provided prevention services either by a tribal Title IV-E Prevention Program or a county Title IV-E Prevention Program. In the Title IV-E pathway, prevention services to an Indian child under the county Title IV-E program is

closely intertwined with the requirement of the ICWA that active efforts must be made to provide services and programs to prevent the breakup of an Indian family. The following activities identify points in a prevention case where a child's tribe(s) must be engaged:

- Inquiry regarding tribal membership or eligibility.
- Notice to the tribe(s) where the child is a member or eligible for membership.
- Sharing information with the tribe(s) for the tribe to make a membership determination, including but not limited to, the child and parents' names & dates of birth and other information about the status of the child (and case).
- Joint referrals to services, performed with the tribe(s) input and involvement in decision-making.
- Intake for services and keeping the tribe up to date on information regarding service delivery.
- Ensuring access to information regarding candidacy determinations including sharing information with the tribal IV-E agency so that the agency may make the determination for its children.
- Co-development of a Prevention Plan with the tribe's input and involvement in decision-making.
- Delivery and coordination of services.
- Input into decision-making regarding safety and risk assessments.

Prevention Services in the Community Pathway

The community pathway is intended to engage families in voluntary services provided by community-based organizations and service providers as early as possible to prevent entry into foster care. Tribal families can benefit from and access prevention services through this pathway as well. Local service providers will be trained to understand the purpose and components of the ICWA relevant to their programs and to engage tribes in service planning and delivery for American Indian and Alaskan Native children and their families. When the local service provider has information that there is 'reason to know' that a child is an Indian child, the provider must contact the child's tribe, and provide the child's tribe the opportunity to partner in the family assessment, case planning, service delivery, and any safety and risk assessments.

ACTIVE EFFORTS UPON OPENING A CASE

When a case is opened and a case plan is being developed, it is the responsibility of the county social worker to assist and support the child's parents, guardians, or Indian custodians to overcome barriers by making sure services are accessible and possible, and meet the family's needs. The county social worker should not simply provide the family a list of services but should actively assist them in obtaining the services. The services obtained for an Indian child's family should reflect their tribe's prevailing values,

culture, and way of life and promote the stability and security of the child and family. The county social worker must engage the child, immediate and extended family, tribe(s), and tribal representatives to identify and use tribally identified resources that may be available for each specific family member. A tribal representative sent to collaborate and/or participate in these activities may include, but are not limited to an elected leader, a social worker, and/or an attorney. County social workers should understand that tribes have differences in terms of their culture, resources, government, and staff, and the types of representatives will therefore differ depending on the tribe. These same requirements apply to juvenile justice cases where the youth is adjudicated a ward due to a status offense and placed in foster care.

ACTIVE EFFORTS DURING FAMILY MAINTENANCE CASES

Family Maintenance (FM) services are tailored to prevent or mitigate child abuse, neglect, or exploitation concerns and safely maintain the child in their home, whenever possible. Aligning with the philosophy that children who remain in the care of their families have better outcomes than those in foster care, CWS agencies can offer FM services designed to prevent the trauma of separation of children from their families through services and supports that ensure children's safety, permanency, and well-being. Successful FM services foster mutual trust, respect, and open communication, by linking families to culturally relevant supports and services. When it is known, or there is reason to know a child is an Indian child, the county agency should be partnering with the child's tribe and demonstrating affirmative, active, thorough, and timely efforts to maintain the Indian child with their family and prevent removal. A partnership between the family, the child's tribe(s), and the county social worker helps achieve desired outcomes by empowering families to make decisions on their case plans that are individualized, culturally responsive, and relevant to the family's needs. Ensuring active efforts in early intervention services can result in authentic engagement, collaborative teamwork, and improvements in child safety and family well-being.

Voluntary Family Maintenance (VFM) is a voluntary agreement initiated by either the county CWS agency or the court. By creating a culture where CWS agencies work with tribe(s) to help families to understand the benefits of early intervention services and to ensure the family's voice is prioritized in service planning, families will be more inclined to authentically and voluntarily engage and participate to improve their family's well-being. It is critical that the threat of removal is not used to garner the family's participation in services but that the parent, guardian, or Indian custodian agrees to participating in VFM services of their own free will. Typically, VFM cases are limited to six months but could be extended if the case plan objectives can be achieved within the extended time period. If a family chooses to end the voluntary service agreement, but there remains a concern for the child(ren)'s safety, the CWS agency may file a petition in court to order involuntary services. Best practice is to ensure that parents, guardians, and Indian custodians are made aware of this possibility and to continue to engage and

collaborate with the tribe to ensure the family continues to be supported in successfully accessing attainable and culturally responsive services.

Active efforts must continue if the court orders the family to participate in child welfare services but allows the child(ren) to remain at home with their caregivers or when FM services are ordered upon completion of reunification services. The social worker must continue to work with the tribe in ensuring attainable and culturally relevant services.

Active efforts in a FM case include:

- Actively inviting service providers of the child's tribe(s) or other culturally relevant service providers to participate in providing support and services to the child's family.
- Involving the tribe(s) and tribal representatives in case planning and management from the beginning of the case.
- Gathering information to assess the effectiveness of services provided to meet the needs of the parents, guardians, or Indian custodians, to monitor the progress and to identify goals.
- Establishing and maintaining a trusting relationship between the social worker, the tribe and the parents, guardians, or Indian custodians.
- Inviting the child's tribe to attend regular meetings and consistently communicating information regarding CFT's and safety planning.
 - These meetings should be planned in a way that gives adequate notice to tribal representatives and finds alternate modes of participation, such as virtual or by telephone, when requested.
- Ensuring location, transportation, and cost of services are attainable for the parents, guardians, or Indian custodians.
- Facilitating cultural connections for the child.
- Including necessary services in the child's case plan.
- Conducting a diligent search for the Indian child's extended family members and contacting and consulting with extended family members to provide family structure and support for the Indian child and the Indian child's parents.

ACTIVE EFFORTS DURING REUNIFICATION CASES

When a family is going through the reunification process, the family should have full understanding of the requirements in the case plan, and the ability to demonstrate improvement of the circumstances that brought the family into the child welfare or juvenile probation justice system. It is important for the social worker and probation officer to coordinate consistent familial visits, in accordance with the case plan, and partner with the child's tribe(s) to maintain the child's cultural identity and connections. The county social worker and probation officer plays a critical role, in consultation with the tribes, in explaining to the family that tribal representatives including service

providers, will be contacted and invited to assist in concurrent planning. This explanation should be documented and included in the caseworker visits with the parent(s), child, and caregivers.⁶

Involving the tribe helps ensure placement follows the preferences outlined in [WIC section 361.31](#) or the placement preferences identified in consultation with the tribe. The county agency must work consistently with the tribal representative(s) to coordinate available services to support the family and help them successfully attend and complete those services to support the goal of the child returning to a safer and healthier home. It is crucial for the county agency to monitor the progress of the family with respect to services offered to ensure that the services are appropriate and adequate participation standards are being met.

Active efforts must be tailored and timely to help tribal families obtain the specific supportive services they need and be successful in reunification whenever possible. Due to statutory timelines, it is critical that active efforts begin as soon as possible and are clearly and thoroughly documented in the case record and all court reports. Unless a court finds exceptional circumstances to support a continuance, the dispositional hearing for an Indian child must be held within 30 days of the child's detention hearing ([WIC section 352\(b\)](#)). The [Integrated Core Practice Model](#) (ICPM) requires county agencies to have a CFT meeting and for Child Welfare or Behavioral Health complete the Child and Adolescent Needs and Strengths (CANS)⁷ Assessment to inform the case plan. This means that the CANS Assessment and CFT must occur early enough within 30 days after entry into foster care in order for the dispositional hearing to occur within the time required by [WIC Section 352\(b\)](#), for cases involving Indian children.⁸ The CDSS recommends that the CANS Assessment and CFT be completed no later than 10 days before the dispositional hearing to meet these requirements.

To ensure timely active efforts are occurring, there are many strategies a county agency can utilize, including, but not limited to:

- Services can begin to be set up and delivered to the family prior to finalization of the case plan.
- Early engagement with the family and the tribe(s) or tribal representative to get the family into treatment as soon as possible to meet timeframes.
- If a necessary service is not timely available in the community, the county agency should consider contracting with another provider to serve that family and meet these requirements.

⁶ [ACL No. 19-87](#): Quality Caseworker Visits And The Application Of ICPM

⁷ [The Child and Adolescent Needs and Strengths \(CANS\) Assessment Tool](#)

⁸ [ACL No. 22-35](#): Timing and Frequency of Child and Family Team Meetings

- If transportation is a barrier, consider how the county agency can bring the service to the family to support successful completion and compliance with court-ordered services.

Supporting the family with accessing and completing services will aid in higher reunification success rates. An ACL providing more specific guidance related to both voluntary and involuntary juvenile court proceedings involving Indian children is forthcoming.

Active efforts in a particular case may change depending on the stage of intervention or court proceeding. However, ongoing engagement and collaboration with the Indian child, the parents, guardian, Indian custodian, tribal representative(s), and the extended family is required. Other examples of how a county agency can help support the family includes, but is not limited to:

- Transporting and/or arranging transportation of the parent, guardian, or Indian custodian from their residence to their service appointment.
- Actively helping the family complete forms rather than simply providing and explaining a form to the family.
- Transporting parents, guardians, or Indian custodians to and from visits with the child and arranging similar transportation for the child.
- Making time to be available to support parents/Indian custodians when they may be struggling, even when they have already been connected with a therapist or sponsor.
- Checking in with the parents, guardian, Indian custodians, and the child, more frequently than once a month to monitor progress and participation in services and address any barriers in a timely manner.
- Supporting expansion of visitation for parents, guardian, or Indian custodians, including trial home visits, when appropriate.
- Providing updates about the family's needs and services to tribal representatives and providing timely responses to inquiries from tribal representatives about the family's needs and services.

Active efforts include post-reunification services and monitoring ([WIC section 224.1\(f\)\(11\)](#).) It is important for the social worker to continue communicating with the family even after reunification has occurred and the family is receiving voluntary or court ordered FM services. Engaging with the family, while monitoring their progress, even after services are completed, is a form of ongoing support that may lead to more successful reunification and prevent re-entry.

The goal is to continue active engagement and communication with the tribe(s) or tribal representative to support the child and family in obtaining the right services to maintain the child safely in the home.

CULTURALLY RELEVANT SERVICES

Many tribal families have experienced historical and generational trauma, and it is important to ensure that services are provided to specifically address this type of trauma. Tribal youth experience various forms of trauma at disproportionately high rates compared to the rest of the United States' youth population.⁹ Being involved in the child welfare system itself is often overwhelming and traumatic, so it is crucial to offer additional support when working with a child and their family. Active efforts include acknowledging traditional helping and healing systems of a child's tribe and using these systems as the core to help and heal the child and family.

When a child is placed outside the home, the county agency should support and encourage the caregivers and children in maintaining connections to their tribe(s) and involvement in their tribe's cultural heritage. Connecting tribal families with culturally relevant services and resources helps maintain the families' tribal culture, like Indian Health Services programs and tribal events such as healing circles, powwows, parenting programs, etc. The county social worker and probation officer should ensure that services are adapted for each individual family and consider social aspects, cultural norms, and other factors that may affect the family's stability and security.

It is critical to ensure the services and supports provided to a child placed in foster care are developed with input from the child, their tribe, extended family, and other persons with knowledge of the tribe's social and cultural values and practices. In fact, the [Foster Youth Bill of Rights](#) expressly includes:

- An Indian child's rights to have contacts with members of their Indian community ([WIC section 16001.9\(a\)\(14\).](#))
- To engage in traditional Native American religious practices ([WIC section 16001.9\(a\)\(15\).](#))
- To have their political affiliation with their tribe recognized, including receipt of all benefits and privileges that flow from membership/citizenship in their tribe ([WIC section 16001.9\(a\)\(21\).](#))
- To receive assistance in becoming a member or citizen of their tribe ([WIC section 16001.9\(a\)\(21\).](#))
- To be free from discrimination based on their political relationship with their tribe ([WIC section 16001.9\(a\)\(21\).](#))

Active listening and learning about a family's strengths, perspectives, and needs is important for identifying effective services that will help families stay together, reunify more quickly, and develop long term stability. Families who are given the ability to

⁹ [Trauma-Informed Fact Sheet – Native Children: Trauma and Its Effects. National Indian Child Welfare Association](#)

make choices are generally more responsive about how and what they can and will contribute, and they have more successful outcomes. Supporting tribal families includes ensuring that all services arranged are accessible and nearby or confirming that transportation is available and feasible for the family.

Lastly, if a child's tribe(s) chooses not to, or is unable to, participate or intervene in a case, which could be due to a variety of reasons that are up to the tribe(s) as a sovereign nation, the county agency should be aware of tribal/urban Indian community or culturally responsive resources that are available nearby and should reach out to those organizations or service providers and connect the family to those services. In the absence of a tribe's involvement, the county agency must provide culturally responsive services, maintain regular and transparent communication with the child's tribe(s), and provide active efforts to prevent the breakup of the Indian family.

DOCUMENTATION REQUIREMENTS

For the court to order that a child be placed in foster care, guardianship, or that parental rights be terminated, it must find on the record that active efforts were made to provide remedial and rehabilitative services to the parents, legal guardian, or Indian custodian, and that these efforts were unsuccessful ([WIC sections 361\(e\)](#) and [366.26\(c\)\(2\)\(B\)](#).) All case activity must be timely documented in the child welfare case management system, and it is important to describe the active and reasonable efforts taken to prevent the breakup of the Indian family, including all supports and services offered and provided, including services offered to the child. Active efforts for the child must include services that support the child's cultural connections. The court uses the social worker's report or other evidence to support this determination ([WIC sections 319\(f\)](#), [358\(b\)\(1\)](#), and [366.26\(b\)](#)), so thorough and accurate documentation is critical. Moreover, because the party seeking involuntary foster care or termination of parental rights is usually the county agency, proper documentation facilitates the preparation of a report that meets the burden of proof under [WIC section 361.7](#). Documentation of active efforts should, at a minimum, include:

- Name of the tribe(s);
- Name of the person or persons from the tribe with whom the county social worker spoke and what time the conversation took place, or, if the social worker was unable to connect with anyone from the tribe, the dates and times attempted contacts were made;
- Name and address of child's parent(s), guardian, or Indian custodian;
- The steps taken to collaborate and share necessary information with the tribe(s), including following any tribal protocols to communicate this information:
 - If the county social worker made a phone call and the tribal contact did not answer, was a voicemail left with the correct phone number and a good call back time?

- Was a follow-up email sent?
- Did the county social worker try to connect with the tribe more than once after the initial contact?
- Were decisions regarding the SDM® Hotline tool and SDM® Safety/Risk Assessments discussed between the county social worker and tribe?
- Was the tribe in agreement with decisions made regarding the child and family? How did the county and tribe come to an agreement?
- If a CFT meeting was scheduled, was the tribe, or its representative, provided adequate, timely notification of the date, time, and location of the meeting, and did the county agency collaborate on scheduling rather than just notifying the tribe?
- Was the substance of the communications, including the verbal or written response with the tribal representative(s), parents, Indian custodian, tribe(s), extended family members, etc., recorded as well?
- Any additional active efforts made to work with the family/child.

It is important to note that each tribe has different designated representatives and resources. The CDSS has included an attachment to this letter which serves as a job aid related to active efforts. This job aid is not meant to be exhaustive, but may be used to remind social workers and probation officers of the requirements for active efforts. Additional guidance may also be found in the [CDSS' Office of Tribal Affairs ICWA Desk Reference](#).

If you have any questions or need additional guidance regarding the information in this letter, contact the Family Centered Safety and Support Bureau at childprotection@dss.ca.gov.

Sincerely,

Original Document Signed By

ANGIE SCHWARTZ
Deputy Director
Children and Family Services Division

cc: All Federally Recognized tribes

Attachment

ICWA ACTIVE EFFORTS

What are Active Efforts?

Active efforts are affirmative, active, thorough, and timely and intended primarily to maintain or reunite an Indian child with his or her family. Active efforts must involve assisting the parent(s) or Indian custodians through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. To the maximum extent possible, active efforts should be provided in a manner consistent with the prevailing social and cultural standards and way of life of the Indian child's tribe and should be conducted in partnership with the Indian child and the Indian child's parent(s), extended family members, and tribe.

Examples of Active Efforts

- Conducting a comprehensive assessment of the circumstances of the Indian child's family, with a focus on maintaining the child in their home, as the most desirable goal, or safe reunification as quickly as possible.
- Identifying appropriate services and helping the parents overcome barriers.
- Identifying, notifying, and inviting representatives of the Indian child's tribe to participate.
- Conducting a diligent search for the Indian child's extended family members and consulting with them.
- Taking steps to keep siblings together whenever possible.
- Supporting regular as well as extended visits between the Indian child, their siblings, and parents or Indian custodians in the most natural setting possible.
- Identifying community resources.
- Providing post-reunification services and monitoring.
 - Offering and employing all available and culturally appropriate family preservation strategies and facilitating the use of remedial and rehabilitative services, including finding alternative ways to address the needs of the Indian child's parents and the family if optimum services do not exist or are not available.

Ongoing Inquiry and Active Efforts

- During the intake and investigation process, timely documentation is critical.
- Both successful and attempted contacts with designated ICWA agents and tribal representatives should be documented in the case record and include all relevant details.

Additional Resources:

[ACL No. 20-38: AB 3176 Implementation](#)

[ACL No. 23-46: Inquiry](#)

[ACL No. 23-64: Emergency Removals](#)

[CFT Tribal Engagement Guide](#)

[Active Efforts Defined: WIC section 224.1\(f\)](#)

ACTIVE EFFORTS ASSESSMENT

- What constitutes active efforts shall be assessed on a case-by-case basis. The active efforts shall be made in a manner that considers the prevailing social and cultural values, conditions, and way of life of the Indian child's tribe. Active efforts shall utilize the available resources of the child's extended family, tribe, and Indian social services agencies (WIC section 361.7)

Active Efforts and Emergency Removal

- If the decision is made to remove the child, the county social worker and probation officer must document that the active efforts to prevent removal proved unsuccessful and the reasons why and include this information in court reports (WIC section 319(f)(2).)
- If the social worker determines an Indian child who has been removed from the custody of their parent(s) or Indian custodian(s), may be subject to the exclusive jurisdiction of a tribe, or may be a ward of a tribal court, the social worker shall notify the tribal court and the tribe of the removal, seek confirmation of exclusive or continuing tribal jurisdiction from the tribe, and within 24 hours of receiving confirmation from the tribe, transfer the child to the tribe's custody. For additional information on Emergency Placement, please refer to ACL No. 23-64.
- A placement of an Indian child is no longer considered voluntary when a parent who had previously consented to the placement has revoked their consent and/or the agency has determined that the child cannot safely be returned to the parent, or Indian custodian upon demand. The social worker must comply with the legal requirements including the duty to engage in active efforts to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and to comply with the ICWA placement preferences.

ICWA AND ICPM

The Integrated Core Practice Model

- In 2018, the state's Integrated Core Practice Model was enhanced, establishing evidence-based guidance and principle-based practices around effective engagement, assessment, service planning and delivery, monitoring of care, and transition management. The ICPM has particular use in supporting voice and choice, sharing decision-making power, and establishing authentic cultural humility as a central tenet of intervention.
- [The Integrated Core Practice Model Resource Guide](#)

The ICPM Integrated in ICWA

- Communicating with a family in a way that supports a discussion of the family's culture is an important casework component of California's ICPM and facilitates natural inquiry into the family's tribal affiliation.