

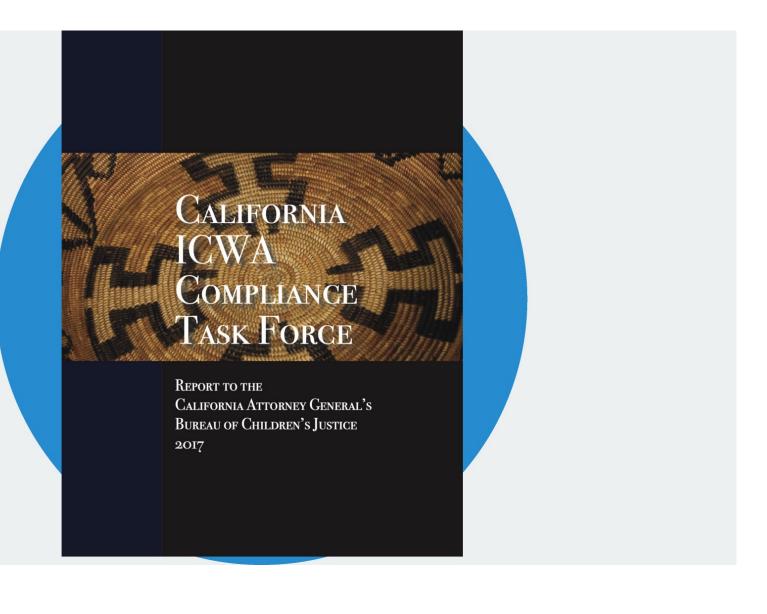
CTFC

The mission of the California Tribal
Families Coalition is to promote and
protect the health, safety and welfare of
tribal children and families, which are
inherent tribal governmental functions
and are at the core of tribal sovereignty
and tribal governance.

CTFC is a successor organization to the California ICWA Compliance Task Force.
The California ICWA Compliance Task
Force Report may be found at
www.caltribalfamilies.org.

Presenters

The Report



Presenters

Kimberly Cluff- Since becoming a member of the California Bar in 1998, Ms. Cluff has worked exclusively in the field of Indian law, advocating for Indian tribes and native non-profits. Her work has included advocacy and litigation connected to tribal economic development, Indian Child Welfare, domestic violence, strengthening tribal governance and tribal ordinance development. Ms. Cluff also extends her advocacy to legislative efforts, for example spearheading the California Tribal Customary Adoption Act. Ms. Cluff is admitted to practice in California, the Washoe Tribal Court and the Morongo Band of Mission Indians Tribal Court.

Geneva Shaw, MSW, is a Social Work Dept. faculty member at Humboldt State University. She has 12+ years experience as an administrator, direct practitioner, educator, and technical assistance provider of social work in Tribal communities including 6 years with the Yurok Tribe developing, implementing, and reporting on many state and federally funded programs including Indian Child Welfare and Title IV-E. She is a Hoopa tribal member and Karuk/Yurok/Apache decent.

Permanence in the context of this Training

Permanency, as used in the context of the The Pursuit of Permanency: The First 90 Days training, means permanent connections for children and youth.

This can be in the form of reunification or finding another permanent home and includes connections to the child's biological family, community, and/or culture.

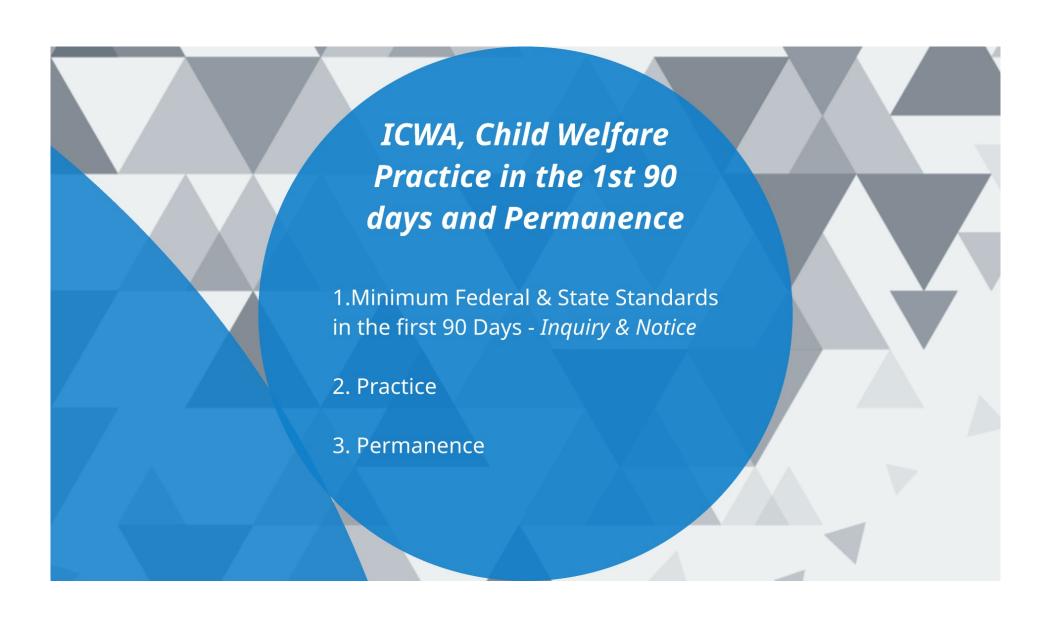
This training presents information, strategies, and concepts that, if pursued during the first 90 days of a child welfare case, may positively impact permanency efforts and outcomes in addition to strengthening ICWA compliance.

Goals for this Webinar

> Additional Concepts to Get Started

How did we get here?

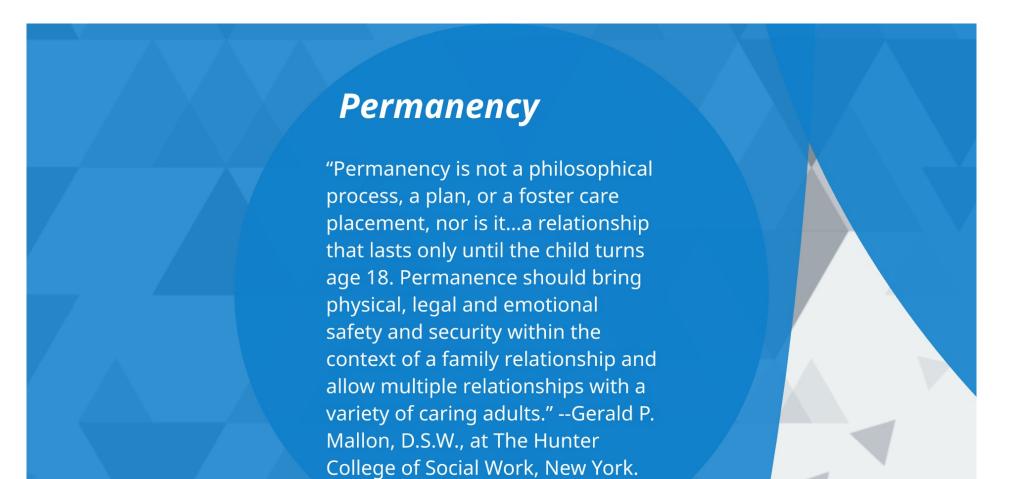
Let's see what we know...











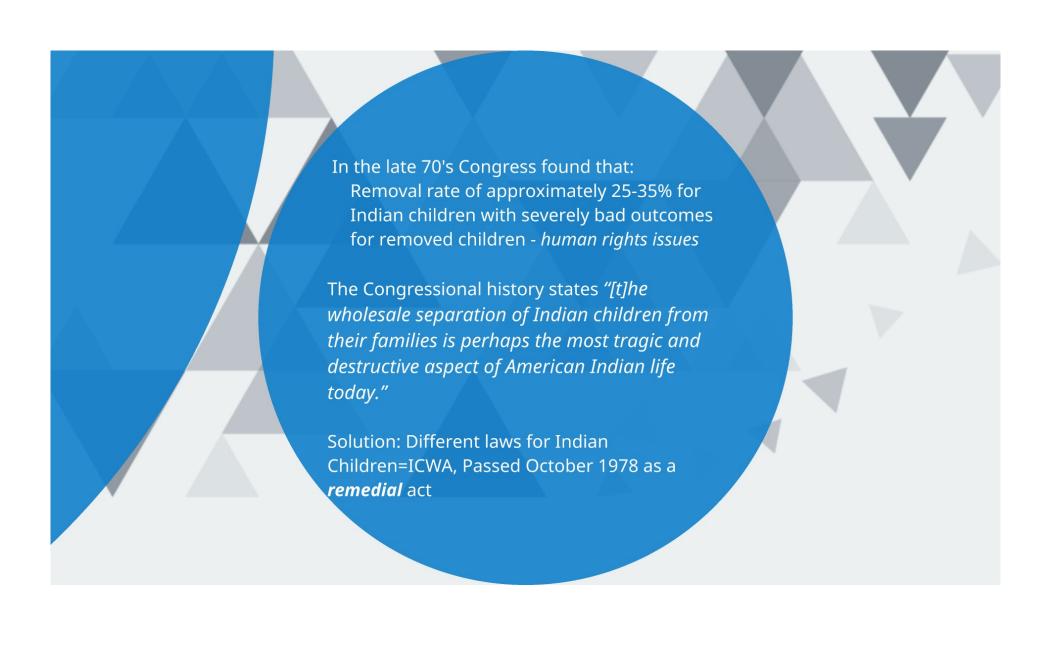
To understand where we are we going, we have to look at where we have been...



- 1840's-1870's State Sanctioned California Genocide
- 1880's-1960 -Indian Boarding Schools & Forced Assimilation
- 1950's Federal Termination policy & Indian Adoption Project.
- 1978 Passage of the Indian Child Welfare Act (ICWA)

ICWA Statute

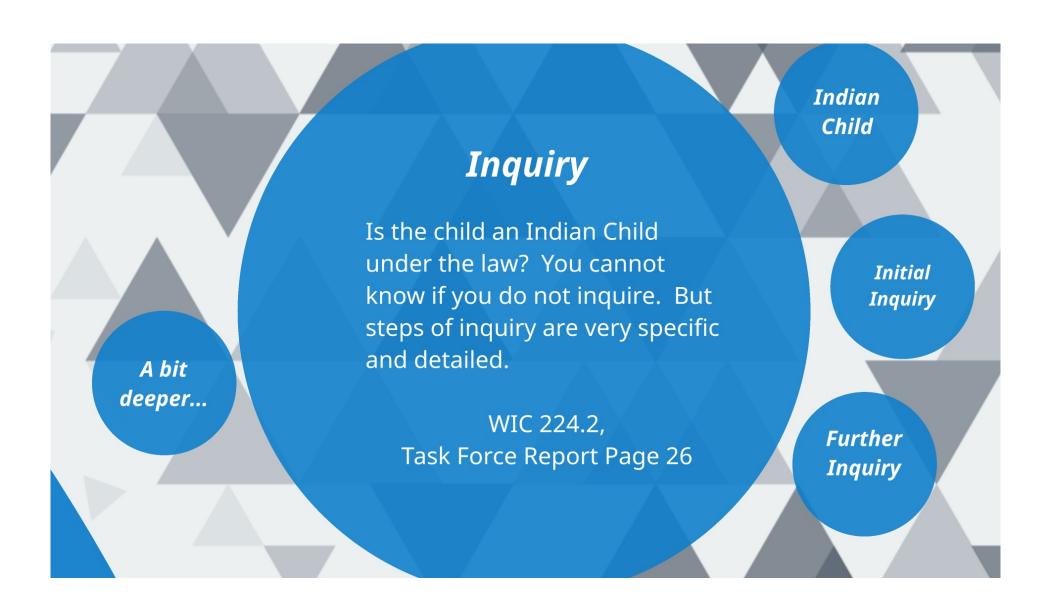


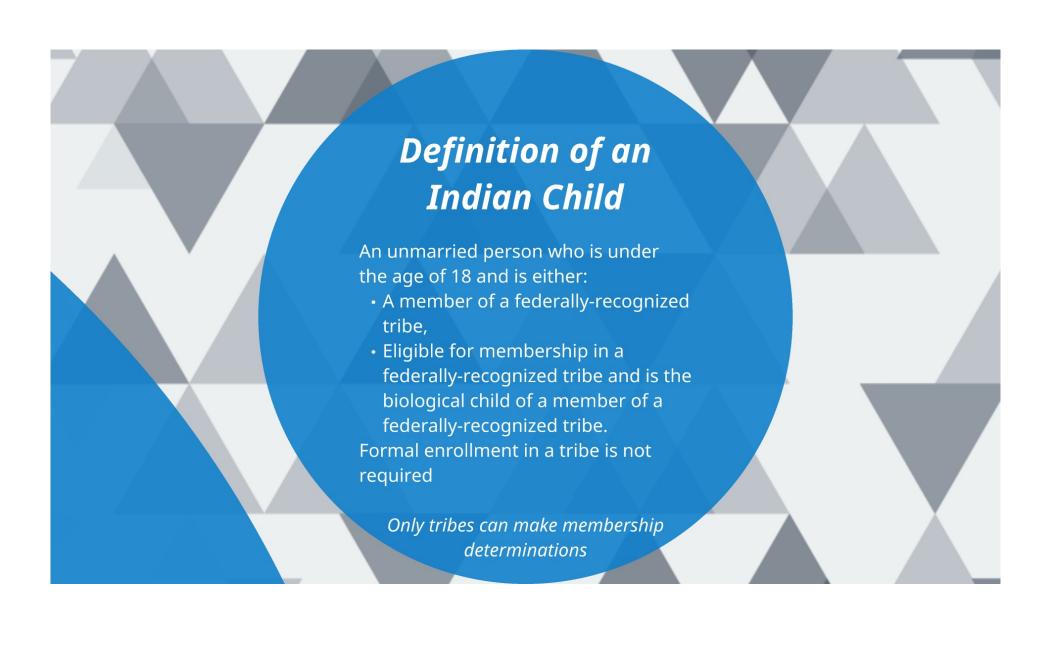


True and False

- 1.) ICWA can only ever apply if a child is currently an enrolled member of a Federally Recognized Tribe.
- 2.) If the tribe chooses to not intervene, ICWA does not apply to that case.
- 3.) If a Tribe is contacted by phone and the respondent states on the phone the child is not a member of the Tribe, adequate legal Notice has been given.
- 4.) Notice to the Tribe must be given at detention if possible, but is not required earlier.
- 5.) Reason to Know vs. Reason to Believe= they are legally the same and do not require any differences in process.









Affirmative duty to inquire at the soonest possible moment- *Think Hotline!*

This is an on-going responsibility of the County and the Court.

Who gets asked, how: and when? Tribal Social Worker, Child, Guardian, Indian Custodians ("IC"), extended family, reporting party.

NOTE: Inquiry requirements are different in California & continue to evolve.

Reason to Know vs. Reason to Believe

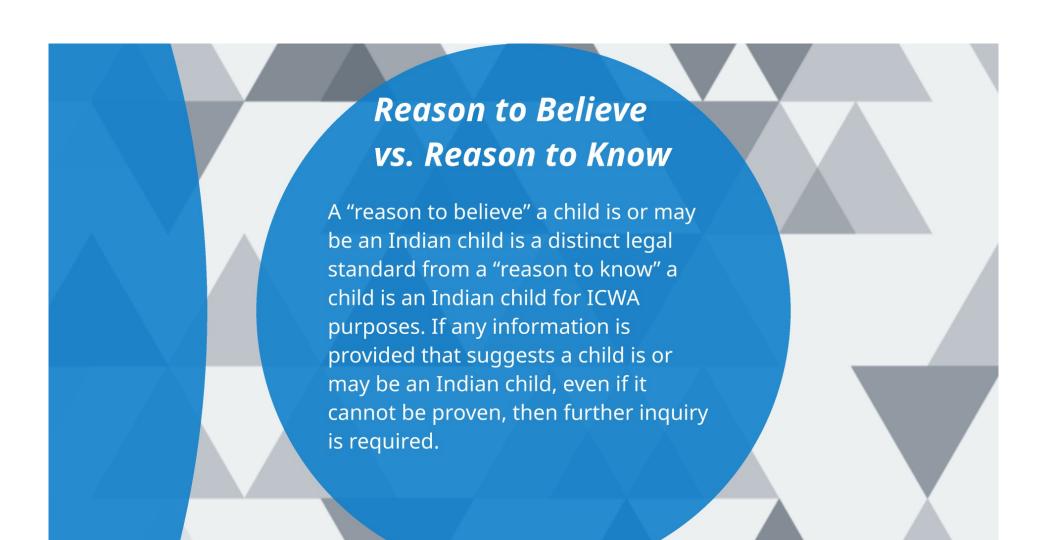
An area that Court's wrestling with...

AB 2944 effective Sept 2020 updated CA law to define the distinction between where there is "reason to believe" and a "reason to know" a child is an Indian child and inquiry standards are required of each.

What needs to be provided by the parents, extended family, the inquiry, to bump Reason to Believe up to Reason to Know?

The criteria in 224.2

Reason to
Believe vs
Reason to
Know

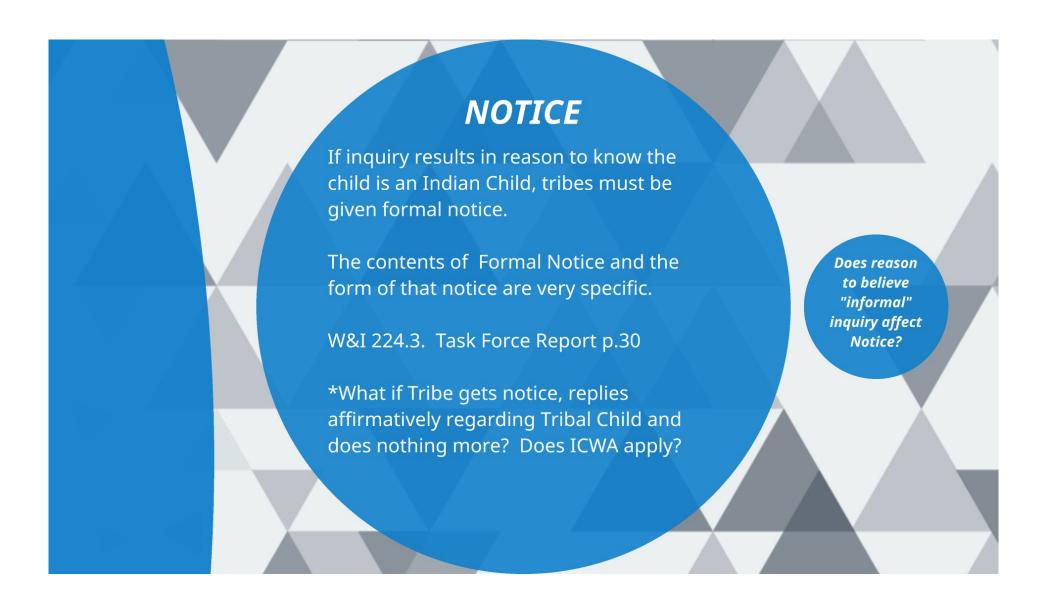


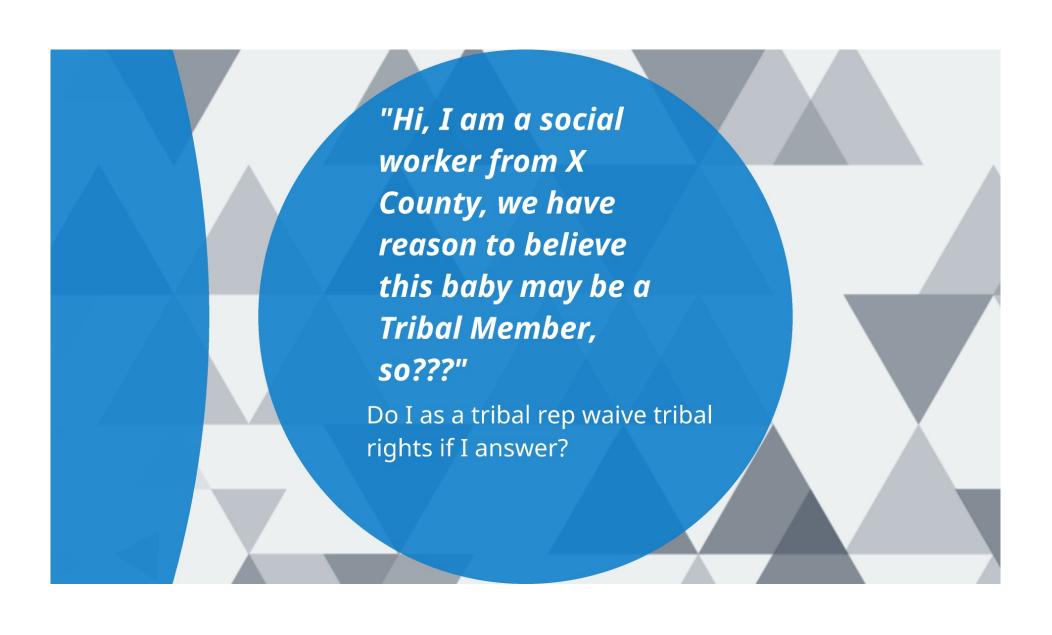
Further Inquiry 1.) If reason to believe the child is an Indian child everyone "shall make **further** inquiry" ...as soon as practicable" 2.) Multiple steps for "further inquiry" including: Interviewing parents, Indian Custodians, extended family, tribe. 3.) Once there is Reason to Know child is an Indian Child, County must prove **Due Diligence** to verify child's status. 4.) The Court can find after due diligence that child is NOT an Indian Child, not at discretion of County. 4.) Child is treated as an Indian Child until confirmation that not an Indian Child.

Amended Section 224.2 of the Welfare and Institutions Code reads:

224.2. (a) The court, county welfare department, and the probation department have an affirmative and continuing duty to inquire whether a child for whom a petition under Section 300, 601, or 602 may be or has been filed, is or may be an Indian child. The duty to inquire begins with the initial contact, including, but not limited to, asking the party reporting child abuse or neglect whether the party has any information that the child may be an Indian child.

PLUS A WHOLE LOT MORE.....





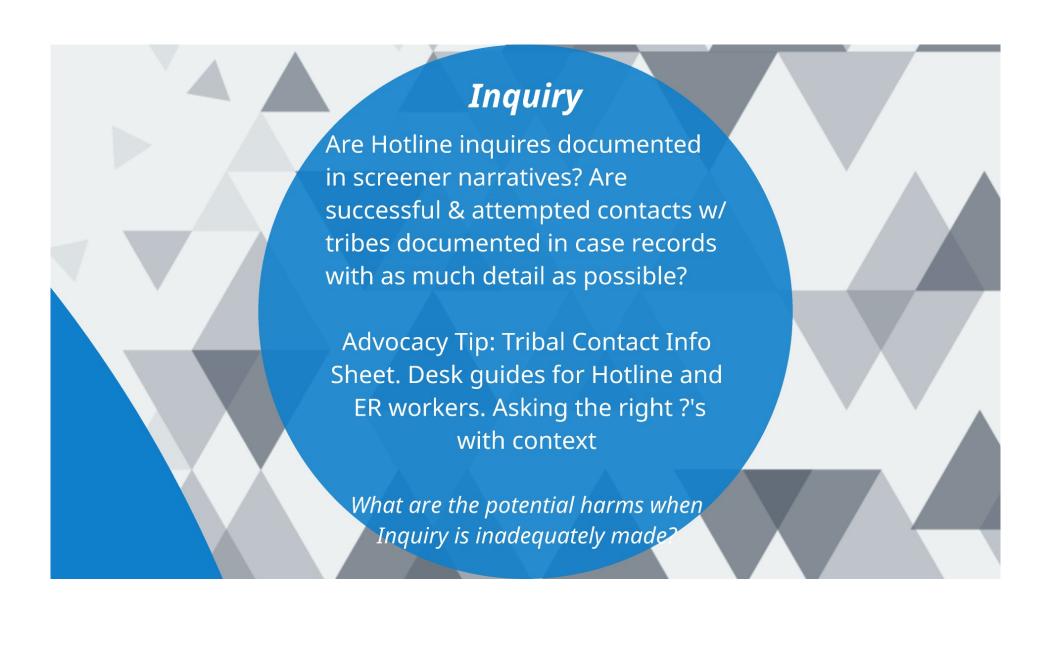
Abbreviated Step by Step - WIC 224.2

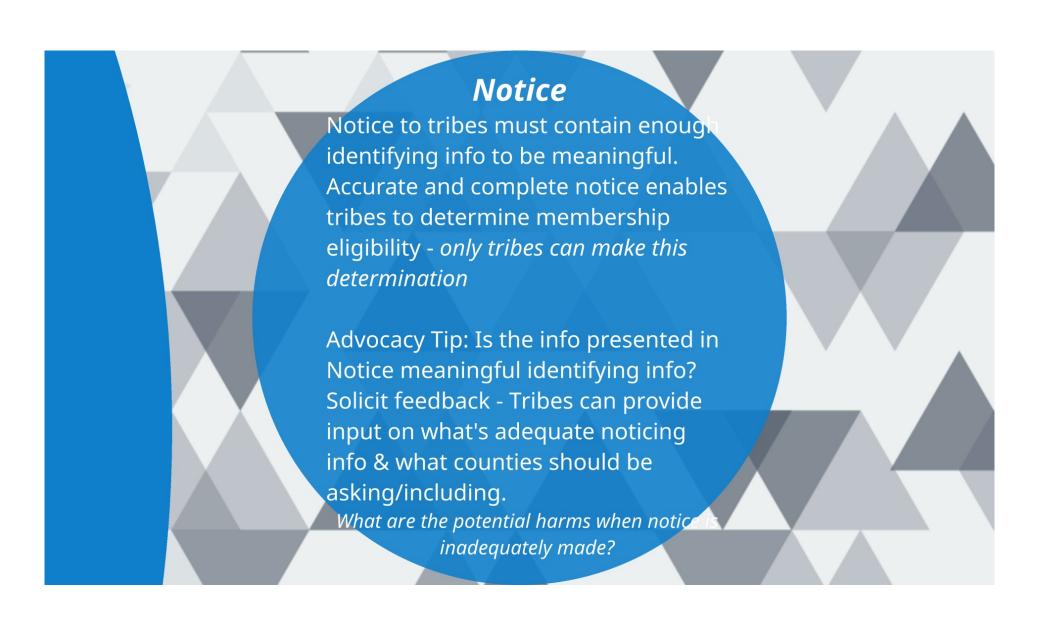
TEMPORAL:

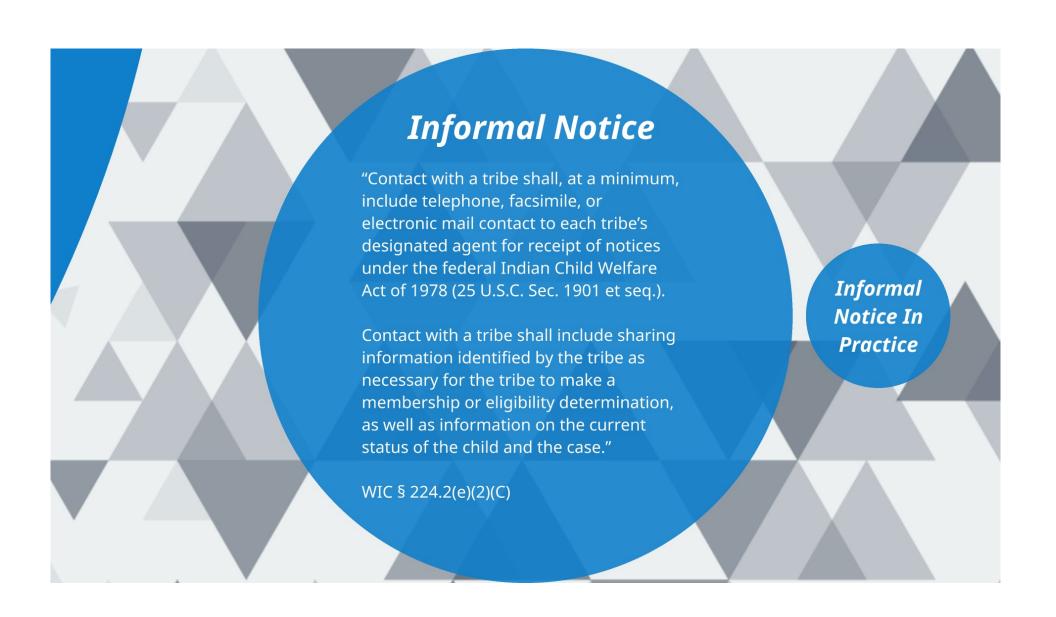
- 1.) Inquiry must happen as soon as possible: e.g. Before petition or on hotline.
- 2.) For every case at petition or even considering a petition, placed or at first hearing there is an affirmative duty to inquire if "is or may be an Indian Child"
- 3.) In court: Court shall ask if each participant know or have reason to know FACTUAL:
- 1.) How do we "know or have reason to know"? There is a list to guide.
- 2.) Even if don't "know or have reason to know" but have lesser "reason to believe" this triggers further inquiry.
- 3.) If in further inquiry b/c of reason to believe, must do three types of Due Diligence: Interview, govt contacts and informal reach out to Tribe.

IF= REASON TO KNOW BUT NO CONFIRMATION, PRESUMPTION IS ICWA APPLIES





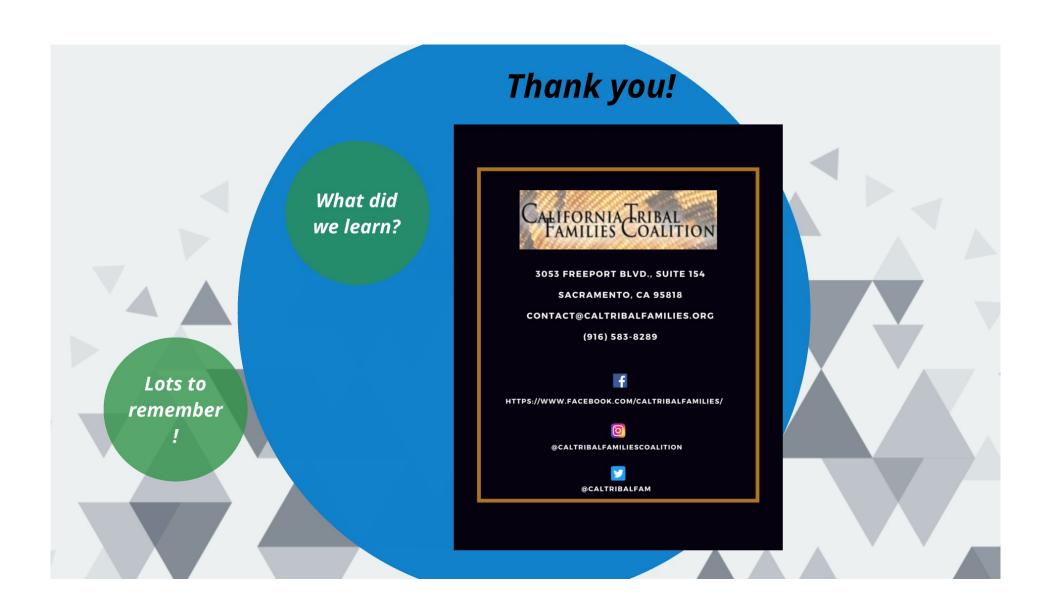




Informal Notice & Permanency

Legal requirements aside, why should we be extra motivated to make the informal notice call to engage the Tribe immediately?

- Active efforts to prevent the breakup of the family: opportunities to collaborate with TANF, Tribal Health, education, county services, informal safety network to prevent removal – What supports and resources can you pull in?
- Sort out any jurisdiction issues/conflicts tribal court?
- Prepare for possible removal and placement family finding – who are this child's people??



Let's revisit the True False Questions

- 1.) ICWA can only ever apply if a child is currently an enrolled member of a Federally Recognized Tribe. FALSE
- 2.) If the tribe chooses to not intervene, ICWA does not apply to that case. FALSE
- 3.) If a Tribe is contacted by phone and the respondent states on the phone the child is not a member of the Tribe, adequate legal Notice has been given. **FALSE**
- 4.) Notice to the Tribe must be given at detention if possible, but is not required earlier.**FALSE**
- 5.) Reason to Know vs. Reason to Believe are legally the same & do not require any differences in process. FALSE



There are so many excellent resources for you out there that help navigate the Minimum Federal Standards. You do not have to memorize them! For example, the Judicial Council of California has a 4 page summary. Always be sure the resources are up to date!

Also, ACL 20-38 gives direct guidance to counties on Inquiry, Notice & Active Efforts

