

Indian Child Welfare Act (ICWA) Listening Session – Bureau of Indian Affairs Guidelines for State Courts

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ICWA GUIDELINES FOR STATE COURTS

Published in 1979 to provide guidance to state courts on ICWA requirements which include:

- 1) Determination that a child is an Indian child & determination of the child's tribe
- 2) Determination that placement is covered by the ICWA and jurisdiction
- 3) Notice requirements
- 4) Time and extension requirements
- 5) Provisions for removal of an Indian child
- 6) Requests for transfer to tribal courts



ICWA GUIDELINES FOR STATE COURTS

- 7) Adjudication in involuntary placements, adoption or termination of parental rights cases
- 8) Voluntary cases and dispositions
- 9) Post-trial rights including petition to vacate adoption and rights of the adult adoptee to be informed of his/her tribal affiliation



Purpose of Listening Session

- More than 30 years have passed since the Guidelines were first published.
- We are seeking comments on the effectiveness of the Guidelines from Tribal Leaders and designees.



Questions for Listening Session

- Are the *Guidelines* helpful in furthering the goals of the ICWA in state court proceedings?
- Are there specific examples where the *Guidelines* have been helpful?
- Are there specific examples where the *Guidelines* have not been helpful?
- Should the *Guidelines* be revised? If so, what revisions would make the *Guidelines* more helpful?

Questions for Listening Session

- Should BIA provide training or guidance for tribes on the tribes' role in ICWA compliance?
- What role, if any, should BIA have in the ICWA agreement process between tribes and states?
- Should BIA make any revisions to its regulations implementing ICWA (found at 25 CFR 23)?
- If so, what revisions should it make?

Themes from the 1st Listening Session

- Need for ICWA **accountability** in states including **data** collection and reporting to tribes.
- Tribal-State **relationships** are needed to work together to increase ICWA compliance.

Guidelines should recommend **best practices** including:

- Adoptees born prior to 1978 be given **birth & adoption records**;
- ICWA applied to ALL **juvenile justice cases**;
- improve **clarity** on ICWA on abuse and neglect, qualified expert witnesses, adoption, termination of parental rights, and guardianships.
- **ICWA training for states court judges** and **strengthening families/parenting education** for tribal parents is needed.
- Resources are needed to **empower tribal child welfare** systems to care for their children.

Additional remarks can be submitted to:

comments@bia.gov

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