

WEBVTT

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00:00:48.880 --> 00:01:16.649

Vida Castaneda: Good afternoon, everyone. I am Beta Castaneta, senior analyst in the Tribal State programs unit at the Judicial Council of California and descendant of the Chumashaloni Zapote guitar of Mara nations. We would like to acknowledge our presentation as brought to you today from the original current lands of the Aloni people in the San Francisco Bay area, where our judicial Council of California office is currently located.

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00:01:16.660 --> 00:01:25.950

Vida Castaneda: We thank the aloni ancestors and present tribal communities as well as the tribal lands and communities from where our presenters are speaking from

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00:01:26.010 --> 00:01:38.010

Vida Castaneda: welcome to everyone joining us Today we will be featuring placements of Indian children in juvenile proceedings. What judges and attorneys need to know in today's Webinar.

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00:01:38.140 --> 00:01:40.589

Vida Castaneda: If you have questions during the Webinar,

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00:01:40.600 --> 00:01:46.489

Hon. Ana Espana: please write them in the chat box to our panelists, and we will be answering your questions at the end of the present.

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00:01:46.500 --> 00:01:47.300

It's a

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00:01:47.470 --> 00:02:02.860

Vida Castaneda: if time permits we will be offering Mcle and and Judith Officer continuing education units for today. Please refuse to refer to the emails, and by Amanda Morris for directions on obtaining certificate.

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00:02:02.870 --> 00:02:15.190

Vida Castaneda: Now let's meet our panelists. We have joining us today. Judge Anna Espana, presiding Judge Juvenile Court Division of the Superior Court of California County of San Diego

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Vida Castaneda: Karen Cole, Social Services Director, Tribal Family Services,

Indian Health Council, and Evangelina Lu,

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00:02:24.140 --> 00:02:29.299

Vida Castaneda: Senior and Deputy County Council Office of County Council County of San Diego.

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00:02:32.540 --> 00:02:41.359

Vida Castaneda: Here are the learning objectives for today's training, and we hope you enjoy this Webinar judges on you.

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00:02:42.020 --> 00:02:45.270

Hon. Ana Espana: All right, Thank you. And good afternoon, everybody.

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Hon. Ana Espana: This Webinar will focus on placements in the context of a court case where an Indian child has been removed from parental custody,

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00:02:54.400 --> 00:03:03.440

Hon. Ana Espana: we'll look at the legal requirements governing placement of Indian children, the challenges that we might see, when applying the law,

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00:03:03.640 --> 00:03:12.889

Hon. Ana Espana: the common issues that arise in these cases, and what judicial officers and attorneys should be looking out for. When considering these issues

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00:03:12.900 --> 00:03:25.980

Hon. Ana Espana: now collaboration between the Juvenile Court, the agencies, and the tribes. You will hear a lot about this during this presentation. I want to stress that, like so much of Icwa.

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00:03:25.990 --> 00:03:36.560

Hon. Ana Espana: Much of the work ensuring the requirements concerning placement should be taken place at a system-wide level long before a specific Indian child is removed from the home

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00:03:36.930 --> 00:03:42.499

Hon. Ana Espana: is essential through the life of the case. It helps to ensure compliance with Icma.

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00:03:42.820 --> 00:03:48.510

Hon. Ana Espana: It supports best practices and helps to accomplish what we always hope for.

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00:03:48.560 --> 00:03:56.930

Hon. Ana Espana: That is, we are doing our best, our very best for our Indian children, families, and our tribes. Next slide, Please

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00:04:01.980 --> 00:04:03.290

Hon. Ana Espana: to that myself.

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00:04:09.890 --> 00:04:11.640

Hon. Ana Espana: There we go. Sorry,

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00:04:12.270 --> 00:04:20.409

Hon. Ana Espana: Um. Keeping Indian children within their families and communities is one of the most central values of the Indian Child Welfare Act.

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00:04:20.800 --> 00:04:24.319

Hon. Ana Espana: This is something that we should want for all of our children. Right

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00:04:24.570 --> 00:04:29.940

Hon. Ana Espana: kids with families are more likely to experience stability and care.

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00:04:30.120 --> 00:04:33.069

Hon. Ana Espana: Visitation with parents is easier.

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00:04:34.050 --> 00:04:42.420

Hon. Ana Espana: There's evidence to suggest that, being with family supports reunification, there's more likely results in keeping siblings together

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00:04:42.700 --> 00:04:54.880

Hon. Ana Espana: more frequent and consistent contact with other family members, as well as the community kids are more likely to remain in their schools of origin, graduate from high school, less likely to run away

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00:04:54.900 --> 00:04:58.610

Hon. Ana Espana: and more likely to maintain cultural connections.

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00:04:58.730 --> 00:05:07.049

Karan Kolb: Karen. Thank you. Judge. Um. My name is Karen Cole. I i'm Lucille from the Rinkon Indian tribe, and I'm coming to you from

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00:05:07.090 --> 00:05:10.390

Karan Kolb: Um Jeff or Jeff Riley. I'm Jeff Riley, though

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00:05:11.790 --> 00:05:12.980

Karan Kolb: um

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00:05:12.990 --> 00:05:40.070

Karan Kolb: i'm coming to you from the Land of the People in the West Byyam Kwicham Land Lucino Ary and I'm the social services director, and what I really want to remind everybody is the importance of not to forget the prevention services and to collaborate with your tribes. We have many, many prevention programs under our umbrella of services, and

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00:05:40.120 --> 00:05:54.230

Karan Kolb: it really helps when we collaborate together, and we work together and really try to keep the tribal children within the community within the family um and out of foster care when possible.

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00:05:54.240 --> 00:06:19.910

Karan Kolb: We do have pre-prevention programs such as Obed Programs domestic violence programs, food, insecurity programs. So it really helps when we collaborate with each other, and you find out what the tripad and it's really like having that a second social worker on the case to help reunify families and keep those connections, those most important connections that the judge was speaking about. Evangelina.

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00:06:20.920 --> 00:06:25.390

Evangelina Woo: Thank you, Karen. Yes, hi! Thank you. Everybody for being here today.

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Evangelina Woo: Exactly. And in furtherance of what I'm. Judges Spania and Karen talked about um from the agency standpoint. What we work on here in S. And Io County is ongoing training for our social workers, and also for our attorneys here at County Council

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Evangelina Woo: that we focus on issue spotting and identifying Indian children at the outset versus being reactionary and trying to go back in the case.

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Evangelina Woo: You'll hear more about this in our next slide. But we've also here in San Diego County we have an Indian specialty unit that is especially especially trained workers. We've got noticing specialists who um are trained in doing it.

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00:07:12.060 --> 00:07:37.029

Evangelina Woo: Informal inquiry, formal inquiry, and noticing um tribes. There's also me and Emily Harlan serve as equal liaisons for our office, and we provide ongoing training, not only for our client, but also for our office, so that we're all up to date, and keeping this very important um work in mind. So with that we can go to the next slide.

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Evangelina Woo: Ok. So even before a petition is filed, even though this training is dealing with court cases even before the petition is filed there is collaboration that takes place between the agency and tribes.

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Evangelina Woo: Um, as you all know, inquiry starts at the first contact with the recording party, which, in our cases at the hotline, when the referral comes in, the hotline, workers are directed and trained to ask if there is any native American ancestry,

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Evangelina Woo: and when we do have referrals involving Indian children, they are routed to the Indian specialty unit, and we often go out together with tribal social workers to complete that initial investigation,

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Evangelina Woo: and that is something that we've worked very hard on here in this county is developing relationships with our tribes and being able to

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00:08:36.679 --> 00:08:39.510

Evangelina Woo: go out at the earliest possible

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00:08:39.549 --> 00:08:50.420

Evangelina Woo: time with a tribal social worker to maintain cultural appropriateness and responsiveness. So with that i'll turn it back over to Karen to talk about the next points.

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00:08:51.100 --> 00:09:07.030

Karan Kolb: Yeah. And so you know, in that collaboration, Um, Evangelina mentioned that it happens before the petition is even filed. And that's very true. A lot of the tribal programs hold what's called a child Protection team meeting a Cpt.

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00:09:07.040 --> 00:09:33.479

Karan Kolb: And in those meetings we get um kind of from our first responders, our tribal police. We find out what's happening in the community where families are needing help. But there's kids out on the street. Um! What's going on? And they bring that to the Child Protective team meeting which our partners in the county are at the table along with um housing tanner. Ah, public health nurses!

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Karan Kolb: Um! Anybody who is interested in ah bettering the community. We have our Cmo, our chief medical officer, our public health nurses,

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Karan Kolb: also the County Public Health nurse, and we get together, and we try to do a case plan for the family to prevent it going into child welfare services. So that's the um cpt we have here at the clinic. Sometimes it's medical issues, but mostly as child abuse and neglect.

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00:10:04.340 --> 00:10:21.260

Karan Kolb: Ah, the other thing that we do. That is a promising practice. Tip is to um invite the tribal social workers into the recruitment and training of tribal and non-tribal foster families. It's something that we need. It's something that all of our counties need. We need to have that

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00:10:21.270 --> 00:10:34.910

Karan Kolb: um team of foster families who are well-trained. Um, when we need to utilize them. And so the other thing that we do that's not on the slide. And I was um

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Karan Kolb: i'm reminded of is that we also do meet greeds with the county different parts of the county from the hotline to continuing to adoption. Um, even administrators,

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Karan Kolb: and we talk about our programs to keep that connection going, and we also have been invited to the social worker initial training the swift classes.

Sometimes we're presenters. Sometimes if we have staff, the staff are sitting in the classrooms as well. We've been invited to those

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00:11:06.270 --> 00:11:22.090

Karan Kolb: those classes, and now we're invited to train um at those classes. So those are some of the other promising practice, but the one that I think i'm most proud of that, and just Angelina um mentioned

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Karan Kolb: was our protocol here in San Diego and our our tribal assessment center. Um It did take five years, because could many people um moved around the county our tribal council, we have re-election and elections, and so people just kept constantly training, and we kind of had to go back and start over again. But we finally got it done, and the one thing that came out of that assessment, and that protocol was our assessment.

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Karan Kolb: So no longer do the kids have to go fifty-five miles away off the reservation to the Polinski Center. They can come right here to their Indian health services. Clinic go through their clinic where they know their antes and their cousins that work there.

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00:12:04.280 --> 00:12:11.479

Karan Kolb: They're familiar with their medical home and their practitioners, and then they come back to my office.

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Karan Kolb: Um, where we've been working with the county social worker to find an emergency placement. So these kids have no trauma whatsoever. They come through the assessment center um process and then come back to the lobby and go home with that uncle and grandma, grandpa, whoever it was that we were able to emergency um clear.

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00:12:31.970 --> 00:12:43.960

Karan Kolb: And so that's the one of the things that um the kids coming through with no trauma. They they don't even realize that they've just been removed, and that's one of the greatest things that have happened

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00:12:44.630 --> 00:13:01.040

Karan Kolb: also the resource side that we have. We share information with the tribal Indian special team unit. They share their information with us. They share the pink book, which is the um classes for foster

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00:13:01.050 --> 00:13:28.860

Karan Kolb: um licensing, and we also work with the Inner tribal court and partner with that tr them. I'm sorry that courtroom and we get prevention cases to get mental health in um cases and juvenile cases, and we work with them and the families too, so we do much more than just the the social work part. The social work part is kind of at the end. We do a lot of prevention programs. So those are some of the promising practice tips that

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00:13:28.870 --> 00:13:30.909

Karan Kolb: um i'm most proud of,

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00:13:31.400 --> 00:14:01.140

Hon. Ana Espana: and i'll go ahead and add on to here one of the things that we do for new judges, and we haven't done it. Unfortunately, the last couple of years because of Covid. But we're we're looking at planning for our trip um next year. Um is a visit to our local reservations and to meet some of our tribal leaders and social workers there. So um! We're looking forward again to getting that started. Um! Early next year is we have new dependency judges who are joining us also. When I became the juvenile presiding judge. A little

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years ago one of my goals was to establish relationships with our tribal leaders,

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Hon. Ana Espana: and so we started the San Diego Tribal Juvenile Court collaborative, and so it's myself and Judge Juan Boma. Yesfa, who is the chief judge of the intertribal court of Southern California. We're both the co-chairs and again. We've been meeting about two years, and we talk about the issues that we both share

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00:14:23.910 --> 00:14:41.589

Hon. Ana Espana: in. The last year. We focused quite a bit on the juvenile justice side. I'm talking about improving our inquiry and and um asking about the identification of our youth who maybe native America. We do that increase the time of booking at the time of first contact with the probation officer.

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00:14:41.600 --> 00:14:57.139

Hon. Ana Espana: We make that increase judges at the attention initial hearings. Our public defenders now asking that question as to their clients. So that's been a lot of work the last couple of years. In addition, with significant tribal, input

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00:14:57.150 --> 00:15:11.440

Hon. Ana Espana: I crafted a special order supporting in court participation of

tribes in our non- igla cases. So i'm very excited about this collaborative and our continuing work together next slide, please

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00:15:16.480 --> 00:15:18.160

Hon. Ana Espana: the Evangelina.

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Evangelina Woo: Yes, I just realized I was muted. Sorry. Okay. So April was enacted in one thousand nine hundred and seventy eight. In response to Congressional findings that twenty five percent to thirty percent of Indian children. All Indian children had been separated from their families and placed in foster homes, adoptive homes

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00:15:37.170 --> 00:15:46.309

Evangelina Woo: or institutions, and of those children who were removed eighty, five to ninety percent were placed in non-indian homes, resulting in a

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00:15:46.420 --> 00:15:59.309

Evangelina Woo: intergenerational trauma, a loss of culture, a loss of connection so This is a remedial statute. It's in the Federal code as well as in the Welfare and Institutions code

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Karan Kolb: and those statutes, regulations, and the rules are all available at the link in this slide and in your materials.

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Evangelina Woo: So we'll move on to the next slide.

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Evangelina Woo: The placement preferences are again articulated in the Federal code as well as in the welfare and Institutions code.

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Evangelina Woo: This is a descending order of placement for each list. Um. You'll note that the placement preferences differ slightly depending on whether we're talking about um, a foster care, placement, or an adoptive placement.

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00:16:34.540 --> 00:16:52.750

Evangelina Woo: These all deal with Indian Child custody proceedings, which is also defined in the Federal law at twenty five USC. One thousand nine hundred and three

subdivision one um, and it it defines an Indian child's custody, proceeding as any action,

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00:16:52.760 --> 00:17:09.489

Evangelina Woo: removing an Indian child from their parent or Indian custodian for temporary placement in a foster home or institution, where the parent cannot have the child returned upon demand. Um! And for foster care. That's where and where parental rights have not yet been terminated.

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Evangelina Woo: We are going to get to this in a few more slides. But I wanted to

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Evangelina Woo: review the placement preferences as they are set out in the statutes. These placement preferences, although this training only deals with court cases. This also applies to out of home voluntary cases, and to emergency placements, such as at the detention hearing as well,

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Evangelina Woo: so um for more on that we'll go to the next slide.

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00:17:36.680 --> 00:17:37.920

Um,

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00:17:38.250 --> 00:17:57.129

Evangelina Woo: Despite what the placement preferences are in the previous slide, the child's tribe can establish a different order of preference. Um that happens by resolution. Um! And a tribe. A tribe can establish a different order of preference than that specified in the Indian Child Welfare Act.

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Evangelina Woo: If that happens, then the court and the agency shall follow the order of preference established by the tribe, so long as that placement is the least restrictive, setting appropriate to the particular needs of that specific Indian child, and we've got citations for you there as well,

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00:18:12.400 --> 00:18:14.430

and we'll move on to the next one,

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Evangelina Woo: so as we saw in the first set of slides about placement

preferences. The most preferred placement for Indian children is a member of the child's extended family that's defined by the Barr custom of the child's tribe, or if there is no such law or custom than it's an adult

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00:18:34.950 --> 00:18:45.849

Evangelina Woo: who is either a grandparent, aunt, uncle, brother, sister in law, niece, nephew, first or second cousin, or stepparent.

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00:18:45.860 --> 00:19:03.599

Evangelina Woo: So a helpful tip that we give to our to the agency workers and to our office when we're training is, if you're not sure if a tribe has a custom or a law designing an extended family member, the best thing to do is. Ask and not make assumptions, and that's kind of an overwhelming and overarching.

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00:19:03.610 --> 00:19:11.020

Evangelina Woo: The principle in our presentation today is, it's always best to if you're not sure what the answer is to ask a question.

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00:19:11.380 --> 00:19:13.690

Okay. So we'll go on to the next one.

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00:19:14.230 --> 00:19:15.440

Okay,

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Evangelina Woo: this slide is about community standards and also the necessity for tribal consultation. So, looking at three hundred and sixty, one point three, one of the welfare and Institutions code.

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00:19:28.280 --> 00:19:44.080

Evangelina Woo: Um, Again, what's important to remember is to ask and to not make assumptions, just because something is not necessarily the way you know you or the Keys caring worker would do it doesn't make it invalid, or even unnecessarily unsafe.

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00:19:44.090 --> 00:19:55.639

Evangelina Woo: Um! The law directs us to look at the prevailing social and cultural standards of either the Indian community where the parent or the extended family member resides,

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00:19:55.680 --> 00:20:05.899

Evangelina Woo: or the community where they maintain social or cultural ties, or the standards of the child's tribe,

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00:20:05.910 --> 00:20:21.410

Evangelina Woo: that, like three hundred and sixty. One point, three, F. Says, is where a qualified expert witness is really useful, if not vital and just a side note on qualified expert witnesses.

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00:20:21.420 --> 00:20:35.430

Evangelina Woo: It is required to have the testimony of a qualified expert witness. When we're talking about removing a child from the custody of their Indian parents, or terminating parental rights and freeing any child for adoption.

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00:20:35.440 --> 00:20:53.880

Evangelina Woo: Um best practice when you're identifying a qualified expert witness is to ask the tribe who they consider to be an expert in their culture, customs, and practice. There have been times where um agencies have sought to retain their own. But really, you know, whoever

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00:20:53.890 --> 00:21:00.770

Evangelina Woo: the tribe identifies as their expert is most likely the person most knowledgeable about their customs, cultures, and practices.

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00:21:00.840 --> 00:21:06.170

Evangelina Woo: A three hundred and sixty. One point three. One G. Says that the

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00:21:07.420 --> 00:21:08.660

Evangelina Woo: um.

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00:21:10.790 --> 00:21:28.160

Evangelina Woo: We need to use the services of the child's tribe whenever possible, and again in keeping children connected to their culture and um to their customs and practices that makes a lot of sense. Um that we'd want to make sure that we consult the tribe So,

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00:21:28.330 --> 00:21:45.219

Evangelina Woo: as we'll reiterate multiple times in this presentation. It's really important to involve the tribe from the first opportunity, which is why it's so vital to identify Indian children and get the tribe involved at the first possible opportunity and to maintain ongoing communication.

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00:21:45.230 --> 00:21:52.119

Evangelina Woo: So our next two slides or our next slide, Judge Espana and Karen will take us through some hypotheticals.

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00:21:52.750 --> 00:21:53.690

Karan Kolb: Sure.

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00:21:53.700 --> 00:22:10.469

Karan Kolb: Yeah. And I love the quote at the bottom to access the strength of the community, not just the individual who's asking for the placement, because the tribal. Social and cultural standards are many. There are some great opportunities for families here.

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00:22:10.480 --> 00:22:23.400

Karan Kolb: Um, in a lot of safety as well. So the hypotheticals that we came up with this first one just came up, and just happened not too long ago, and we had a

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00:22:23.410 --> 00:22:39.989

Karan Kolb: a child that had to be removed and protected, and the maternal grandmother came forward. She knew that she couldn't do it on her own, though, but with help from her other children, nieces, nephews, and other grandchildren, she could do it.

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00:22:40.000 --> 00:22:56.230

Karan Kolb: So there was a big support around her home. Ah! Where she didn't live alone. She had Ah, probably two other grandchildren who lived there as well, and some of their children as well. Um! And the question is, could she still be approved? And

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00:22:56.240 --> 00:23:25.800

Karan Kolb: you know, not looking at just her and what she's capable of doing. But looking at her network of her family, and because the Locke of the house, it was right next door to a bus stop. It was across the street from the Administration Building. It was across the street from the fire department and the the tribal Um police station. So it was really a good ah placement for the children family-wise. Um! They didn't have to change,

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00:23:25.810 --> 00:23:41.780

Karan Kolb: and they had the beauty of all the support of their maternal aunties and uncles and cousins, and and other grandchildren. So it made that that home even more richer with the networking.

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00:23:42.560 --> 00:23:54.329

Karan Kolb: The other hypothetical um happened not too long ago, and is actually one that has really changed some of our our statues. And

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00:23:54.340 --> 00:24:13.290

Karan Kolb: um, because we we brought this up to the State of California, because we had a very sad case where the um children were with the grandparents, but then they were moved from the parents, and unfortunately the parents passed away.

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00:24:13.300 --> 00:24:16.429

Karan Kolb: Um! And they were put into foster care

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00:24:16.440 --> 00:24:34.870

Karan Kolb: during the time they were in foster care they were horribly abused by that foster parent, and we had to switch gears, and then we re-looked the grandparents and the read the first the time that we looked at the grandparents. The grandfather had a background. Um!

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00:24:34.880 --> 00:24:43.259

Karan Kolb: And the background was quite some time ago, but he had reformed. He had done all his classes, and I can't remember exactly what it was

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00:24:43.270 --> 00:24:59.200

Karan Kolb: um, and it wasn't against children. But he had changed his life, changed his ways for the past twenty years, and was actually one of our very um prominent and well-respected tribal police officers.

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00:24:59.210 --> 00:25:09.519

Karan Kolb: Um! So he had changed his his life all around, but because he had that background. He was an initially a proof replacement because of that. And so

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00:25:09.530 --> 00:25:38.790

Karan Kolb: um! The kids could not go with him, and they ended up getting abused in foster care, and then we had to jump through a lot of hoops to get them back with their grandparents. So grandparents not only suffered loss in their family, lost their grandchildren. Um, but even um, you know loss of of hope, because they couldn't even qualify to get their grandchildren. But now that's all changed. Um! They the children are safe with them, and we're doing a travel

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00:25:38.800 --> 00:25:52.760

Karan Kolb: very adoption with these grandparents, and that should be done pretty soon. So it was a happy ending, although there was unfortunately a lot of abuse

that happened in that case.

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00:25:53.030 --> 00:26:03.079

Karan Kolb: But again, we need to to assess the community strengths the family strengths, and not just one individual um in placement

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Hon. Ana Espana: and absolutely. And one of the things we'll be talking about shortly is this new tool that is available to the court to authorize placement in the home of a relative. The agency is not willing to approve because of of a criminal history

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00:26:19.580 --> 00:26:28.929

Hon. Ana Espana: The tribe's view of a relative is significant in my view, and should be considered, among other things, when deciding to place a child in the home next slide, please.

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00:26:32.710 --> 00:26:43.519

Evangelina Woo: Ok. So, as we mentioned earlier, the placement preferences apply in emergency proceedings which include pre-filing and detention.

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00:26:43.530 --> 00:26:52.949

Evangelina Woo: Um. The social workers are trained as soon as it becomes known, or when we have reason to know that a child is an Indian child,

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00:26:52.960 --> 00:27:12.559

Evangelina Woo: that we need to be looking for a placement that fits within the placement preferences, and even for our non-engine children. Ideally the most preferred placement is with family. So you know, this is applicable to everybody but specifically for Indian children. The law requires, as soon as we know, or have reason to know, that we need to find

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00:27:12.570 --> 00:27:15.049

a placement that is

129

00:27:15.410 --> 00:27:31.650

Evangelina Woo: consistent with the policemen preference order. If the child has to grow so tips for social workers is to ask at the initial contact, not just at the hotline, but with the first contact with either a parent child or a relative

130

00:27:31.660 --> 00:27:43.760

Evangelina Woo: um to be asking, you know. Do you have any family? Do you have an ancestry for attorneys? Again, The advice is always to ask your client, and then

131

00:27:44.280 --> 00:27:50.570

Evangelina Woo: for judges to ask parents, the children, all family members present for the detention, hearing

132

00:27:50.830 --> 00:27:58.560

um also to look carefully for all people involved at your detention reports for any information regarding

133

00:27:58.600 --> 00:28:11.789

Evangelina Woo: relatives or family support, but also to ask those people who attend that initial detention hearing sometimes. That's the only time that we see a family member is at the initial hearing. You know things happen.

134

00:28:12.000 --> 00:28:31.829

Evangelina Woo: People become involved at the beginning, but maybe Aren't involved later, and we should never assume that we can, that we can go back and ask them at some other time, because that may be the only time that we see them that this also applies when doing Icwa inquiry, and that's how we've been training the agency here in San Diego County.

135

00:28:32.120 --> 00:28:46.190

Evangelina Woo: Um placement preferences also apply at the what we call Indian child custody, proceedings, disposition, any need for subsequent placement, as well as for adoption and permanency,

136

00:28:46.200 --> 00:28:54.790

Evangelina Woo: and any any time a new placement is needed, the placement preferences apply and need to be considered, and we'll move on next to this,

137

00:28:56.160 --> 00:28:59.889

Evangelina Woo: to talking about um approval and licensing requirements.

138

00:28:59.900 --> 00:29:04.530

Evangelina Woo: So placements for Indian children do still need to be approved or licensed.

139

00:29:04.690 --> 00:29:22.600

Karan Kolb: The emergency process is a check-out a khaki chuck, and an in-home

physical um inspection um welfare institutions, Code three hundred and nine d. One through three, allows for emergency detention upon completion of this assessment,

140

00:29:22.610 --> 00:29:36.099

Evangelina Woo: and then it requires the agency to follow up with either an approval by the agency or the tribe can approve. The Home Um Agency personnel is supposed to be gathering this background information during their investigation.

141

00:29:36.110 --> 00:29:47.700

Evangelina Woo: Of course, timelines are short for the filing of initial petitions. Sometimes there are emergency removals, but this still does need to be a consideration that

142

00:29:47.870 --> 00:30:05.829

Evangelina Woo: we've asked our clients to be prepared to um to inform the court and counsel if relatives are involved, if they've been able to um have their backgrounds checked. Um. And if if a child's in the home, if there's been an in-home physical section, so

143

00:30:06.800 --> 00:30:14.320

Evangelina Woo: as your practice tip states you want to make sure that your detention report addresses those things, and if not, then you,

144

00:30:14.350 --> 00:30:29.890

Evangelina Woo: that's the time to ask is if these relatives who are identified have been able to be approved on an emergency basis, or if relatives appear at the detention, hearing again to start gathering that information, to try to

145

00:30:29.980 --> 00:30:35.639

clear them for emergency detention, and so we'll move on to the next slide.

146

00:30:36.810 --> 00:30:40.290

Evangelina Woo: These are the different types of approvals,

147

00:30:40.300 --> 00:30:56.989

Evangelina Woo: different ways that a person or a home can be approved. So i'll have Karen talk about the tribally approved home in a tribally specified home. But we've also got the resource family homes that are licensed by the county, and we'll get to the compelling reasons. But first i'll turn it over to Karen to talk about.

148

00:30:57.000 --> 00:30:58.220

Karan Kolb: Yeah, it's a different comes.

149

00:30:58.540 --> 00:31:14.210

Karan Kolb: Yes, thank you. Um. The travelling approved home is a process that we do. We go into the home and we approve it, using an assessment resource tool that is, is kind of modeled after the county's assessment,

150

00:31:14.220 --> 00:31:27.370

Karan Kolb: but has a few other things on there. Um um tribes can approve the homes and ask the um home and the placement people to are the placement

151

00:31:27.430 --> 00:31:36.400

Karan Kolb: to have a hair follicle test drug testing. It could be much more stricter than the counties, or it could be more lenient.

152

00:31:36.410 --> 00:31:50.539

Karan Kolb: But we do work with the county to do the khaki clearance on all the adults at home, because we definitely want to see that we are. You know that we know everything, and so we work together with the county um

153

00:31:50.630 --> 00:32:07.639

Karan Kolb: to do that khaki. But the physical part we go into the home, and we approve it with our um trained tribal social workers. Um! Same with the tribally specified home that's a home that we are as a tribe requesting the placement to be.

154

00:32:07.650 --> 00:32:28.410

Karan Kolb: And we're asking the agency to do all the agency approved. Um, The approvals, the assessment, the background checks and everything. It's basically um the home that we want. We're specifying this home um that we want. And the tribally approved home is the home that we're approving. We're going in physically and and approving,

155

00:32:28.460 --> 00:32:33.290

Karan Kolb: and then Angelina will go over the resource, family, home, and compelling reasons.

156

00:32:33.300 --> 00:32:34.090

Yes,

157

00:32:34.100 --> 00:32:50.600

Evangelina Woo: Ok. So a resource family home is one that is approved through the

county where we've conducted the background check in all of the other approvals. A resource. Family home can be a tribally specified home. Sometimes, if that's the home that the tribe has

158

00:32:50.610 --> 00:33:10.349

Evangelina Woo: selected out of the agency approved options. I'm not going to go too far into the compelling reason, because that probably could be an entirely different training. But what's important to know is that the compelling reason approval is child-specific so it doesn't transfer over to other children, and I think that's probably world.

159

00:33:10.360 --> 00:33:28.150

Evangelina Woo: Keep that in interest of time. So let's move to the next slide and talk about what judges and attorneys can look for in terms of what attorney should look for, what the agencies workers are being trained on, and what our office also asks about is

160

00:33:28.160 --> 00:33:32.179

Evangelina Woo: at detention and at jurisdiction, disposition

161

00:33:32.570 --> 00:33:37.430

Evangelina Woo: specifically whether there are relatives or nephrons available for placement.

162

00:33:37.480 --> 00:33:54.299

Evangelina Woo: Um. The detention report should state whether or not there are any relatives that are currently available. Um! If that were found in the initial investigation. Um! It also. It also should include whether or not that relative is able to be emergency um for detention,

163

00:33:54.310 --> 00:34:09.049

Evangelina Woo: whether they have criminal or cws history; and again, it's important to distinguish it. It's not what the history is, but whether there is any history that exists that precludes them from an emergency

164

00:34:09.230 --> 00:34:10.709

detention

165

00:34:10.989 --> 00:34:21.170

Evangelina Woo: at disposition. The law requires the agency to present their family. Finding efforts for Indian children,

166

00:34:21.250 --> 00:34:28.199

Evangelina Woo: we need to consult with the tribe. And then, if there are multiple placement options,

167

00:34:28.210 --> 00:34:47.899

Evangelina Woo: Um. Or even if there aren't multiple placement options, we do need to provide an analysis of where this proposed basement fits within the placement preferences, because, as a preview for the next few slides, if we're asking a deviate from a place of preferences, we the court does need to make a good cause by nature.

168

00:34:47.909 --> 00:35:00.900

Evangelina Woo: Um. So not only is the information in this slide something that the agency needs to focus on, but this is also something that all councils should be looking at in their reports. Um! In the interest of

169

00:35:01.240 --> 00:35:18.930

Evangelina Woo: for Minor's Council, in the interest of keeping their client connected to their culture, but also in terms of parents. Counsel. As we talked about earlier. Um relative placement is one of the things that supports reunification in most cases, and

170

00:35:18.940 --> 00:35:29.520

it minimizes trauma to children and also their families. So those are very important things, not only for the agency to consider, but for all council who are involved in

171

00:35:29.560 --> 00:35:37.359

Evangelina Woo: in any child custody proceeding to consider. So i'll turn it over to Judge Aspania to talk about what the court should be looking at.

172

00:35:37.370 --> 00:35:56.080

Hon. Ana Espana: Thank you, Evangelina. And again, one hundred percent agree with um. Your comments with regard to the detention report from a judge's perspective. What we need to look for is, first of all, has there been communication with the tribe? And again the communication should have started far before the filing repetition.

173

00:35:56.090 --> 00:36:12.409

Hon. Ana Espana: But that's one thing, and also is there information in the report about available relatives and non-relative extended family members Again, So look for this information in the report, and if it's not there, and not otherwise

explained in the report, ask ask the agency

174

00:36:12.460 --> 00:36:26.979

Hon. Ana Espana: if the parents or the child is in the courtroom, ask them about relatives or non-relative extended family members as part of my script at detention. I order parents to disclose to the social work,

175

00:36:26.990 --> 00:36:40.409

Hon. Ana Espana: names and contact information for any known maternal or paternal relatives or non-relative extended family members, as they're required to do, under the three hundred and seventeen age three of the welfare institutions code.

176

00:36:40.420 --> 00:36:49.360

Hon. Ana Espana: I also emphasize to the parents the importance of working with the agency to provide information about all known family members.

177

00:36:49.690 --> 00:37:03.299

Hon. Ana Espana: I also ordered them to identify and locate relatives and extended family members and provide all adult relatives. Notice that the child has been removed from the parents

178

00:37:03.310 --> 00:37:13.289

Hon. Ana Espana: and options to participate in the child's care and placement again, as they're required to do under three hundred and nine E. One of the Welfare Institutions code.

179

00:37:13.630 --> 00:37:27.170

Hon. Ana Espana: With regard, I'll also order an update in the jurisdiction Disposition Report on the Agency's duty to identify and locate and notify relatives Again, the results of their finding family finding efforts

180

00:37:27.190 --> 00:37:30.919

Hon. Ana Espana: Again I'm. Looking at the disposition report. Now

181

00:37:31.010 --> 00:37:46.470

Hon. Ana Espana: you look at that information with regard to relatives. Look for that information very regarding consultation with tribes on the analysis again of the post placement, as Evangelina described, and how they fit in the placement preferences, and any a good cause.

182

00:37:46.480 --> 00:37:51.230

Hon. Ana Espana: Facts appointing good cause of Dvd. If that's what the request is to do.

183

00:37:51.350 --> 00:37:53.479

Hon. Ana Espana: Um, Okay, Next slide, please.

184

00:37:55.630 --> 00:37:58.660

Hon. Ana Espana: So changes after Sp: Three hundred and fifty, four.

185

00:37:58.720 --> 00:38:14.879

Hon. Ana Espana: Well, arguably. The court has had the ability to authorize the placement of a child in a non-approved home. Sb. Three hundred and fifty four provides further clarification. To this authority the statute now provides

186

00:38:14.890 --> 00:38:25.570

Hon. Ana Espana: that a court can authorize placement of a child in the home of a relative, regardless of the status of any criminal record, exemption, or Rfa.

187

00:38:25.580 --> 00:38:40.050

Hon. Ana Espana: If the court finds that the placement does not pose a risk in the health and safety of a child, and this again includes an emergency placement. So that's pretty early on. What is the information that would be helpful to the core to make in that decision?

188

00:38:40.490 --> 00:38:45.950

Hon. Ana Espana: Certainly, from my perspective information from the three hundred and sixty. One point, four assessment would be helpful.

189

00:38:46.530 --> 00:38:59.680

Hon. Ana Espana: I'd also want to know what's the history of the relative of the child and the agency like, was a relative involved or participated in the safety plan, or been involved in voluntary supervision of the child.

190

00:39:00.010 --> 00:39:18.350

Hon. Ana Espana: Also the date of the criminal history. The nature of criminal history would be important, and of course, in the case of an Indian child, the tribes views are significant, and again, in my view, would weigh heavily in my assessment next slide, please.

191

00:39:21.380 --> 00:39:22.759

Hon. Ana Espana: Evangelina.

192

00:39:23.500 --> 00:39:39.009

Evangelina Woo: Yes, thank you. So. Um! In order to understand why. Sb: three hundred and fifty, four is significant. It's relevant to look at some of the cases that came before Sb. Three hundred and fifty four came in, especially when we're talking about

193

00:39:39.020 --> 00:39:53.329

Evangelina Woo: um what the agency and what the law states as non-exemptible convictions. Um. So there's two cases involving Indian children and extended family members with non exemptible convictions.

194

00:39:53.340 --> 00:40:02.769

Evangelina Woo: The first is Julian B from the year two thousand. There was a maternal, great uncle identified by the child's tribe as the preferred placement.

195

00:40:02.880 --> 00:40:20.900

Evangelina Woo: Um, Department of Health and Human services declined placement with him for many reasons. His age he was seventy. One he'd had two convictions twenty and thirty years prior to filing. One was for dui; one was for a vehicular manslaughter where an int had died.

196

00:40:20.910 --> 00:40:40.120

Evangelina Woo: Um! He'd continued to use alcohol until his death from his toes health sorry till his health required him to stop in one thousand nine hundred and eighty five. Um. They had concerns about his support being just his girlfriend, and the third, he and his girlfriend's grandchildren had issues of their own related to their parents. Alcohol Use

197

00:40:40.130 --> 00:40:49.790

Evangelina Woo: um. In that case Dhhs found a licensed foster home, where one of the caretakers was one over eight Cherokee, and placed a child there.

198

00:40:50.300 --> 00:40:59.379

Evangelina Woo: In that case the tribe presented their assessment of the maternal great uncle, which contain detailed information about his current support system

199

00:40:59.390 --> 00:41:13.580

Evangelina Woo: his importance as a tribal member. His rehabilitation from alcohol abuse as well as the tribe had adopted a resolution identifying maternal great-uncle and his spouse as the preferred placement.

200

00:41:13.670 --> 00:41:27.260

Evangelina Woo: Um! In that case the court was very troubled that neither the agency nor a state D Dss had had even considered a waiver for the uncle's conviction that they just determined that the

201

00:41:27.430 --> 00:41:32.019

Evangelina Woo: which was actually forty years old was not

202

00:41:33.430 --> 00:41:43.659

Evangelina Woo: um exemptible. And so the court, in light of all of this evidence directed the agency to request a waiver, or to explain why it did not do so. And

203

00:41:43.740 --> 00:41:47.870

Evangelina Woo: um that decision would be subject to review for abuse of discretion.

204

00:41:48.050 --> 00:42:02.369

Evangelina Woo: Um! In autumn, K. From two thousand and thirteen we have another case where um, involving an Indian child where a maternal grandmother had come forward asking for placement. She had the child's six other siblings in her care,

205

00:42:02.380 --> 00:42:20.359

Evangelina Woo: but was also caring for her adult son, who was in the terminal stages of an illness. So the agency declined in that case, to place the child with the grandmother, even though she was the child's preferred placement identified by the tribe.

206

00:42:20.370 --> 00:42:24.220

Evangelina Woo: The agency had placed the child on a foster home with

207

00:42:24.330 --> 00:42:29.049

Evangelina Woo: the mother's former parole agent, who was married to the child's

208

00:42:29.350 --> 00:42:47.619

Evangelina Woo: um second cousin once removed, which made them distant relatives as well. In that case the grandmother made multiple requests for placement at multiple hearings. She submitted letters of support from collaterals, detailing the excellent care that she was providing for the other children in her home.

209

00:42:47.630 --> 00:42:52.630

Evangelina Woo: She described how she would keep this child connected to her tribal community.

210

00:42:52.790 --> 00:43:01.449

Evangelina Woo: In this case. Again, the department cited concerns that the maternal grandfather had several duis;

211

00:43:01.580 --> 00:43:12.240

Evangelina Woo: that the maternal grandmother originally had a lot on her plate, so that so much time had passed that the child was bonded with her with her current caretakers,

212

00:43:13.030 --> 00:43:32.699

Evangelina Woo: and the department in that case also stated that the maternal grandfather had a criminal conviction that precluded placement and denied a request for exemption, even though his criminal history had been expunged by the time that the court was ruling on basement for permanent purposes. In that case, again, the Court of Appeal,

213

00:43:32.710 --> 00:43:33.649

it was

214

00:43:33.830 --> 00:43:42.309

Evangelina Woo: concerned that the department had just assumed the facts underlying the grandfather's non-exemptible conviction, and the

215

00:43:42.390 --> 00:43:48.110

Evangelina Woo: and they ordered the Department to evaluate their request for exemption

216

00:43:48.400 --> 00:44:04.550

Evangelina Woo: after sb three hundred and fifty four, all criminal convictions for relatives have the potential to be exempted during the Ah Rfa assessment process. If there's proof that the relative has rehabilitated since the conviction, and is a present good character,

217

00:44:04.560 --> 00:44:17.510

Evangelina Woo: so again, that means all of the crimes on the State non-exemptible list could be exemptible for relatives. That doesn't mean that they necessarily will all be exempted. But it does require an assessment

218

00:44:17.520 --> 00:44:31.800

Evangelina Woo: of the relative, and it generally requires some time to pass, so that the relative can prove that they've rehabilitated, and are currently not a risk to this child in particular, and our present good character.

219

00:44:31.810 --> 00:44:45.759

Evangelina Woo: Um! Important things to remember about this is that exemptions cannot be transferred for the placement of other children, much like the compelling reason approval that we talk about earlier. This applies to the child that is in question.

220

00:44:45.770 --> 00:45:03.270

Evangelina Woo: Um. It also applies to adults living in the home of a relative or extended family member of an Indian child. So while it doesn't apply to nephews specifically seeking child-specific placements it does apply to adults in the home of a relative Um. So in our case

221

00:45:03.280 --> 00:45:10.189

Evangelina Woo: like in autumn K. This would have been potentially this potentially, would have made the grandfathers

222

00:45:10.600 --> 00:45:17.389

Evangelina Woo: conviction eligible for exemption. So that's a very helpful

223

00:45:18.390 --> 00:45:23.769

Evangelina Woo: statutory change, and in response to these cases, where

224

00:45:23.780 --> 00:45:42.729

Evangelina Woo: it used to just stop with it. This person has a non-exemptible conviction, and that's where the analysis would end. It requires a deeper level of thinking and really consideration of what would be best for this child what would be best for the family, what the tribe wants, and what the parties want.

225

00:45:42.740 --> 00:45:45.090

So we'll move on to the next slide.

226

00:45:45.840 --> 00:45:59.140

Evangelina Woo: And again, here are the placement options that are available. They are an emergency placement which requires a further approval or a tribally approved home

227

00:45:59.220 --> 00:46:12.860

Evangelina Woo: resource, family home a tribally specified home, or the court authorized placement, as we previously discussed in the last few slides. Um, Karen, do you have anything that you want to weigh in on them for this slide,

228

00:46:19.230 --> 00:46:21.010

Vida Castaneda: carrying your own meal.

229

00:46:21.980 --> 00:46:25.189

Karan Kolb: Well, what I said was great. You guys,

230

00:46:25.200 --> 00:46:29.179

Karan Kolb: I just the court authorized placement.

231

00:46:29.190 --> 00:46:47.339

Karan Kolb: Sb: three, fifty four, which I love because it it takes that deeper dive. So I think the moral of the story is to take the deeper dive in the beginning and um work with the tribe on all these different types of placements we're all trying to work together.

232

00:46:49.800 --> 00:47:03.409

Evangelina Woo: Great Ok. And let's go to the next slide, then. So here here's some guidance from the statutes on how to consider what to consider for placement. We need to consider the placement preferences. Obviously

233

00:47:03.420 --> 00:47:16.150

Evangelina Woo: um the statutes direct us to find the least restrictive setting that most most most closely approximates a family situation, and that can meet the child's special needs if they have any

234

00:47:16.160 --> 00:47:26.250

Evangelina Woo: um we need to consider the proximity to their home. Um! The parents and child's views um, especially when a child is old enough to have something to say about it.

235

00:47:26.260 --> 00:47:43.040

Evangelina Woo: Um! The prevailing social and cultural standards of the Indian community. And we also need to use the services of the tribe when they're available to secure a placement within the preferences. Um! And then Karen or Justice Panya, if you want to weigh in um more on specifically what this means

236

00:47:43.050 --> 00:47:45.690

Hon. Ana Espana: I don't have anything else to add. Karen, What about you?

237

00:47:45.700 --> 00:47:47.819

Karan Kolb: No, i'm good with this one.

238

00:47:48.770 --> 00:48:03.279

Evangelina Woo: Okay, Great. All right, Then let's move on. Then. Um for the cases where we may need to deviate from replacement preference in order to do that the the court needs to make a good cause, finding on the record or in writing by clear and convincing evidence.

239

00:48:03.370 --> 00:48:11.900

Evangelina Woo: This is here are the things to consider on this slide. It's the parents, input the child's, input

240

00:48:12.200 --> 00:48:19.559

Evangelina Woo: the presence of siblings, whether or not there are any special means of the Indian child. So for our

241

00:48:19.780 --> 00:48:23.199

Evangelina Woo: youth, who may have um, you know,

242

00:48:23.230 --> 00:48:35.949

Evangelina Woo: means that require either specialized mental health treatment or specialized medical treatment; that if that's not available in the community where the preferred placement is located, that is something they consider for good cause,

243

00:48:35.960 --> 00:48:48.810

Evangelina Woo: and then the last one is whether or not a diligent search has been conducted, and there just simply isn't a suitable placement available. So obviously this is a very fact-specific assessment

244

00:48:48.820 --> 00:49:07.029

Evangelina Woo: for, and it'll differ for every case there's, no you know one size fits all for every back um pattern or for every child. Um! While the court is the one that needs to make this finding, it's up to the parties that want to go outside the placement preferences to provide the evidence.

245

00:49:07.280 --> 00:49:19.179

Evangelina Woo: It is essential to make diligent efforts to search for a home

within the placement preferences, especially now that we have the changes after s three hundred and fifty four, to consider whether or not

246

00:49:19.280 --> 00:49:27.890

Evangelina Woo: Um, even if the agency is not recommending a placement, if the court can order it so judges Spania. If you want to weigh in more on this.

247

00:49:27.900 --> 00:49:28.490

Hon. Ana Espana: It's like

248

00:49:28.500 --> 00:49:40.570

Hon. Ana Espana: Yes, I mean I'll just add again, you need to look for that information in the report that the agency is making that diligent effort to search for a home within the placement preferences. Again, that is essential, as Angelina said,

249

00:49:40.960 --> 00:49:48.759

Hon. Ana Espana: you have to look for in the report that the tribe has been involved in the discussions with an agency Throughout this whole process

250

00:49:49.210 --> 00:49:54.339

Hon. Ana Espana: every case is different. The decisions are fact-specific.

251

00:49:54.470 --> 00:50:06.060

Hon. Ana Espana: Probably the most recent good cause finding to deviate that I made was just a few weeks ago with the youth who required an Str. T. Rtp placement, and then the tribe didn't have that resource, and of course the the tribe

252

00:50:06.070 --> 00:50:15.589

Hon. Ana Espana: um on the record, and and our discussions on the record agreed that the tribe didn't have that resource, and agreed to the proposed placement by the agency.

253

00:50:16.530 --> 00:50:17.790

Hon. Ana Espana: Right? Um.

254

00:50:18.470 --> 00:50:23.390

Karan Kolb: I I don't know if you wanted to add anything. Here we go to the next slide. We can go to the next slide.

255

00:50:23.400 --> 00:50:24.290

Hon. Ana Espana: Okay,

256

00:50:25.020 --> 00:50:28.879

Hon. Ana Espana: all right. Things that are not good cause.

257

00:50:29.100 --> 00:50:32.990

Hon. Ana Espana: First is the socioeconomic status of the family member,

258

00:50:33.720 --> 00:50:50.640

Hon. Ana Espana: but also the ordinary bonding and attachment flowing from the time spent in a non-preferred placement made in violation of icwa so. For example, if there is no notice to the tribe four months,

259

00:50:50.830 --> 00:50:55.979

Hon. Ana Espana: the child is in a non-preferred placement again in violation of I mean

260

00:50:56.240 --> 00:50:58.950

Hon. Ana Espana: that bonding and attachment

261

00:50:59.150 --> 00:51:08.200

Hon. Ana Espana: by statute is not to be considered as good cause of the tribe, wants to make on a preferred placement of making that request.

262

00:51:08.250 --> 00:51:15.809

Hon. Ana Espana: You know What I have emphasized to many of my colleagues and other judges is that it's so important

263

00:51:16.140 --> 00:51:21.589

Hon. Ana Espana: that determinations regarding the application of the Indian Child Welfare act

264

00:51:22.070 --> 00:51:31.159

Hon. Ana Espana: detention and placement decisions are fully and investigated, considered and decided from the very beginning.

265

00:51:31.330 --> 00:51:41.040

Hon. Ana Espana: So you're not having to unravel some of these things later on down the line that could certainly impact the child's best interests.

266

00:51:41.080 --> 00:51:42.779

Hon. Ana Espana: Um, Evangelina.

267

00:51:43.660 --> 00:51:51.619

Evangelina Woo: Yes, thank you. As Judges pony, I said, those trials are the worst. They are the hardest and the most emotional, because it's,

268

00:51:51.660 --> 00:51:52.850

you know,

269

00:51:54.690 --> 00:52:03.760

Evangelina Woo: time that we can't really, that we can't consider as a good cause. But you know time that actually happens. So you know, feelings get involved.

270

00:52:03.770 --> 00:52:17.329

Evangelina Woo: People get bonded. They're just very, very difficult. So again, it's so important. And this is why we focus so hard on the front-end training. To do inquiry is to identify

271

00:52:17.400 --> 00:52:19.850

Indian children as soon as we can.

272

00:52:19.860 --> 00:52:34.000

Evangelina Woo: Um! There is a case of inray Alexandria. P. That that reminds us that a child can be placed in one home for the reunification period and move to another home. If reunification is unsuccessful,

273

00:52:34.010 --> 00:52:42.259

Evangelina Woo: as you recall the placement preferences for foster care, Placement and adoptive placement are a little bit different. Um foster care. Placement

274

00:52:42.420 --> 00:52:47.189

Evangelina Woo: preference begins with a member of the child's extended

275

00:52:47.300 --> 00:52:48.640

the family.

276

00:52:48.680 --> 00:52:49.959

Evangelina Woo: Um,

277

00:52:50.010 --> 00:53:04.499

Evangelina Woo: but adoptive placements. The preference is a member of the Indian child's extended family, and which is the same right. But then the second most preferred placement is other members of the child's tribe, and then the third

278

00:53:04.970 --> 00:53:20.000

Evangelina Woo: preference is other Indian families. So that you know does not include these non-indian foster homes, and what it means for some of our cases is that we need to have an honest discussion with

279

00:53:20.230 --> 00:53:39.850

Evangelina Woo: um everybody at the outset that there's a possibility that if reunification doesn't work out the home that the child is in, if it's not an extended family member may not be the home that's identified for adoptive purposes, and those are tough conversations to have. Those are incredibly emotional.

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00:53:39.860 --> 00:53:48.439

Evangelina Woo: But what we've found, and what we've advised our client over and over again is that it's best to have that open discussion at the outset of the case,

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00:53:48.450 --> 00:54:02.470

Evangelina Woo: and for all people to be kind of aware of where we could potentially go, because it's the agency's job to engage in concurrent planning. Right? We always want to reunify if it's safe. But if we don't, then why

282

00:54:02.560 --> 00:54:05.999

Evangelina Woo: um, so let's move to the next slide for the practice tips.

283

00:54:07.630 --> 00:54:13.179

Okay, And does somebody want to start? Maybe Karen with the out-of-state relatives

284

00:54:14.550 --> 00:54:27.070

Karan Kolb: um building relation with the um out of state relatives. This is in a case where it's not a local tribe, and or it can be a local tribe and relatives live outside the State.

285

00:54:27.080 --> 00:54:44.030

Karan Kolb: So it's still important. And I think what Covid has really taught us is

that there is a possibility to do things electronically. Um, using zoom using our friend Alexa and face timing, and all of that kind of stuff to keep the kids connected.

286

00:54:44.040 --> 00:54:59.839

Karan Kolb: Um very important to involve the tribe on all those decision making um and collaborative team decisions. Um, Because we we need to remind ourselves that on Icwa cases that the tribe can't intervene into the case.

287

00:54:59.850 --> 00:55:22.199

Karan Kolb: Well, after the case has gone on all the way up to you know, when permanency is happening, and that's why, when at Evangelina mentioned that it's really important to the inquiry at the beginning, and hopefully the tribe's been involved before the um child enter the foster care. Ah! Because then we can look for family where we're um

288

00:55:22.210 --> 00:55:27.359

Karan Kolb: Partners in this were partners in the family success and the tribe's success.

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00:55:27.430 --> 00:55:35.720

Karan Kolb: So it's very important to involve the tribe, and involve everybody in the child's life to provide that that feedback at the cft.

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00:55:35.730 --> 00:55:55.079

Karan Kolb: Um, and not to be so quick to turn people away because of backgrounds. Because if we're in this business um to help parents and families, but we don't believe that people can change in our life. Then we need to rethink what we're doing, because people do have the capacity to change and rehabilitate,

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00:55:55.190 --> 00:56:08.300

Karan Kolb: So have those discussions, and with the current caregiver with the tribe, the travel social worker, other people from the tribe when you're looking for placement and

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00:56:08.470 --> 00:56:14.319

Karan Kolb: caregivers, and making those connections with the children with their tribe,

293

00:56:19.200 --> 00:56:33.569

Evangelina Woo: and we'll go on to the next slide. So even in cases where Icwa Doesn't apply the Foster Care Bill of Rights still provides that children are

entitled to be placed with a relative or an Ephraim.

294

00:56:33.580 --> 00:56:45.959

Evangelina Woo: If an appropriate and willing individual is available, the Foster Care Bill of Rights is in the Welfare and Institutions code, and among the many provisions among the many rights that it

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00:56:46.170 --> 00:57:01.100

Evangelina Woo: gives to fostered youth. Um! Are all of these that we've enumerated on this slide that are about um Indian children in particular about being connected to their culture. Um, about having

296

00:57:01.110 --> 00:57:11.959

Evangelina Woo: contacts with people outside of the foster care system within their community ability to stay connected to their religious services or ceremonies,

297

00:57:12.240 --> 00:57:21.359

Evangelina Woo: and also to have Number twenty, tell welfare and probation, Personnel and council, who received instruction on the Indian Child Welfare Act.

298

00:57:21.390 --> 00:57:30.349

Evangelina Woo: That's very important in maintaining a cultural competency and sensitivity. And again,

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00:57:30.670 --> 00:57:40.520

Evangelina Woo: what we focus on is that to not make assumptions that you know everything about, You know anything you may have read about a tribe, is It's always best to approach

300

00:57:41.640 --> 00:57:45.720

Evangelina Woo: new um. You know new things from an area,

301

00:57:45.840 --> 00:57:57.229

Evangelina Woo: a standpoint of humility and curiosity, and that it's always best to ask questions instead of making assumptions,

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00:57:58.980 --> 00:58:04.390

Hon. Ana Espana: you know, i'll add just something here. With regard to Icwa does not apply

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00:58:04.840 --> 00:58:13.529

Hon. Ana Espana: in many. Ah! In our our dual justice system we have in San Diego a number of kids who are members of the tribe. But if it does not apply,

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00:58:13.540 --> 00:58:29.230

Hon. Ana Espana: and one of the things that I have been looking for is adding to their case plan services that are offered by their tribe again to keep them connected to those travel services to keep them connected to cultural events, as well as other

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00:58:29.240 --> 00:58:35.739

Hon. Ana Espana: other programs that might support the use of rehabilitation. And so that's something I wanted to point out as well.

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00:58:36.960 --> 00:58:38.000

Hon. Ana Espana: Next slide,

307

00:58:39.370 --> 00:58:58.299

Hon. Ana Espana: and here i'll just give some final tips from my perspective. Again, the identification of whether the child is an Indian child. It's it must be made as soon as possible. Early on again, ideally before the filing petition, and that's possible, but if not possible, early on in those initial stages

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00:58:58.400 --> 00:59:05.130

Hon. Ana Espana: and communication and collaboration with the tribe throughout the case. Again, that's just extremely important,

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00:59:05.200 --> 00:59:08.059

Hon. Ana Espana: and wanted to make that point as well,

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00:59:08.200 --> 00:59:11.600

Hon. Ana Espana: Evangelist, you had a on any other point you wanted to offer up

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00:59:11.610 --> 00:59:24.809

Evangelina Woo: um, actually just going back to when icwa doesn't apply. We can stay on the slide. But there's also lots of non-federally recognized tribes. For whom then, icwa doesn't apply? But

312

00:59:24.820 --> 00:59:38.009

Evangelina Woo: all of these practice tips are so applicable is We want to keep these families also connected to their culture as well. Even if the Indian child

Welfare Act itself doesn't apply to the Christine.

313

00:59:38.690 --> 00:59:39.589

Yeah.

314

00:59:39.600 --> 00:59:50.150

Karan Kolb: Ah, also it really means that they're not eligible for enrollment, but they're still in their heart, body, soul in mind, a tribal person. And so you want to keep that

315

00:59:50.160 --> 01:00:05.479

Karan Kolb: that affiliation intact and the the other final. The tip that I want to remind everybody is, Please Don't, Google, the tribe. When you're trying to notice, please use the Federal registry to find the right agent or the tribe.

316

01:00:05.490 --> 01:00:23.139

Karan Kolb: Lately We've been getting a lot of other counties Um! How to protect my county, but other counties have been just noticing the tribal halls and um getting nowhere in the case is going on and on and on, and then we find out from a fluke

317

01:00:23.150 --> 01:00:39.229

Karan Kolb: about the case that's been going on for months, and we already have kids in foster care. So please use a Federal registry when you want to find out who your Icwa agent is in contacting the tribe, and when in doubt, ask those questions,

318

01:00:45.570 --> 01:00:56.930

Vida Castaneda: hey? So I didn't see any questions posted in the chat, so it seems we are at the end. We can go to the very last slide.

319

01:01:00.180 --> 01:01:12.810

Vida Castaneda: Well, thank you. Everyone for attending Today's Webinar. Thank you to all of the panelists. We hope you have enjoyed this great discussion on placements of Indian children in juvenile proceedings.

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01:01:12.820 --> 01:01:24.490

Vida Castaneda: If you have any comments or questions. Please feel free to reach out to myself or Anne Gilmore, and we can provide feedback to our panelists, or talk to you directly.

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01:01:24.500 --> 01:01:33.010

Vida Castaneda: If you would like to receive a certificate for Ceos. Again, please

refer to the directions sent by email from Amanda Morris.

322

01:01:33.020 --> 01:01:37.529

Hon. Ana Espana: Have a wonderful day, everyone. Thank you. Thank you. Everybody.
Thank you.