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Indian Child Welfare Act of 1978: An Analysis of Policy Implementation

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Indian Child Welfare Act of 1978: An Analysis of Policy Implementation

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ABSTRACT

The state of California is home to 109 federally recognized tribes, 100 tribal reservations, and roughly 12% of the nation's total Native American/Alaskan Native population, which is approximately 720,000 people (California Courts, n.d.-b). California leads the nation in ICWA appeals, accounting for 152 of 214 (71%) ICWA appeals in 2017 (Daly, 2018) and 125 of 206 (61%) ICWA appeals in 2018 (Fort, 2019). To understand how the Indian Child Welfare Act could be implemented more effectively, Indian Child Welfare Act policy implementation is explored through the analysis of California appellate court cases and the formation of common themes that emerged from analysis of each appellate court case. After common themes emerged, thematic analysis was conducted to identify, analyze, and interpret the meanings of the collected data. The findings suggest street-level bureaucrats struggled with implementing several provisions of ICWA such as inquiry, notice, and active efforts in addition to multiple tenets of ICWA such as affirmative and continuing duty and knowing or having reason to know a child and/or a relative of the child may have Native American/Alaskan Native ancestry. Street-level bureaucrats also struggled with simplifications (discretionary decision-making), routines (discretionary behaviors), and completing ICWA forms when implementing the Indian Child Welfare Act of 1978. The implications of this study indicate areas of improvement for policy implementation such as an oversight board, the development of formalized practices and protocols, trainings on simplifications (discretionary decision-making), and research on the sources of the problem hindering successful ICWA implementation for each county (backward mapping).

Keywords: document analysis, thematic analysis, simplifications, routines

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DEDICATION

I want to dedicate this research study to the Moore/Hall family. It was my maternal grandmother, Nora Sang Hall, who instilled the principles of public service in me when she took me to skid row with her to serve the homeless population of Los Angeles County. It was my paternal grandmother, Carrie Moore, who taught troubled and underserved youth for several decades within the Los Angeles Unified School District and who instilled the importance of education in me. It was my mother, Theresa Moore, who instilled a limitless mindset in me from birth and continues to instill that same mindset in me today. It was my father, Kevin Moore, who demonstrated hard work and dedication on a daily basis from which I learned to maintain consistency.

It was my maternal aunt/Godmother, Costeina Hall-Daniels, who motivated me to work in social services. It is her work as a Los Angeles County social service executive that drives me to do better, to want to be better, and to want to make a difference. It was my paternal aunt, Kim Moore-Serna, who served the residents of Los Angeles as a Los Angeles Police Department dispatch supervisor and developed a compassion in me for serving vulnerable populations. This research study is dedicated to all of the elders in my family. I also want to dedicate this research study to my wife, Amber Jones-Moore, and my daughter, Skylar Whitney Moore, who motivate me to be the best husband, father, and man that I can be.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER 1: INTRODUCTION

Background

On November 8, 1978, the Indian Child Welfare Act (ICWA) was enacted into law to prevent the improper removal of Native American children from Native American homes and to combat the removal of a vast number of Native American children from Native American homes and placement in non-Native American homes (National Indian Child Welfare Association, n.d.). Prior to the enactment of ICWA, Native American children were removed from their parents at an exceedingly high rate. Approximately 75%-80% of Native American families living on reservations lost at least one child to the foster care system. Children were often placed with families without regard for their cultural identity, heritage, or practices (Montana Department of Health and Human Services, 2012). In some states, 50%-75% of Native American children were removed from the care and custody of their families and placed in non-Native American homes as high as 90% of the time (Tribal Law and Policy Institute, 2019). The Indian Adoption Project of 1958 was funded by a federal contract through the Bureau of Indian Affairs and the U.S. Children's Bureau and implemented by the Child Welfare League of America (CWLA) from 1958-1967. Adoptions for 395 Native American/Alaskan Native children from western states were completed with White families from the eastern and midwestern states of Illinois, Indiana, New York, Massachusetts, and Missouri among others (University of Oregon, 2012a). Fourteen children were adopted into families in the southern United States while one child was adopted in the U.S. territory of Puerto Rico.

Nearly 50 public, private, and nonprofit agencies participated in the project; however, the largest number of children were placed by organizations that were leaders in adoptions of African American children. Louise Wise Services and Spence-Chapin Adoption Services (both of New York) and the Children's Bureau of Delaware were the leading agencies during the era of the Indian Adoption Project (University of Oregon, 2012a). The Indian Adoption Project was perceived as a method to resolve what was considered an "Indian problem." In a note to Congress on March 6, 1968, President Lyndon Johnson underscored the alarming circumstances of living conditions in Native American/Alaskan Native communities:

> Fifty thousand Indian families [living] in unsanitary dilapidated dwellings: many in huts, shanties, even abandoned automobiles. The unemployment rate among Indian [is] nearly 40 percent, more than ten times the national average. Indian literacy rates [are] among the lowest in the nation; the rates of sickness and poverty [are] among the highest. (Palmiste, 2011, p. 2)

The Indian boarding school era began in 1860 when the Bureau of Indian Affairs instituted its first Indian boarding school on Yakima Indian Reservation in the state of Washington. Boarding schools were established by Herbert Welsh and Henry Pancoast, with the assistance of the Board of Indian Commissioners, the Boston Indian Citizenship Association, and the Women's National Indian Association to assimilate Native American/Alaskan Native children to western culture. By the 1880s, there were approximately 60 U.S. boarding schools with upwards of 6,200 Native American/Alaskan Native students (American Indian Relief Council, n.d.). The U.S. government viewed Indian boarding schools as a solution to what was perceived to be

"the Indian problem" (Fletcher, 2003, p. 43). Tens of thousands of Native American/Alaskan Native children and adolescents attended boarding schools during the boarding school era (Bear, 2008). General Richard Pratt, Founder and Superintendent of the Carlisle Indian School in Carlisle, Pennsylvania, issued a now infamous quote, "Kill the Indian, save the man," in regard to Native American/Alaskan Natives (Peterson, 2013, p. 86).

In 1974 during a U.S. Senate Hearing on Indian Child Welfare, evidence was presented to show Congress that Indian Children were 25%-35% more likely than non-Indian children to be separated from their families and experience out-of-home care (Crofoot & Harris, 2012). The enactment of the ICWA signaled a shift in federal Indian regulations toward one of autonomy for Native American/Alaskan Native nations. The law acknowledged the sovereign dominion of tribes to address Indian child welfare matters. Tribal courts were selected as the sole forum for specific custody proceedings relating to Native American/Alaskan Native children domiciled or living on the reservation or a ward of the tribal court, and the ideal setting for proceedings involving nondomiciliary children (Graham, 1998).

The ICWA was designed to recognize tribal sovereignty, cultural practices, and traditions and to prevent the continual cause of harm to tribal communities. ICWA was created as a remedy, creating presumptive jurisdiction in tribal courts (National Indian Law Library, n.d.-a). Although the ICWA was enacted into law in 1978, Native Americans are still disproportionately represented in the child welfare system and in some counties and states, have the highest rates of disproportionality (see Appendix A). According to the National Indian Child Welfare Association (2017), child abuse is

reported proportionately to the Native American child population; however, systematic bias has contributed to child abuse reports related to American Indian children being two times more likely to be investigated and substantiated and four times more likely to be placed into foster care than White children. Proportionate to their child population, Native American children are overrepresented 2.7 times greater than the general child population (National Indian Child Welfare Association, 2017). Native American and Alaskan Native children represent 2.1% of all children nationally in the child welfare system; however, they only represent 0.9% of the total child population in the United States (National Indian Child Welfare Association, 2017).

By comparison, White children represent 42% of all children nationally in the child welfare system; however, represent 52% of the total child population in the United States. White children are underrepresented at a rate that is 0.8 times lower than their proportion to the general child population (National Indian Child Welfare Association, 2017). The states with the highest rates of a disproportionate number of Native American children in the child welfare system compared to the general child welfare population are Minnesota (17 to 1), Nebraska (8.4 to 1), Idaho (5.2 to 1), Iowa (4.8 to 1), Wisconsin (4.8 to 1), Washington (4.3 to 1), Oregon (4 to 1), Montana (3.9 to 1), North Dakota (3.9 to 1), South Dakota (3.7 to 1), Alaska (2.6 to 1), Utah (2.5 to 1), New Hampshire (2.3 to 1), California (2 to 1), North Carolina (2 to 1), Massachusetts (1.2 to 1), and Maine (1 to 1) (National Indian Child Welfare Association, 2017). In addition to having one of the most disproportionate number of children in the child welfare system in the United States, California state appellate courts also hear the largest number of cases involving ICWA violations and appeals nationally.

The Indian Child Welfare Act of 1978 is a child welfare law that recognizes tribal sovereignty and essentially serves as a foreign policy although Native American/Alaskan Native tribes are acknowledged as "domestic dependent nations." ICWA provides a framework and protocol for additional provisions that are unique to Native American/Alaskan Native children and families. According to the U.S. Department of the Interior, Bureau of Indian Affairs (2019),

> The purpose of the Indian Child Welfare Act (ICWA) is "to protect the best interest of Indian Children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture" (25 U.S.C. 1902). (para. 1)

The ICWA provides directives to state governments concerning the managing of child abuse, neglect, and adoptions cases involving Native American/Alaskan Native children and families and establishes minimal guidelines for the managing of ICWA cases (Chiricahua Apache Nation, 2019).

On September 8, 2000 at a ceremony acknowledging the 175th anniversary of the Bureau of Indian Affairs, Kevin Gover, Assistant Secretary for Indian Affairs, U.S. Department of the Interior, issued an apology to Native American/Alaskan Native nations during a landmark historical speech famously referred to as "Never Again." During the speech, Assistant Secretary Gover acknowledged the atrocities that Native American/Alaskan Native nations had endured at the hands of the Bureau of Indian Affairs such as the "Trail of Tears" and "Manifest Destiny" and vowed to continue to work to rectify the injustices. Kevin Gover acknowledged that the Bureau of Indian

Affairs promoted a "legacy of racism and inhumanity" (Kelley, 2000, para. 1) that contributed to the presence of "poverty, ignorance, and disease" (para. 12) within tribal communities. Gover acknowledged the brutality of Indian boarding schools, the restriction of Native American/Alaskan Native languages and religious practices, the intentional widespreading of disease, the use of alcohol to destroy the body and mind, and the heartless murders of women and children (Kelley, 2000).

Another apology was issued to Native American/Alaskan Native Nations by Shay Bilchik, Director of the CWLA on April 24, 2001. Acknowledging the role of the CWLA in the infamous Indian Adoption Project, Director Bilchik stated,

> No matter how well intentioned and how squarely in the mainstream this was at the time, it was wrong; it was hurtful; and it reflected a kind of bias that surfaces feelings of shame, as we look back with the 20/20 vision of hindsight. (The ICWA Law Center, n.d., para. 2)

Between the years of 1958 and 1967, the CWLA contracted with the Bureau of Indian Affairs to finalize adoptions of Native America/Alaskan Native children with White families. The purpose of the Indian Adoption Project was to assimilate Native America/Alaskan Native children to western culture through the destruction of their cultural customs, beliefs, and practices. This practice resulted in multiple generations of Native America/Alaskan Native children losing their cultural identities (The ICWA Law Center, n.d.).

In 2017, the state of California appellate courts heard 152 of the 214 (71%) ICWA appeals that were filed nationally (Daly, 2018). The number of appeals indicates an issue regarding compliance with the five provisions of the Indian Child Welfare Act of

1978. The five provisions of the ICWA are inquiry and notice, active efforts, qualified expert witness testimony, placement preference, and concurrent planning (California Courts, n.d.-b). The ICWA is of particular interest to California child welfare agencies as the state is home to 109 federally recognized tribes and nearly 100 Indian Reservations (California Courts, n.d.-b), and appeals of ICWA continue to persist causing disrupted placements, extensive and costly delays in cases, prolonged statuses as dependents of the state, costly remedies, loss of culture, multiple changes of placement, and trauma to the child. A solution to the problems associated with implementation is needed to serve Native American children and families better and to implement this social policy with better effectiveness.

Statement of the Research Problem

The researcher studied violations and appeals of the Indian Child Welfare Act ICWA of 1978 in the state of California to understand which of the five provisions of ICWA are most violated and have caused most appeals to be filed.

Purpose Statement

The purpose of this study was for legislators and public child welfare agencies to understand the areas of the Indian Child Welfare Act that need more attention to implement the policy more effectively.

Research Questions

The research questions that were used to guide this study are

1. What top three areas of the Indian Child Welfare Act require the most attention by public child welfare agencies and legislators for the law to be implemented more effectively?

2. What factors contribute to Indian Child Welfare Act violations and appeals?

Significance of the Problem

The state of California leads the nation in ICWA appeals. As a social policy designed to protect the civil liberties of Native American/Alaskan Native children and families, public child welfare agencies are struggling to comply with this federal policy and to implement it successfully. To understand the significance and depth of the problem accurately, one must first understand tribal sovereignty and the administrative authority of California's 58 county child welfare agencies. Tribal sovereignty, which was defined during the Supreme Court ruling in the case of the *The Cherokee Nation v. the State of Georgia* (1831), set the precedent for the political relationship among state governments, the federal government, and tribal governments. Public Law 280 gave an expansive authoritative role to state governments in specific situations pertaining to tribal affairs (U.S. Department of Justice, 2005). Public Law 280 gives state governments concurrent or exclusive jurisdiction in Indian Country over all criminal offenses involving non-Native Americans/Alaskan Natives (including victimless crimes) and all criminal offenses involving Native Americans/Alaskan Natives, excluding victimless crimes (U.S. Department of Justice, 2005). Although federal and state authorities can either exclusively or concurrently assume jurisdiction on criminal cases in tribal jurisdictions, the state or federal agency with exclusive or shared jurisdiction exercises discretion when deciding whether or not to assume jurisdiction or authority over a case.

For example, in 2011 on the Crow Creek Indian Reservation in South Dakota, a social worker from the South Dakota Department of Social Services, Division of Child Protection removed two siblings from a sibling group of four. The social worker

removed two 1-year-old twin sisters on allegations of drug use by their mother and placed them in a White foster home approximately 100 miles away from their reservation; however, the social worker left their 5-year-old sibling and a 6-year-old sibling in the care of their maternal grandmother (Sullivan, 2011). The relationship between state authority and tribal authority deriving from tribal sovereignty is not clearly delineated, and this reality has created ambiguity and confusion for public child welfare agencies and their tribal counterparts who are trying to comply with both lines of authority.

The Indian Child Welfare Act of 1978 referred to as the "gold standard" of child welfare policy (National Indian Child Welfare Association, n.d.) contains specific provisions that intertwine both state authority and tribal sovereignty. Social service practitioners have struggled with policy implementation since the inception of the ICWA and are constantly balancing the collaborative state-tribal relationship with compliance of state and federal ICWA provisions. Noncompliance and inadequate policy implementation have created negative implications for social equity.

Tribal dominion is neither acquired nor restricted by the state Constitution (California Courts, 2011). Tribes are susceptible to the will of the federal government; however, they are normally free of the authority of state governments. Although federally recognized tribes are sovereign nations, they are not foreign states but "domestic dependent nations." Tribal sovereignty may be exercised internally; however, it does not apply outside of tribal jurisdictions, which includes the jurisdiction that each tribe holds over its members (National Library of Medicine, 2019).

In 1953, Congress granted the state of California, along with five other states, jurisdiction over criminal matters involving Native Americans/Alaskan Natives and other

individuals on tribal lands. Public Law 280 eliminated the need for state governments to obtain consent from tribal governments to enter tribal jurisdictions (National Institute of Justice, 2008). California mandates both county child welfare services agencies and local law enforcement agencies to receive and investigate allegations of child maltreatment consisting of child abuse or neglect and to make expeditious decisions about whether a child is able to remain in his or her home safely or must be temporarily removed to ensure safety (California State Auditor, 2014).

Child welfare laws, policies, and proceedings are strategically aligned with specific criminal laws, policies, and proceedings. California Welfare and Institutions Code (WIC) 300 (a-j), coincides with Penal Code (PC) Part 4, Title 1, Chapter 2, Article 2.5, 11165.1-11165.6 (§ 300, 2016).

The California Welfare and Institutions Code (WIC), 300 laws that interconnect with Penal Code (PC) 11165.1-11165.6 laws, are 300(a) Serious Physical Harm; 300(b) Failure to Protect; 300(c) Emotional Abuse; 300(d) Sexual Abuse; 300(e) Severe Abuse of Toddler; 300(f) Death of Child; 300(g) Abandonment; 300(i) Cruelty; and 300(j) Sibling Abused (Sixth District Appellate Program, n.d.). Because WIC 300 codes align with PC 11165.1-11165.6 codes, public child welfare agencies can intervene in tribal child welfare affairs if suspected abuse or neglect is reported and meets the guidelines of both the penal codes and WIC codes. According to the National Indian Child Welfare Association (2018-b), identifying tribal protocols to support family engagement is a best practice. Prior to a public child welfare agency intervening in tribal affairs, the tribal protocol of the specific tribe where intervention is set to occur should be followed.

The ICWA contains five primary provisions that public child welfare agencies are federally mandated to comply with: inquiry and notice, active efforts, placement preference, concurrent planning, and qualified expert witness (Texas Department of Family and Protective Services, 2018). For inquiry and notice, in any involuntary state child welfare proceeding where the court and/or public child welfare agency knows or has reason to know that a Native American/Alaskan Native child or children may be involved, the agency seeking foster care placement or termination of parental rights of the Native American/Alaskan Native child or children must notify the parents, Indian Custodian, and tribe. Notifications must be sent via registered mail with return of receipt requested for the pending proceedings and their rights of intervention (Tribal Law and Policy Institute, 2019).

Active efforts require the public child welfare agency seeking to affect a foster care placement or termination of parental rights of a Native American/Alaskan Native child or children to testify that active efforts were provided to reunify and prevent the breakup of the Native American/Alaskan Native family and were unsuccessful (Indian Child Welfare Act, 1978).

The placement preference provision of ICWA designates preference of any adoptive placement of a Native American/Alaskan Native child or children to

- a member of the child's extended family
- other members of the child's tribe
- other Native American/Alaskan Native families (Placement of Indian Children, 25 U.S. Code § 1915)

For foster care or preadoptive placements should be to

- extended Native American/Alaskan Native family members,
- a licensed foster home approved or designated by the child's tribe,
- Native American/Alaskan Native foster home approved by a non-Native American/Alaskan Native licensing authority, or
- an organization for children approved by a Native American/Alaskan Native tribe or operated by a Native American/Alaskan Native institution equipped to meet the needs of the Native American/Alaskan Native child (Placement of Indian Children, 25 U.S. Code § 1915).

For concurrent planning, early and significant dialogue is crucial for collaboration with tribal governments and families. Native American/Alaskan Native families and tribes should be informed about Tribal Customary Adoption (TCA) as a potential option; however, TCA may only be chosen by the tribe because the tribe issues the Tribal Customary Adoption Order (California Social Work Education Center, 2017). The qualified expert witness provision of the ICWA prohibits foster care placement orders to be made without the testimony of a qualified expert witness indicating that continued placement with a child's parents, custodian, or guardian would cause significant emotional or physical damage to said child. Qualified expert witnesses include

1. Tribal ICWA specialists
2. Tribal leaders
3. Medicine women
4. Medicine men
5. State ICWA specialists
6. Native American child welfare workers

7. Tribal day care workers
8. BIA personnel with knowledge of tribal practices
9. Psychologists with knowledge of tribal practices
10. Psychiatrists with knowledge of tribal practices are typically relied upon for expert witness testimony. (Utah Division of Child and Family Services, 2017, p. 18)

Lack of awareness, oversight, and compliance reporting have contributed to lack of clarity of compliance with policy implementation. Recent research has revealed issues related to states' ICWA compliance, but no national data have been collected to determine the extent and precise nature of the issues that have been revealed. Noncompliance with ICWA can result in the dismissal of a state court's decision (American Bar Association, 2013). Common barriers to successful implementation of ICWA are difficulty with determining Native American/Alaskan Native heritage; insufficiency of tribal foster and adoptive homes; inadequate access to federal child welfare funding; insufficient tribal organizational capacity; conflicting state regulations; and strained or underdeveloped state-tribal relationships (American Bar Association, 2013).

The 58-county public child welfare agencies in California that act as the administrative arm of the state have had significant issues with ICWA compliance. California is home to 109 federally recognized tribes, 100 tribal reservations, and roughly 12% of the nation's total Native American/Alaskan Native population, approximately 720,000 (California Courts, n.d.-b). Although only 12% of the total Native American/Alaskan Native population, California appellate courts received 152 (71%) of

the 214 ICWA appeals filed nationally in state appellate courts in 2017 (California Courts, n.d.-b). The remaining 49 states with 88% of the nation's Native American/Alaskan Native population had 29% of ICWA appeals filed in their state courts.

California's core practice model (CPM) is a framework for consistent social work practice across all 58 counties in California. It is designed to facilitate a standard strategic and pragmatic framework that incorporates service planning, delivery, coordination, and management among child welfare agencies (California Department of Social Services, 2019). Despite the CPM initiative, social service practitioners across all 58 counties continue to struggle with successful implementation of the ICWA.

Definitions of Terms

In this research study, several terms are frequently utilized. The following terms were selected for definition to assist the reader in the understanding of the population, theme, and analysis of the study. The following terms were used in this research.

Administrative discretion. Lipsky (1969) defined discretion as independence in decision-making. It encompasses the extent, freedom, and flexibility utilized by public servants when making decisions or engaging in any agency business affairs (Bastien, 2009). Administrative agencies possess the authority to exercise this type of decision-making in their daily activities although there have been situations where administrative agencies have misused their authority (Cann, 2007). Administrative discretion provides administrative agencies with the authority to utilize professional expertise and judgement when making decisions or executing tasks within the confines of their administrative roles, contrary to solely adhering to rigid laws or high-ranking officials. For example, a

public servant can utilize administrative discretion when there are decisions to be made regarding options on potential courses of action (*West's Encyclopedia of American Law*, 2019). There are two types of administrative discretion: (a) the power to make decisions regarding regulatory details and (b) the power to determine how broadly defined regulations apply to specific situations (Goggin, 1999). Administrative discretion includes discretionary behaviors and decision-making such as routines and simplifications.

Backward mapping. Backward mapping is defined as a bottom-up approach and perspective to policy implementation, in contrast to forward mapping, which is a top-down approach and perspective to policy implementation. Backward mapping is a crucial approach to regulation implementation. It materializes at the street-level where implementation occurs, particularly where actions or behaviors are discretionary (Riccucci, 2005). During backward mapping, one works backward from the conduct that must be reformed to establish a plan for resolving it (Fiorino, 2005). In order to be successful, one should maximize administrative discretion at the point in the organization or structure nearest to the issue (Elmore, 1979; Fiorino, 2005). Backward mapping does not begin at the top of the implementation stage, but at the last possible phase, where administrative conduct intertwines with private choices (Elmore, 1979). Backward mapping assumes that the closer one is to the cause of an issue, the greater one's potential is to affect it (Elmore, 1979; Fiorino, 2005).

Effectiveness. Effectiveness is defined as the fulfillment of goals expressed by the level of progress toward a set of objectives (Deva, 1985). The evaluative standard of effectiveness is production based on the principle of doing only what should be done. It

is measured by the proportion of the actual result to its expected level (Otrusinova & Pastuszkova, 2012).

Implementing population. Individuals performing the day-to-day duties of converting judicial policies into actions are defined as the implementing population. The representatives of implementing populations differ although in most instances, policy implementation is a collective effort by a bureaucratic agency. Implementing populations vary from major federal governmental agencies to local government officials (Johnson & Canon, 1984). This population consists of authorities whose actions are sanctioned by the interpreting population. The implementing population typically renders services as a function of the political structure. Examples of the implementing population are social workers, police officers, school officials, and prosecutors. The implementing population are the actors that are responsible for implementing policies from the legal system (which includes the interpreting population) through interpretation (Johnson & Canon, 1984).

Interpreting population. Trial courts, state attorney-generals, and other nonjudges who have a formal responsibility of interpreting the law are defined as the interpreting population. The interpreting population is responsible for interpreting the appellate decisions that become policies and set precedents for future cases. The interpreting population clarifies appellate court policies and establishes the regulations for affairs not addressed in the initial decision. The interpretations of the interpreting population are considered to be legally authoritative by others in the political structure (Johnson & Canon, 1984).

Quality of services. Quality of services is intended to measure the degree to which the public product and/or service satisfies the requirements of the citizenry. In this regard, the quality of services includes the effectiveness of a project (Cindea et al., 2010).

Routine. Lipsky (1969) defined routine as the development of a continuous or recurrent sequence by which duties are performed. Routine refers to the formation of habitual or standardized patterns in regard to how responsibilities are fulfilled. In other words, routines are a means to achieving desired outcomes through formal processes developed by through laws, policies, procedures, and protocols.

Simplifications. Lipsky (1969) defined simplification as street bureaucrats' utilization of administrative discretion to produce a perceived environment that is more easily managed for purposes of efficiency, and/or reduction of anxiety (i.e., the utilization of assessment and discretion to simplify processes to reduce stress and maximize outputs). Simplifications can involve stereotypes, judgements, and biases.

Street-level bureaucrat. Lipsky (1969) defined street-level bureaucrats as public servants whose responsibilities are distinguished by their day-to-day interactions with citizens during the normal course of their duties, reasonably extensive independence in the form of discretion, and having a reasonable extensive impact on their clients.

Theory of street-level bureaucracy. The theory of street-level bureaucracy is a theory developed by Lipsky (1969) to describe the behaviors street-level bureaucrats have in their face-to-face interactions with citizens on a day-to-day basis. Lipsky suggested issues with deficiencies in individual and organizational resources, physical and mental threats, and contradictory and ambiguous role expectations that affect street-level bureaucrats' implementation of policy. To combat deficiencies, street-level

bureaucrats consciously and subconsciously develop procedures to manage the issues (Lipsky, 1969). The theory of street-level bureaucracy was used to explore and examine policy implementation through the lens of the street-level bureaucrat and the factors that affect and influence decision-making.

Organization of the Study

This research study is organized into five chapters designed to assist in the understanding of how more effective implementation of the Indian Child Welfare Act of 1978 could occur. Chapter 1 was the introduction, which consists of an introduction into the study, background, statement of the research problem, purpose statement, research questions, significance of the problem, definitions, and organization of the study. Chapter 2 consists of the literature review, which is divided into two main topics and 10 subtopics related to street-level bureaucracy and the ICWA. The two main topics contained in the review of literature are street-level bureaucracy and the ICWA. The 10 subtopics contained in the review of literature are as follows:

1. Resources
2. Ambiguity
3. Caseloads
4. Policy interpretation
5. Administrative discretion
6. ICWA compliance and implementation
7. Threats to the ICWA
8. Reducing disproportionality
9. Issues and needs of the ICWA

10. The spirit of ICWA

Chapter 3 is the methodology chapter that contains the purpose statement, research questions, research design, population, sample, instrumentation, data collection, data analysis, limitations, and summary of the chapter. Chapter 4 consists of the research, data collection, and findings. Chapter 4 includes an overview, purpose statement, research questions, research methods and data collection procedures, presentation and analysis of data, and a summary. Chapter 5 contains the findings, conclusion, and recommendations. Chapter 5 consists of major findings, unexpected findings, conclusions, implications for action, recommendations for further research, and concluding remarks and reflections.

CHAPTER 2: REVIEW OF THE LITERATURE

Chapter 2 of this research provides an in-depth overview of the literature pertaining to street-level bureaucracy and the Indian Child Welfare Act of 1978. As a primary topic of this study, the Indian Child Welfare Act (ICWA) of 1978 is divided into five separate components of the pertinent aspects of the ICWA. The five subtopics of the ICWA are ICWA compliance and implementation, threats to ICWA, reducing disproportionality, issues and needs of ICWA, and the Spirit of ICWA. Moreover, the second primary topic of this study is street-level bureaucracy. The five subtopics related to street-level bureaucracy are resources, ambiguity, caseloads, policy interpretation, and administrative discretion. The topics and subtopics contained in this review of literature include the discretionary decision-making and behaviors of street-level bureaucrats, in addition to policy and practice functions of the ICWA for street-level bureaucrats.

History of the Subject Being Studied

The Indian Child Welfare Act, a Social Equity Public Policy

The ICWA was formulated by Congress to protect and preserve the best interests of Native American children and families to encourage permanency, stability, and security of Native American tribes and families by establishing a minimum federal standard for the removal of Native American children from their families. The placement of Native American children into foster and adoptive homes should exhibit concern for cultural customs, values, and beliefs consistent with the Native American culture and provide assistance to Native American tribes in the operation of Native American programs designed to serve children and families (Placement of Indian Children, 25 U.S. Code § 1915).

The ICWA was enacted as a remedy to respond to the tragic predicament affecting Native American children, families, and tribes. Approximately 85% of all Native American/Alaskan Native children were placed in non-Native American homes, oftentimes when fit, willing, and able relatives were available to take them. The ICWA is viewed as a best practice in child welfare and has been integrated into other state and federal child welfare laws across the United States for general child welfare populations (National Indian Child Welfare Association, n.d.).

Spirit of the Indian Child Welfare Act

The Spirit of ICWA is an extension of the ICWA for families that report Native American ancestry but are not members of federally recognized tribes. Section 306.6 of the Welfare and Institutions Code leaves the determination of services of individuals of tribes that are not federally recognized to the discretion of the court that has jurisdiction and is providing oversight of the child welfare proceedings (California Courts, n.d.-b). If a court finds that the Spirit of ICWA applies, then all of the provisions and tenets of the ICWA apply as if the client were a part of a federally recognized tribe. Benefits of the Spirit of ICWA include linking Native American children and families with culturally appropriate services that can improve outcomes for Native American children and families (California Courts, n.d.-b).

Indian Child Welfare Act Compliance and Implementation

ICWA policy implementation at the street-level requires cooperation and collaboration between the tribal partner and governmental public child welfare agencies. The Oklahoma Department of Human Services has utilized a collaborative strategy to improve compliance with state and federal ICWA laws. The Oklahoma Department of

Human Services, in collaboration with the Oklahoma state child welfare agency, created a workgroup that began meeting on a quarterly basis in 2006.

The workgroup, which consisted of social service practitioners from tribal child welfare agencies and the Oklahoma Department of Human Services, met to address matters associated with child welfare practice, policy implementation, legal obligations, foster care resources, and training. A tribal coordinator position within the Oklahoma Department of Human Services was created to develop and establish "Completing the Circle" events to promote the significance of cultural connections and to develop ICWA workgroups in each respective region (Casey Family Programs, 2015a, p. 10). Essentially, the Oklahoma Department of Human Services, in collaboration with the Oklahoma state child welfare agency, created a workgroup to provide oversight and make recommendations for the implementation of ICWA policies and the practice of street-level bureaucrats.

Without a federal body to provide compliance oversight, state lawmakers, public child welfare agencies, and courts are left to interpret compliance with ICWA provisions such as "active efforts." Studies indicate irregular, inconsistent, and various other degrees of state compliance with ICWA provisions. Some of the variances are possibly due to the absence of imposition, variances in definition and techniques utilized to measure compliance, and the absence of data and an understanding of ICWA. For example, in the states of Oklahoma and Utah, active efforts require more than reasonable efforts. On the other hand, in the states of California and Maryland, active and reasonable efforts are equated (Casey Family Programs, 2015b).

Shared decision-making is an effective method of practice at the street-level, particularly when examining the relationship between public child welfare agencies and Sioux tribes such as the Lakota, Nakota, and Dakota. Developing commonalities, validating concerns, and respecting families' suggestions are crucial concepts in a shared decision-making approach and in formulating treatment plans with families. Shared decision-making has been utilized in the medical and social service fields, and it has shown the capacity to fill gaps in the child welfare system. The idea of shared decision-making is pertinent to and consistent with Lakota cultural customs, practices, and beliefs. Shared decision-making assists in the elimination of paternalistic decisions by involving the Lakota family in a culturally humble, respectful manner. The objective of shared decision-making is that both the social worker and the parents collaborate in the process of making decisions and in the ownership of decisions. The social worker must accept the legitimacy of the parent's preferences, and the parents must accept their obligations in regard to the decisions made and any outcome from those decisions (Herzberg, 2013).

The most efficient and effective policy implementation occurs when there is an understanding, appreciation, respect, and incorporation of culture into the bureaucratic processes at the street level. The absence of distinct ICWA training and expertise intensifies issues associated with policy implementation and compliance. The lack of a true comprehension of the purpose of the provisions associated with the ICWA on the part of participants in decision-making leads to superficial compliance or a total violation of the regulation. For example, a report described Native American/Alaskan Native families' right to legal representation as "on the brink" because of decreases in budget and ascending caseloads. In addition to the diminishing capability to obtain legal

counsel, ICWA cases require advanced competency, additional training, and extensive resources. Collaboration between tribal governments and state governments is required for challenges associated with noncompliance to be solved.

In 2012, all eight Humboldt County tribes signed a letter with recommendations on how the county government could improve ICWA compliance. The recommendations included conducting an organizational analysis, developing an Indian Specialty Unit in the agency, and reducing caseloads for workers with Indian Child Welfare cases (California ICWA Compliance Task Force, 2017). There continues to be ambiguity surrounding the street-level bureaucrats' role related to policy implementation as it pertains to "active efforts." Historically, California courts have ruled that active efforts are equivalent to reasonable efforts with the exception of active efforts involving the input and collaboration with tribes and services that are culturally appropriate. In the *San Diego County Department of Social Services, Plaintiff and Respondent, v. Gina L. et al., Defendants and Appellants*, the defendants and appellants argued that parental rights should not have been terminated because the "active efforts" provision of the ICWA was not fulfilled (FindLaw, 1998).

The appellate court determined that the two terms, "active efforts and reasonable efforts" are essentially interchangeable. The court concluded,

> The standards in assessing whether 'active efforts' were made to prevent the breakup of the Indian family, and whether reasonable services under state law were provided, are essentially undifferentiable. Under the ICWA, however, the court shall also take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe (Justia, 1998, Section [4b]).

Similarly, in *C.F., Petitioner, v. The Superior Court of Mendocino County Health and Human Services, Real Party in Interest* (2014), the appellate court concluded that "active efforts" and "reasonable efforts" (Statutory Background section) are essentially interchangeable.

The appellate court once again concluded,

> Some of our sister states have concluded that ICWA's "active efforts" requirement sets a higher standard than the "reasonable efforts" required by state statutes, and have treated California's rule as a minority position. . . . However, the court in *People ex rel. P.S.E.* reviewed the case law and noted that California's rule, as articulated in *In re Michael G.,* "resulted from California's heightened view of 'reasonable efforts' rather than a definition of 'active efforts' failing to distinguish passive efforts." (*C.F., Petitioner, v. The Superior Court of Mendocino County*, 2014, Footnote 7)

On May 9, 2019, the Judicial Council of California (n.d.) published an updated version of the "active efforts" provision for the California ICWA law. The new definition contains differences between "active efforts" and "reasonable efforts," and the actions that are required to fulfill the requirement of "active efforts." Reasonable efforts consist of standard case plan items, providing parents with a list of classes, identifying counseling once per week, documenting that the child is eligible for enrollment, locating a standard substance abuse treatment program, and placing a child in a frequently used non-Indian foster home. Active efforts consist of

- working with the tribe and family to identify case plan goals;

- identifying, locating, and assisting parents with identifying culturally appropriate parenting classes for them to attend;
- locating culturally appropriate behavioral health resources; accompanying the parent, child, or family to the intake appointment; and maintaining regular contact with service providers;
- "taking the necessary steps to secure tribal membership for a child" who is eligible for enrollment;
- locating culturally appropriate substance abuse treatment services and "identifying when a child can visit or stay with a parent in the program"; and
- utilizing ICWA placement preferences, beginning with contacting the child's tribe and family (Judicial Council of California, n.d.-a, p. 3).

Threats to the Indian Child Welfare Act

The ICWA has endured many threats to its existence throughout the duration of its 40-year history as a public policy. Threats to the ICWA are threats to the social equity, civil rights, and liberty of the Native American/Alaskan Native population as a whole. In the court proceedings of *Brackeen v. Zinke*, the U.S. District Court for the Northern District of Texas ruled that the ICWA was unconstitutional because the law preferences race ahead of safety (Tinker, 2018). Numerous ICWA advocates including the Bureau of Indian Affairs, Department of the Interior, Health and Human Services Agency, Cherokee Nation, Oneida Nation, Quinalt Indian Nation, and Morongo Band of Mission Indians defended against claims of the ICWA being unconstitutional (Tinker, 2018).

Plaintiff states of Louisiana, Texas, and Minnesota asserted that the ICWA violates the anticommandeering doctrine, entrenched in the U.S. Constitution's distribution of authority between the federal government and state governments, which forbids Congress from imposing requirements on state political divisions to perform regulatory operations on behalf of the central government. The U.S. District Court affirmed this claim, agreeing that the ICWA mandates state courts and administrative agencies to administer federal directives and guidelines to regulatory areas that are typically designated for nonfederal authorities, such as adoptions, foster care regulations, and other child welfare, child custody, and juvenile dependency issues. The U.S. District Court concisely rebuffed the federal government's explanation that ICWA is a function of Congress's "plenary and exclusive" jurisdiction over Native American/Alaskan Native tribes. The court affirmed their position, agreeing that ICWA mandates state courts and executive agencies to apply federal laws and directives to regulatory areas that are typically designated for nonfederal authorities, such as foster care policies, adoptions, and other child custody matters (Schwartz, 2019).

The U.S. District Court granted the plaintiff states immediate judgment on the majority of their claims, determining that the ICWA is based on a race and ethnicity rather than political categorization. The U.S. District Court also determined that the federal government failed to demonstrate that the statute was narrowly constructed to promote a compelling interest. The ICWA allows Native American/Alaskan Native tribes the power to restructure congressionally enacted adoption placement preferences by tribal order and then administer their desired order to the states, which infringes upon the nondelegation doctrine; the Bureau of Indian Affairs (BIA) is without the power and

authority to approve the Final Rule, which was consequently invalid under the Administrative Procedure Act; and Congress lacked the power and authority under the Commerce Clause to enact the ICWA (Pierson, 2018).

The ICWA has assisted in the reduction of alarming removal rates of Native American children from Native American homes and allowed more Native American families to stay together. Evidence through child welfare research indicates that children have better outcomes when familial connections are maintained. In a study conducted in the state of Hawaii, when family finding efforts were conducted early in cases, children were less likely to be removed from the home, and when the children were removed, they were in foster care for a shorter period of time. Within 12 months of family finding interventions, more children were reunified and fewer children lingered in out-of-home placements with nonrelatives than those who did not receive family finding services (Center for the Study of Social Policy, 2013).

Child welfare practitioners, advocates, and professionals across the United States are collaborating in an effort to ensure that the ICWA remains the gold standard in child welfare policy and practice. There is evidence that indicates the structure of the ICWA attains more desirable outcomes for children and families (Native American Rights Fund, 2019). The ICWA did not give any federal agency any authority for oversight in regard to states' implementation of the policy nor did it mandate states to report on their implementation efforts. Congress amended Title IV-B, which mandated state public child welfare agencies to report to the Administration for Children and Families (ACF) on their efforts to implement ICWA, in their 5-year plans.

This reporting mandate provides ACF with a limited scope of oversight, as ACF monitors states' compliance with Title IV-B mandates; However, ACF is not authorized to provide any punitive consequences or enforce activities for failure to comply. Public child welfare agencies submit Child and Family Services Reviews (CSFR) to the ACF. In the CFSRs, states are required to discuss how successful they have been in implementing ICWA, which includes compliance with noticing, placement, and tribal collaboration (U.S. Government Accountability Office, 2005).

Reducing Disproportionality Through Collaboration

The ICWA was designed to decrease the number of Native American/Alaskan Native children in the child welfare system. Most agencies across the United States have found it difficult to successfully implement ICWA without utilizing additional resources to assist in its implementation. Bussey and Lucero (2013) explored successful implementation through collaboration between the Colorado Department of Human Services (CDHS) and the Denver Indian Family Resource (DIFRC) in seven metropolitan areas in the greater Denver area. The CDHS recognized a social equity issue as the unsuccessful implementation and compliance of ICWA led to higher rates of disproportionality among the Native American/Alaskan Native child population in comparison to the White child population. Native American/Alaskan Native children were 2.8 (280%) times more likely to be placed into congregate care than the White child population (Bussey & Lucero, 2013).

The Children's Bureau (2015) defined congregate care as a placement setting such as a group home (a licensed or approved institution providing 24-hour care in a small group setting of seven to 12 children) or organization (a licensed or approved

childcare facility managed by a public or private agency to provide 24-hour care and/or treatment usually for 12 or more children who need to be separated from their own residential or a congregate living experience). Congregate care settings include childcare facilities, residential treatment institutions, and maternity homes.

The collaborative effort between the CDHS and the DIFRC included focusing on three of the five provisions of the ICWA to successfully implement the public policy. The CDHS and the DIFRC agreed to focus on active efforts, placement preference of Native American/Alaskan Native children with Native American/Alaskan Native families, and the requirement of a higher burden of proof (Bussey & Lucero, 2013).

The primary components of the collaborative effort between CDHS and the DIFRC included

1. Formulating procedures that identify Native American children upon first contact with the agency and enhanced care and support for kinship families
2. Recommendations of best child welfare practices with Native American children and families
3. Committing to ICWA compliance and cultural responsiveness at the departmental level
4. Improving oversight of ICWA compliance at the state level. (Bussey & Lucero, 2013, p. 397)

Lidot et al. (2012) identified the utilization of focus groups to foster collaboration among county social workers, ICWA advocates, and tribal social workers in the county of San Diego. From the focus groups several themes began to emerge including

1. Communication between the tribal government and the county government

2. A strained relationship between the tribes and the county
3. An unawareness of culturally appropriate tribal resources
4. A failure to identify Native American foster children in the child welfare system
5. A failure to place Native American children in Native American homes. (Lidot et al., 2012, p. 69)

Seven areas of need were identified through the collaborative effort:

1. Developing an awareness of culturally relevant resources.
2. Developing an awareness of Native American cultural customs, practices, beliefs, values, and history to increase cultural humility in child welfare practice.
3. Establishing collaborative relationships with tribal governments, agencies, members, leaders, and providers who serve Native American children and families.
4. Developing genuine and attainable goals and objectives in the county Systems Improvement Plan to include tribal partners.
5. Improving Indian Child Welfare Act (ICWA) compliance;
6. Technical assistance for county government and tribal government partners to address gaps and challenges in the county child welfare system and with Native American service providers.
7. The establishment of trust-based relationships between county leadership and tribal partners to support collaboration in an effort to address disproportionality. (Lidot et al., 2012, p. 71)

The ICWA has enabled shared decision-making between tribal child welfare governments and county child welfare governments. Collaboration and shared decision-making provide a framework and tools to build relationships between collaborative partners. Shared decision-making begins in the investigative stage, and if the parents are not available, it begins when the parents are available (Herzberg, 2013).

Issues and Needs of the Indian Child Welfare Act

Kessel and Robbins (1984) examined the issues and needs of the ICWA that continued to exist 5 years after its enactment by Congress. Issues with service delivery as it pertains to Native American/Alaskan Native children were identified. Issues with providing culturally appropriate and relevant services in regard to understanding the Native American culture and practicing cultural humility was discussed. Biases and prejudices toward Native American cultural beliefs, practices, and customs such as child rearing were prevalent among child welfare workers (Kessel & Robbins, 1984). Kessel and Robbins suggested that universities providing bachelor's and master's level education should provide training for future social service practitioners in practices that were current in the field and to provide training to social workers that were going to be working with tribal communities.

Additionally, Kessel and Robbins (1984) identified public child welfare agencies' failure to adequately serve Native American children and families and also identified five areas of training that needed to be improved. Culturally compatible child welfare practices to meet the needs of Native American children and families were identified as

- knowledge of a client's specific tribe;
- knowledge of culturally appropriate resources and skills in networking;

- skills in a multitude of both micro and macro social work techniques;
- knowledge of the familial, social, and communal structures of both reservation and non-reservation Native Americans; and
- "knowledge of Native American cultural customs, traditions, beliefs, and child rearing practices" (Kessel & Robbins, 1984, p. 230).

Training in the five identified areas was particularly important due to what Kessel and Robbins (1984) identified as Anglo biases that existed in child welfare practices and theories.

Farris and Farris (1976, as cited in Kessel & Robbins, 1984) highlighted the differences in western cultural beliefs and of those typically associated with Native American cultures: "Clinical social work practice is not compatible or acceptable to the emotional needs or lifestyles of American Indians" (p. 230). Furthermore, GoodTrack (1973, as cited in Kessel & Robbins, 1984) highlighted how child welfare interventions violate the moral principles of Native American cultures as they are perceived to be offensive and invasive because they ignore Native American cultural values and familial structures. Moreover, Kessel and Robbins (1984) identified seven areas of training for tribal social service practitioners to assist them in working with public child welfare agencies. The seven identified areas of training are

1. Developing networking skills with public agencies, private agencies, and state courts
2. Developing investigative skills and supervision skills for foster and adoptive homes
3. Developing skills in assessing individual and family issues

4. Developing techniques of counseling
5. Developing skills to work with specialized client groups such as juvenile delinquents, single mothers, abused and neglected children, and children in need of supervision
6. Administrative skills for the operation of shelters, institutions, and counseling centers
7. Education and training in social work ethics. (p. 231)

The state of Alaska's Department of Health and Social Services ([DHSS], 2019), Office of Children's Services (OCS) emphatically supports the ICWA and is continually building federal ICWA requirements into all programs of the OCS, Child Welfare and continues the development of positive collaboration and communicative partnerships with all Native American/Alaskan Native agencies. In the state of Alaska, there are 229 federally recognized tribes; however, there are many more tribes that are not federally recognized. Of the 229 federally recognized tribes in Alaska, there are 10 different ethnicities of Native American/Alaskan Native peoples. The 10 ethnicities are Athabascan, Yup'ik, Cup'ik, Inupiaq, Unangax/Aleut, Alutiiq/Sugpiaq, Eyak, Tlingit, Haida, and Tsimshian (Alaska DHSS, n.d.).

Street-Level Bureaucracy

The theory of street-level bureaucracy states that street-level bureaucrats frame policy through their interactions with the citizenry. Street-level bureaucrats' decision-making is affected by ambiguity in organizational goals, a lack of resources, and excessive caseloads, all of which influence their administrative discretion, administrative authority, and policy implementation (Lipsky, 1969). Essentially, policy implementation

varies from street-level bureaucrat to street-level bureaucrat even within the same organization because of the various factors that affect and influence decision-making. Street-level bureaucrats endure a number of dilemmas and circumstances that affect their administrative discretion, administrative authority, and policy implementation. Creaming and worker bias, among other dilemmas, are typical of what street-level bureaucrats endure on a day-to-day basis. Creaming refers to a street-level bureaucrat choosing or "skimming" off the top those clients whom they feel will be most likely to succeed related to the bureaucratic organizational criteria. Worker bias refers to the preferences that street-level bureaucrats intrinsically or extrinsically display for some clients or others (Lipsky, 1980).

Street-level bureaucrats are sanctioned with the responsibility of framing policy at the street-level, based on their interpretation of a policy, the administrative authority that their role provides, and the discretion to utilize their administrative authority to implement a policy within the confines of the policy. T. Evans (2011) and Lipsky (1980) defined discretion as the degree of autonomy an individual can employ in a specific context and the circumstances that induce an individual's autonomy in that specific context. In other words, discretion consists of the liberty or authority to make judgments and to take action as one deems appropriate. Essentially, it is the power to regulate or take action on the authority of one's own judgment (Akosa & Asare, 2017). Discretion is mainly perceived as a possibility that street-level bureaucrats utilize to ply their own personal objectives. They can manipulate a policy agenda to be implemented in an adverse manner, which diminishes the efficiency, effectiveness, and democratic legitimacy of a program. A technique used to minimize the negative effects of discretion

is to implement some sort of control processes to attain compliance (Tummers & Bekkers, 2014).

During the 1960s, it became progressively apparent that the outcomes of administrative policies and the work of civil servants employing those policies were considerably better for some of the citizens than for others. Matters associated with racial, ethnic, cultural, and class disparities, inequalities, and injustices were obvious everywhere and were the topic of open annoyance, outrage, indignation, and passion; however, it was not until the 1960s that the expression, "social equity" became a characteristic of public management with an associated group of ideas and a collection of common principles. The moral, ethical, and equitable handling of the citizenry by civil servants is a primary concern for governmental agencies. Public agencies bear the responsibility of implementing the laws and regulations that they work under in a fair, just, and impartial manner (Frederickson, 2005).

Street-level bureaucrats may encounter differing levels of discretion within the same policy. For example, one may acquire more knowledge and insight in regard to loopholes in policy guidelines; organizations operationalize policies relatively differently; street-level bureaucrats have advanced interrelations with their administrators, which allows them to acclimate themselves to their environment; and/or the disposition of the street-level bureaucrat is more rule-bound or defiant. At the street-level, one's administrative discretion can incite issues that threaten social equity. Common issues that plague discretion are biases, prejudices, stereotypes, preconceived notions, incompetence, and deliberate disruptions. Social equity is an expression that incorporates a multitude of moral penchants, administrative design penchants, and organizational style

penchants. Social equity prioritizes fairness and equality in governmental services, accountability for decisions and policy implementation, modifications in public administration, and sensitivity to the needs of the citizenry rather than the needs of public agencies (Frederickson, 1990).

Equity focuses on ideological and theoretical conduct toward fairness, justice, and equality. Fairness refers to a more equivalent dispersal of opportunities, costs, and benefits in the public and governmental sectors. In these sectors, fairness may be perceived as a form of equity, with a multitude of people in our society surmising that our public and governmental sectors are far too often unjust. Socially accountable agencies are those whose conduct is within the confines of laws, regulations, and public policies, who behave morally, who avoid and prevent socially detrimental actions, and who proactively function to augment social objectives. Therefore, the reasoning of the socially accountable agencies suggests that agencies may be reactive by merely observing laws, regulations, public policies, and other externally consequential inducements, or they may be proactive by deliberately seeking exploits that progress social objectives (Stazyk et al., 2016).

Administrative discretion is regarded as an opportunity for either professionalism or an abuse of power and authority (J. Evans & Harris, 2004). Discretion is neither good nor bad in itself, but how street-level bureaucrats decide to exercise their discretion can be classified as good or bad. Some discretionary determinations are linked to street-level bureaucrats' internal perceptions about individuals; however, the discretion associated with their positions is organizational by nature and is primarily predicated on trends of interactions with individuals. Discretionary decision-making that falls outside the

confines of regulations or the rigidity of rules may not be status quo; however, it does have consequences for how the citizenry encounters the state in various state–citizenry affairs, specifically when examining issues of equity, inequalities in authority, and the structure of justice. For example, with the increase of citizens recording interactions with law enforcement officers on their smart phones, scrutiny and public outrage is increasing as interactions that are outside of the norm attract substantial public attention (Portillo & Rudes, 2014).

At best, street-level bureaucrats develop well-disposed methods of mass processing that essentially allow them to treat the public justly, properly, and effectively. At worst, street-level bureaucrats succumb to biases, stereotyping, and standardization, all of which fulfill personal or organizational motives. Workers are frequently criticized for impeding policy objectives however, contradictory to conventional responses of issues associated with policy implementation. Lipsky pinpointed the complications at an organizational level in the defining elements of street-level bureaucrats' work. Lipsky highlighted that the short-cuts and policy misrepresentations created at the street-level are typically explicitly acknowledged by administrators as practical resolutions to attaining desired end results (J. Evans & Harris, 2004).

Sabotage or deliberate disruption was articulated as the "conscientious withdrawal of efficiency" by Veblen in 1921 (as cited in Oncu, 2009, p. 204). Deliberate disruption encompasses a multitude of strategies such as procrastination, delay, incompetence, inefficiency, and obstruction (Oncu, 2009). Such strategies impel others to dedicate additional effort toward the production of a specific output for it to be produced; therefore, an individual exerting time, effort, and energy on activities to cause deliberate

disruptions can be considered to be involved in counterproductive activities (Brehm & Gates, 1997). Pertinent studies have continually recognized the disparities endured by African Americans and other racial and ethnic subgroups at the hands of White civil servants as discretion can work adversely toward citizens from marginalized groups (Watkins-Hayes, 2011). Founded on the individual-level evidence, one might presume Whites are likely to perceive the recipients of any redistributive policy, not just financial support, as undeserving if they are of a racial or ethnic subgroup. There are likely a multitude of methods in which race and ethnicity forms administrative procedures, with authority being positioned differently contingent upon the racial or ethnic permutation of the citizenry and bureaucrats involved and the position of the organization (Schram et al., 2003).

Street-level bureaucrats determine who would be treated customarily, who would be provided with minimal or even severe conduct, and who would be considered deserving of additional, often extraordinary consideration and advantages. Resolutions were directed by decisions about the identified ethical worthiness of citizens, the interaction between the street-level bureaucrat and client identities, and how citizens acknowledged to the inequality of authority that was experienced when interacting with a street-level bureaucrat. One account of how discretion can have implications on social equity is of a quadriplegic individual, whose situation deserved empathy, but who was dealt with severely because he was viewed by the street-level bureaucrat as immorally defrauding the system. However, an industrious immigrant, who was also a low-level marijuana dealer, was not detained for shooting recklessly at his attackers, who were his associates in drug dealing. A key observation made by the authors is that the same

employees who shared experiences that revealed complicated ethical and identity-based logic, created repetitive, generic explanations of justice and fairness.

The positioning of laws, regulations, and statutes as tools and the importance of cultural judgments about ethical character and individualities prompted the authors to develop a second description regarding street-level decision-making. The authors posited that the public procedure of classifying individuals and cases for more than monotonous treatment and others for penalty challenged basic beliefs of fairness and equity (Maynard-Moody & Musheno, 2012). Employees weaken the excellence of their effort by creaming off cases that are expected to be straightforward or to have a positive end result. On the other hand, employees may proceed as an advocate for citizens who are viewed as being at the tip of their potential in regard to social susceptibility. Because employees are not able to provide all services to each citizen, they may be obligated to reject the basic humanity of other citizens. These practical microdecisions eventually develop into accepted policy and regulation of the organization, which may differ unequivocally with its formally specified objectives (M. J. Cooper et al., 2015).

Child protective services is an occupation that requires intensive and extensive training for preparation of the dilemmas and encounters with citizens that social workers will face. In many ways, child protective services are the supreme form of street-level bureaucracy. Social workers exercise authority similar to police officers in their mandate to remove abused and neglected children from their homes; however, they are expected to exercise their administrative authority as intermittently as possible. There is no decision that is filled with more possibility for consequential errors of omission and commission than those pertaining to whether or not a child should be removed from his or her family.

Child protective services workers are at risk for the consequences of fateful decisions that they must make (Lipsky, 2010).

The child welfare practice of "concurrent planning" has many connections to the main principles of the theory of street-level bureaucracy, specifically, the ambiguity of organizational goals, lack of resources, and high caseloads. Concurrent planning is the process of simultaneously pursuing more than one home as a permanent placement for a child placed by a public child welfare agency in out-of-home foster care. For example, with concurrent planning, if children are not able to be reunified with their parent or guardian, then the home that they are placed in during the reunification process would become their permanent placement. Research indicates a reduction in the length of time children are in foster care and receive permanency through concurrent planning (Shaening and Associates, Inc., and the New Mexico Supreme Court's Court Improvement Project Task Force, 2005). Concurrent planning is predicated on the concept that adults, rather than children, are better equipped to assume the mental and emotional risk in foster care. It suggests that adults are better equipped to handle the ambiguity of relationships and an undetermined future than are children, so the mental and emotional liability is shifted. Two major pitfalls of concurrent planning occur when public child welfare agency social workers are assigned higher caseloads than they can effectively manage and where there is an inadequacy of resources for birth families (UC Davis Extension Center for Human Services, 2009).

Resources

The lack of resources to serve children has been a longstanding and well-documented issue for social services agencies all across the United States. For the Native

American/Alaskan Native community, the issue of lack of resources is exacerbated. Lipsky reasoned that a function of routines was to develop shortcuts to free scarce and inadequate resources through saving time. Bureaucrats also segment populations and perceive work as adequately performed in situations where resources are insufficient (Lipsky, 1969). Because of their unique political status, Native American/Alaskan Natives are entitled to services that are culturally relevant and appropriate. According to the Indian Child Welfare Act of 1978, deciding what is appropriate for active efforts includes dialogue with tribal elders, tribal academics, tribal religious leaders, and tribal political leadership with knowledge regarding culturally relevant and appropriate services that should be provided for tribal families.

Culturally appropriate and relevant services should include trauma therapy that integrates Native American/Alaskan Native principles, intergenerational trauma, and a comprehensive approach to the healing practices of the Native American/Alaskan Native culture. A comprehensive understanding of healing practices of the Native American/Alaskan Native culture includes sweat lodges, faith healers, medicine men/holy men who utilize and conduct prayers, rituals, ceremonies, and other interventions deemed appropriate by the specific tribe or nation (University of North Dakota, 2018). In addition, providing access to culturally appropriate services is a component of social equity.

On reservations, culturally appropriate social services may not be available as a consequence of tribes and/or nations not having their own social services programs or services that suffice to meet the requirements of services designated in a case plan. Native American/Alaskan Native tribes and/or nations may lack sufficient personnel to

provide services on the reservation if there is a tribal social services department. Typically, reservations are rural areas where access and resources are limited. According to the 2010 U.S. Census, 78% Native American/Alaskan Natives live outside of tribal statistical regions.

Approximately 22% of Native American/Alaskan Natives reside outside of the jurisdictional boundaries of a reservation. Approximately 60% of Native American/Alaskan Natives live in metropolitan areas, which is the lowest percentage of all racial and ethnic groups (U.S. Department of Health and Human Services, n.d.). A significant number of Native American/Alaskan Natives live within the jurisdictional boundaries of a reservation.

The number of practitioners practicing in rural areas is marginal; funding is restricted to the delivery of services and distance that effects accessibility of services. The lack of accessible services leaves families in rural areas feeling alone without support. This interrupts their ability to parent, which in turn adversely affects children (Zimbelman, 2018). The insufficiency of resources in rural areas affects the aptitude of parents to provide reasonable parenting. Recognizing the distinctions and specifics in the details of working with individuals in the rural populaces is crucial for social workers. Functioning from a strengths point of view by recognizing the distinct details associated with rural communities and the positive effects of partnering with rural communities in applying those strengths is critical for social services practitioners (Zimbelman, 2018).

Social work is extremely intricate and challenging; however, there are social workers who believe they need additional time, resources, and postqualifying sustenance to grow and progress their skills and knowledge (Ferguson & Lavalette, 2013).

Neglected and abused adolescents are not receiving enough consideration and help because social services are often short on resources and usually prioritize younger, more vulnerable at-risk children, and street-level bureaucrats such as teachers and law enforcement officers are habitually slow to refer children who had experienced maltreatment to a children's social services department because of a common belief that a lack of resources would mean that the referrals would not be acted on. Resource problems were a chief reason in decision-making about initial responses and could develop into cases involving children and adolescents having a lower priority and/or a slower response time (Williams, 2010).

Rural regions are challenged by an absence of economic opportunities, resources, and the impact of the popular culture. Rural areas are challenged with a scarcity of social services to meet the needs of the populace. The services that are available are weakened by problems with professionals for social service practitioners. Organizations are typically forced to utilize a significant number of bachelor's-level social workers who provide desired street-level services; however, they are assisted by large percentages of nonprofessional or paraprofessional staff. These methods are much less common in nonrural regions. It is very common for direct professional supervision to be inaccessible to social service practitioners (National Association of Social Workers, 2009). Even though there are some parallels among Native American/Alaskan Native communities, social service practitioners need to be conscious of the community's history, including when the tribe or nation initially made contact with Europeans and the proceedings that may have occurred as a consequence of that interaction.

Developing an awareness of Native American/Alaskan Native clients' needs and uniqueness will assist social service practitioners in building a foundation of trust and mutual respect. Social service practitioners should also acknowledge the distinctions in the languages and customary practices of the tribes or nations with whom they collaborate. Additionally, social service practitioners should be conscious of the significance that historical trauma contributes to the Native American/Alaskan Native worldview (Yeager, 2011). In situations where Native American tribes or nations are unable to deliver services such as child welfare services, home-based services, or child rearing classes, several tribes or nations collaborate with counties or states in cocase managing state ICWA cases that involve Native American/Alaskan Native children and families.

This can involve assisting county or state child welfare agencies to locate culturally appropriate services, engaging in case evaluations and court hearings and trials, identifying and locating qualified expert witnesses as required by the ICWA, identifying possible placement families, acquiring tribal resources and assistance for Native American/Alaskan Native children and families, and conducting transition planning for children reunifying with a parent or parents or being transitioned to a permanent home. These services and collaboration are often crucial to establishing compliance with the ICWA and forming opportunities to attain better results for Native American/Alaskan Native children and families (Simmons, 2014).

The most crucial problems associated with noncompliance include (a) the absence of consistent oversight of ICWA implementation, (b) Native American/Alaskan Native children not being identified during initial child welfare proceedings, (c) Native

American tribes or nations not receiving timely and appropriate notice of child welfare proceedings involving children with membership or eligible for membership with a Native American/Alaskan Native tribe or nation, (d) the absence of placement homes that demonstrate the preferences defined within the ICWA, (e) inadequate training and support for county, state, and private agency staff to enhance comprehension and skills in implementing the ICWA, and (f) insufficient resources for tribal child welfare agencies to engage with and support their county, state, and private agency partners (Simmons, 2014).

Ambiguity

The ambiguity of organizational goals presents a multitude of challenges for street-level bureaucrats attempting to implement policy. Not only do ambiguous goals where there is more than one interpretation that can be taken from a policy cause confusion for bureaucrats at the street level, but also ambiguities in role expectations add to the lack of clarity and confusion. The ICWA involves an added layer of unclarity and ambiguity.

During collaborative efforts between tribal social services practitioners and county social service practitioners, there is a level of ambiguity in regard to what each agency is responsible for. There are a number of comprehensive concerns that have produced implementation issues throughout the United States. These include struggles in determining a child's eligibility for a Native American/Alaskan Native tribe or nation, a deficiency of culturally appropriate foster and adoptive homes for Native American/Alaskan Native children, tribal access to federal child welfare funding sources,

a deficiency in of tribal organizational capacity, conflicting state regulations, and unestablished or deprived county or state-tribal relationships (Wilkins, 2008).

Role expectations that are ambiguous, opposing, and in many ways unachievable illustrate occupational challenges that street-level bureaucrats must manage (Lipsky, 1969). Street-level bureaucrats typically work under conditions with unclear or ambivalent objectives, and it can be challenging to determine whether their conduct contributes to accomplishing agency goals (Erasmus, 2014). Ambiguity in policy implementation stems from a multitude of sources but can generally be distinguished as manifesting in two distinct ways: ambiguity of goals and ambiguity of means.

Goal ambiguity is viewed as a primary factor leading to misinterpretation and indecision and therefore is typically responsible for failures in policy implementation. When formulating a policy, goal ambiguity and goal conflict are typically negatively correlated. A strategy to restrict conflict is through ambiguity. The clearer goals are, the higher the probability that they will produce conflict. In a study of workforce data policy in the United States and the United Kingdom, Regan (1984) reasoned that assessing policy implementation in the formulation stage resulted in the sacrifice of program-related goals. As the policy became clearer, existing stakeholders developed an awareness of the threats to their domain and proceeded to restrict the span and extent of suggested policy modifications to sustain prevailing patterns of bureaucratic authority and structure.

Ambiguity is not restricted to goals; it also influences policy resources. Ambiguity of resources manifests in a multitude of ways, most noticeably in situations where the technology required to attain a policy's goals is nonexistent. Policy resources

are also ambiguous when there are reservations about the roles and responsibilities of collaborating agencies in an implementation process or when a complicated situation makes it challenging to know which resources to utilize, how to utilize them, and the effects that the utilization of the resources will have. The system regularly creates regulations with ambiguous goals and exceedingly ambiguous resources.

Therefore, it is sensible to assume that public policy will have an extensive array of ambiguity. The extent of ambiguity contained in a policy directly influences the implementation procedures in substantial ways. It affects the capability of administrators to oversee activities, the probability that the policy is consistently comprehended throughout the various implementation locations, the likelihood that local circumstantial aspects play a substantial role, and the extent to which pertinent stakeholders differ sharply throughout implementation locations (Matland, 1995). Ambiguity is regularly perceived as the nemesis of policy implementation, with policy objectives thwarted by vague goals and the absence of clarity about procedures.

Ambiguity is responsible for countless policy frustrations and typically manifests in hindering goals and processes. Goal clarity is imperative for attaining intended policy impact whereas goal ambiguity has been found to lead to confusion, doubt, and failure. Nevertheless, ambiguity in regard to processes and procedures is believed to be inefficient because it involves both attempts to determine the consequences of the processes and procedures and the nonessential interchanges of processes and procedures. Ambiguity is pervasive in both policy decision-making and implementation.

Detriments and drawbacks of ambiguity include an increased complexity in measuring performance, deprivation of organizational authority, and proceduralism

(bureaucratic red tape) from the local implementing agency (Leong & Qian, 2016). Policy implementation is centered on the association between the assertion of the government's intent to obtain a desired outcome (to increase, decrease, or cease a social problem, social behavior, or social pattern) and the actual outcome attained. The processes and procedures associated with policy implementation are critical for the fulfilment of policy objectives; however, its studies have not revealed any generalizable theories in regard to the elements for achieving desired results and have typically continued to be marginal in policy studies, so much so that there continues to be a significant need to understand the essence of policy implementation processes in an attempt to assist policymakers in devising the appropriate instruments to attain policy goals and objectives.

Implementing policies that improve upon general goals set out in governmental documentation (such as policy analysis and performance reviews) can be a difficult duty for implementing agencies. Particularly when the policy deals with complicated matters categorized by a substantial level of ambiguity, the breach between the government's goals and the tools utilized in policy implementation can broaden over time, resulting in a growing disparity between governmental goals and tools utilized to implement policy. Ambiguity does not decrease when additional data are made accessible. The more data that are made available, the more complicated comprehension becomes, which allows for more interpretations and alternatives to the policy. The more that is identified about a specific matter, the more ambiguous the comprehension becomes, and differing perspectives and understandings may develop (Rosli & Rossi, 2014).

Two common ways in which street-level bureaucrats decrease the influences created by unattainability and unclarity of role expectations are changing role expectations and changing definitions of clientele. Street-level bureaucrats can aim to revise expectations pertaining to occupation performance. Street-level bureaucrats attempt to affect the expectations of individuals who provide a definition to their occupational roles. A method used to redefine roles is refusing to accept responsibility over the outcomes of one's work. It is extremely challenging to require improvement in occupational production when the personnel are not accountable for the outcomes. Street-level bureaucrats can also alter the definition of their clientele. A method used to change expectations pertaining to occupational performance is fragmenting the constituency being served. Street-level bureaucrats can fulfill role expectations by redefining the individuals served in regard to the expectations that are established (Lipsky, 1969).

Caseloads

Lipsky contended that moderately low-level bureaucrats toil under substantial caseloads. When incorporated with extensive discretionary authority, the mandate to interpret policy on a case-by-case basis is significant and concerning through the lens of governmental policy theory and practice (University of Bergen, 2019). Typically, caseloads for street-level bureaucrats are large. Large caseloads hinder personnel from executing their occupational obligations appropriately because they have to disperse their personnel extensively to do an efficient job (Wright, 2003).

Extensive caseloads and excessive workloads in most jurisdictions can make it problematic for child welfare social service practitioners to serve children and families

efficiently and productively. Organizational mandates for every situation are on the rise, and intricate cases involve intensive interventions, which further increase practitioner caseloads. Practicable caseloads and workloads can make a tangible difference in a practitioner's capacity to involve families, distribute superior services, remain with the organization, and eventually attain positive results for children and families. Decreasing and handling caseloads and workloads are not basic responsibilities for child welfare administrators.

Agencies endure a multitude of difficulties including negotiating budget dilemmas and hiring stoppages, conveying employee turnover, locating competent candidates for open positions, applying time-intensive best practices, and handling a multitude of modifications simultaneously. It can even be laborious to just determine what the caseload and workload levels presently are and what they should be (Children's Bureau, 2015). Inadequate intensity of household maintenance/preservation services to avert placement because of significant caseload home visits not being recurrent enough, and culturally appropriate services not identified, accessed or made accessible. Large caseloads affect the aptitude to shape relationships with families and learn about social, communal, and tribal reinforcements that can encourage change. High attorney caseloads make it essential to cases (Child and Family Practice Model, 2019).

High caseloads and workloads reflect a multitude of direct and indirect expenses. Direct expenses are linked to overtime, worker departure, and hiring/training new personnel. Indirect expenses are connected to other personnel (amplified paperwork and case administration, emotive exhaustion, administrators redirecting time to rendering direct service), the cost of processing variations in placement (staff conferences, new

reports, pinpointing and placing a child in a new placement, bookkeeping), and costs connected to increasing time in foster care (whether a group home or domestic household) as an outcome of decreased durability and decreased likelihoods of reunification (Casey Family Programs, 2017).

Both direct and indirect costs increase with the replication of abuse and neglect, the inclusion of the expenses associated with investigations and foster care placements, and costs of disappointment to attain federal performance standards including possible forfeiture of federal Title IV-E funding. Each time a practitioner leaves, the cost to the child welfare agency is 30% to 200% of the departing employee's yearly pay. In the state of Texas, this projected cost to the child welfare agency was discovered to be roughly $54,000 per departing practitioner. Given the costs related to social service practitioners' leave, tactics associated with addressing variables most likely to affect turnover stress, emotional exertion, administrative obligation, and job gratification should be prioritized for jurisdictive and agency consideration (Casey Family Programs, 2017).

Policy Interpretation

Policy meanings are vital, but comprehending those meanings can be complicated. They require conscious attempts of interpretation. Policy interpretation questions what a policy means and how it is meant. Interpreters frequently realize that the answer to both questions is plural. A policy can have a multitude of meanings, imparted in a multitude of ways. Policy interpretation is done regularly, although not always intentionally, by practitioners and policy experts alike. Policy experts have gradually acknowledged the need and importance of interpretation (Yanow, 1995).

Acts of implementation involve interpretations by internal stakeholders, which typically consist of implementers of public policy, clients of practitioners, or external stakeholders. Various stakeholder interpretations could hinder the implementation of a policy's distinct mandates. Meaning is not general or definite; it is contingent upon the context, perception, and interpretation of the participant. When meaning is shared, the artifacts generate feelings of cohesiveness among those who share similar or equivalent interpretations of them and distinguish those individuals from others who share alternative interpretations. Artifacts adapt to a multitude of meanings, and that may not be obvious when two parties do not share comparable interpretations.

Differences typically do not become evident until later. In some cases, the meanings that policies convey are agency specific. Moreover, policy meanings can be intertwined and read by diverse audiences, absent from legislators and implementers (Yanow, 1993). Five key principles that effect practitioners' policy interpretation were identified including the identity and history of the organization, the perception of a policy's targeted population, new national narratives, a fear of a forfeiture of authority, and lastly, a concern for fairness and equity (Chase, 2014). Policy interpretations provide for clarification on how to execute state-sanctioned regulations and programs. They allow continual communication and support between practitioners to ensure efficient and effective services to the citizenry (California Department of Social Services, 2019).

Administrative Discretion

Lipsky (1969) noted that existing political values engender a "zone of indifference" (p. 10) within which public servants are permitted to function. Discretion is weakened as bureaucratic production is progressively scrutinized and behaviors that were

previously disregarded infer new meaning for a stimulated citizenry (Lipsky, 1969). Administrative discretion consists of the liberty to determine a course of action or inaction in a specific situation. Street-level bureaucrats bear significant responsibility in the effective implementation of regulations as they maintain some extent of discretion (Thomann et al., 2018).

Scholars often describe administrative discretion in two ways. It is described as the exercise of substantial policymaking power sanctioned to agencies and/or a choice of possible alternatives to implement legislative intent (Angervil, 2017). Laws cannot implement themselves and require a supplementary authority to manage the implementation of governmental regulations (R. M. Cooper, 1938). Administrative discretion has a multitude of foundations. Agencies are afforded the legal authority to formulate polices for the purpose of meeting statutory goals. To meet their regulatory goals, agencies utilize a form of administrative discretion. Rule discretion is when agencies employ statutory discretion in establishing procedures through protocols, policies, and adjudication (Angervil, 2017).

Discretion to initiate action occurs when a street-level bureaucrat chooses to make choices or chooses not to make a choice as an act of discretionary authority. This method of discretion can be utilized as an alternative to adjudication and rulemaking (Shapiro, 1983). Shapiro presumed that the presence of inadequate resources could influence agencies to choose not to pursue prosecutorial methods to administer policy unless it is required by statutory regulations. High-volume, low-level decisions are defined as a multitude of discretionary decisions made by agencies in the delivery of services that have an inconsequential impact on beneficiaries (Shapiro, 1983).

Waiver discretion is defined as the authority agencies possess that allows them to waive specific policy requirements to provide flexibility and allow modifications of policy in situations with unforeseen circumstances (Angervil, 2017). Task discretion is another type of administrative discretion that street-level bureaucrats utilize. Tasks are connected to many of the discretionary decision-making and behaviors employed by administrative agencies. Bureaucratic agencies exercise their power in performing general tasks in organizing the activities of a significant number of employees across the nation. Task discretion is also related to prioritization (Angervil, 2017). Decisions under conditions of high uncertainty entail bureaucrats making decisions under "high and equal levels of uncertainty" regarding possible consequences of various regulatory alternatives (Shapiro, 1983, p. 1507).

Unexpected circumstances discretion is another form of administrative discretion. Public servants utilize unexpected circumstances discretion to address new situations. During the process of implementation, agencies may experience several complicated situations that lead them to make choices not specified by law (Shapiro, 1983). Administrative discretion to promote implementers' preferences occurs at every administrative level, from the highest levels of management to the lowest levels on the frontline. Agencies have their specific interests to preserve in policy implementation and utilize discretion to execute strategies to correspond with their organizational vision, goals, and objectives contrary to those present in a specific policy. Agencies employ discretion as a product of their observations and efforts to get support for their implementation responsibilities (Angervil, 2017).

An integrative approach to administrative discretion is the next type of discretion to be discussed. The integrative approach to administrative discretion is typically utilized as a method of making bureaucracy receptive to groups by incorporating their opinions and principles in decision-making. Receptiveness refers to

- the right for the citizenry to define administrative agencies' goals;
- the right to oversee or have its representatives take part in the responsibilities designed to attain those goals; and
- being exercised through community activities or their representatives, community associations, and interest groups (Angervil, 2017).

Administrative discretion is regarded as one of several necessary evils of present-day bureaucracy in the framework of the emergence of the administrative state. Proponents contend that administrative discretion is essential for a well-performing government. Administrative discretion allows governments to function with increased agility, efficiency, and variation. Another reason for administrative discretion rests in the value of a merit-based civil service in which public servants employ knowledge and expertise to fulfill the civic good.

The final reason is that there is an increasing incompatibility between the growing purview of administrative agencies and the inadequate resources they are provided. In these situations, administrative discretion is valuable because it authorizes allocating and reallocating resources to offset opposing regulatory goals (Gao, 2019). Public servants have discretion whenever the effective limitations on their authority leave them free to make determinations among potential courses of action or inaction (Tummers & Bekkers, 2014).

Judicial Policies

Judicial policies guide the practice and discretion of street-level bureaucrats in administrative agencies throughout the United States. The method in which a court interprets and applies the law within a jurisdiction is essential to the policy, practice, and discretion of street-level bureaucrats. One must be conscious of the multitude of stakeholders or populations when analyzing the policy implementation of street-level bureaucrats. Decision makers are appellate court judges whose decisions set precedents for policy implementation. The interpreting population consists of trial court judges, attorneys, and other nonjudges or nonattorneys with official roles of law interpretation. The implementing population consists of street-level bureaucrats sanctioned by the U.S. legal and political structure to implement and enforce provisions of a law (Johnson & Canon, 1984). Judges are at the forefront of the interpreting population, because of the authoritative nature of their decision-making (Johnson & Canon, 1999). The consumer population consists of the recipients of the provisions of judicial policies. The secondary population consists of individuals who are not a part of the aforementioned populations but residually affect or are affected by a judicial population. The relationship between the implementing population and the judiciary possesses relevance in regard to implementing policy. As it pertains to influencing the behavior of the implementing population (street-level bureaucrats), the courts are in a relatively feeble position (Johnson & Canon, 1984).

Historical Trauma

Native American/Alaskan Native children and families have endured a multitude of life-altering, traumatic events perpetrated by governmental entities with the intention

of advancing the interests of the U.S. government without regard for the indigenous peoples of this nation. These collective violations of human rights and civil decency have resulted in what is described as historical trauma. Historical trauma is trauma experienced by multiple generations of members of a particular culture, race, or ethnicity. It is associated with significant events that oppressed a specific collection of people such as the Holocaust, slavery, forced relocation, and the brutal colonization of Native American/Alaskan Natives (ACF, n.d.). Historical trauma was exacerbated by the suppression of indigenous customs, traditions, habits, and cultures. Possessing knowledge of how colonization manifested itself into historical trauma and recognizing how historical trauma is passed on from one generation to another is the antecedent to involvement in the crucial work of decolonizing sociopolitical constructs and systems (Cashman, 2020). The concept of historical trauma has a more lasting and significant impact when analyzing oppressed minorities who continuously endure prejudices, inequalities, and disparities in practically every facet of life (Guenzel & Struwe, 2019). The Native American/Alaskan Native nations who have inhabited this land long before it was the United States of America have endured a tremendous amount of anguish since European explorers first began to orchestrate the colonization of the Americas in the 1400s (Barnes et al., 2019). Although there are several examples of governmental entities violating human rights and civil decency, for the purposes of this study, the Indian Removal Act of 1830 will be the first policy discussed as it pertains to historical trauma. The Indian Removal Act was enacted into law by President Andrew Jackson on May 28, 1830, sanctioning the president to give vacant territories west of the Mississippi River in exchange for Indian territories within established state boundaries. A small

number of tribes left peacefully; however, the majority of tribes refused to accept and comply with the Indian Removal Act relocation law (Library of Congress, 2020). The Indian Removal Act of 1830 was shaped by the philosophy of manifest destiny because it was established upon a racial and ethnic social order with Americans at the top. The race-related social order posited that all other races were inferior to Whites because Whites were the chosen race (Michigan State University, n.d.).

In a speech to Congress on December 6, 1830, President Andrew Jackson advocated for the removal and relocation of eastern area Native American nations to territories west of the Mississippi River with the intention of opening up the new land for citizens of the United States (National Archives, 2020). According to the National Park Service (n.d.), in his speech to Congress, President Andrew Jackson stated,

> It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consummation. Two important tribes have accepted the provision made for their removal at the last session of Congress, and it is believed that their example will induce the remaining tribes also to seek the same obvious advantages. (National Park Service, n.d., para. 1)
>
> What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with

> all the blessings of liberty, civilization and religion? (National Park Service, n.d., para. 3)

During the fall and winter of 1838 and 1839, the U.S. government moved and relocated the Cherokee Nation to the west. During this forced westward move and relocation, it is estimated that 4,000 members of the Cherokee Nation died in an event, which is recognized as being a part of the "Trail of Tears" (Library of Congress, 2020, para.1). In 1839, during the time that policies from the Indian Removal Act of 1830 were being implemented and events such as the Trail of Tears were occurring, John O'Sullivan discussed what is recognized today as Manifest Destiny. John O'Sullivan posited that the United States was the nation of the future and was destined for greater achievements, and expansive growth was in the future of the United States (Mount Holyoke College, n.d.). John O'Sullivan first used the term Manifest Destiny in the New York Herald in 1945 when he wrote,

> It was the fulfillment of our manifest destiny to overspread the continent allotted by Providence for the free development of our yearly multiplying millions. No longer bounded by the limits of the confederacy, it looks abroad upon the whole earth. (Weber State University, n.d., p. 1)

Fueled by the Manifest Destiny doctrine, settlers believed that they had a responsibility to remove the nations that did not align with their western ideals, standards, and vision for expansion into westward territories (Barnes et al., 2019). Proponents for westward expansion began to express worry over what was believed to be a barrier of the westward expansion, settlement, and social and economic development of America. The Cherokee, Creek, Seminole, Choctaw, and Chickasaw tribes occupying the territories east of the

Mississippi River adjacent to White settlements were perceived as troublesome to westward expansion. White settlers believed that the Native American occupied land was the key to economic growth, wealth, and prosperity. The land was ideal for raising cattle, growing wheat and cotton, and harvesting timber and minerals. The White settlers pressured the federal government to acquire the land from the Native American tribes, who the settlers believed were barriers to the progression of America's westward expansion (Smithsonian American Art Museum, n.d.). The ideology of manifest destiny is the notion that the westward expansion of the United States of America was ordained by God (Smithsonian American Art Museum, n.d.), justified by the belief that it was inevitable because it was God's divine will for settlers to expand across the entire continent, govern, and grow the population (University of Richmond, n.d.).

The Manifest Destiny Doctrine was utilized to justify the displacement of Native Americans from their native lands. Settlers believed that Native Americans were not utilizing the resources of the land to its fullest potential as they often designated substantial areas of preserved land for hunting, allowing the preserved land to remain in its natural uncultivated state. Settlers perceived the land not being utilized for development or agriculture as the underutilization and waste of a valuable resource. Settlers believed it was their responsibility to take, occupy, and cultivate the land in order to utilize the land to its fullest potential (Smithsonian American Art Museum, n.d.). The Trail of Tears persisted for approximately 11 years from 1831-1842 and involved the Cherokee, Creek, Seminole, Choctaw, and Chickasaw, which are known as the "Five Civilized Tribes." More than 75,000 members of each nation collectively were forced to move and thousands died, primarily women, children, and older adults. The Indian

Removal Act of 1830 was implemented to benefit the expansion of America. The U.S. government decided that the Native Americans occupying southeastern states must move to Native American Territory (Oklahoma). Amidst much deliberation, intratribal disagreements, resentment, and conflicts and confrontations between themselves and the U.S. government, the Five Civilized Tribes begrudgingly signed treaties with the federal government ceding ownership of their land and moving westward (Dwyer, 2014).

CHAPTER 3: METHODOLOGY

Purpose Statement

The purpose of this study was for legislators and public child welfare agencies to understand the areas of the Indian Child Welfare Act that need more attention to implement the policy more effectively.

Research Questions

The research questions that were used to guide this study are

1. What top three areas of the Indian Child Welfare Act require the most attention by public child welfare agencies and legislators for the law to be implemented more effectively?
2. What factors contribute to Indian Child Welfare Act violations and appeals?

These research questions can be used to assist public child welfare agencies, local legislators, and state legislators in understanding the barriers to effective policy implementation in addition to the factors that contribute to Indian Child Welfare Act (ICWA) violations and appeals. Utilizing a backward mapping approach to understand the top three areas that require the most attention in addition to the factors that contribute to violations and appeals will provide state and local policymakers with a framework to design policies that address the gaps and missing links in services. Moreover, public child welfare agencies' service delivery and compliance with the ICWA should improve. County executives will also be able to design trainings and policies and develop protocols that address gaps or missing links in services.

Research Design

For this research study, a nonprobability design was used as the focus of the study is the American Indian/Alaskan Native child population. The nonprobability sampling design of this project entailed the selection of the targeted population, (through random selection of ICWA appellate court case documents) which has been selected to understand the areas of the ICWA that need more attention to be implemented more effectively as well as reviewing appellate court case documents of Native American children and families that have had ICWA cases. This nonprobability sampling design was chosen to assist this researcher in understanding the areas of the ICWA that can be implemented more effectively by street-level bureaucrats through analyzing their discretionary decision-making and behaviors when implementing ICWA. Nonprobability sampling cases are sampled not necessarily to know more about the population but to simply extend and deepen existing knowledge about the sample itself (Uprichard, 2013).

The nonprobability design that this researcher utilized was purposive sampling. With purposive sampling, appellate court case documents were selected based on the specific attributes of Native American children and families. Purposive sampling methods place primary emphasis on saturation (i.e., obtaining a comprehensive understanding of a population by continuing to sample until no new substantive information is acquired). With purposive sampling, cases were selected based on the study purpose with the expectation that each case would provide unique and rich information of value to the study (Etikan, 2016).

In this study, a random sample of 20 appellate court cases ICWA appeals provided an in-depth, rich, and unique understanding of the studied phenomenon. A total

of 33 children were affected in the 20 cases analyzed. The primary objective of purposive sampling is to concentrate on the specific attributes of a population that are of concern, which best empowered this researcher to answer the research questions that are contained in the research questions section at the beginning of this chapter. In homogeneous sampling, elements were designated based upon having comparable attributes because such attributes were of specific interest to this researcher (Laerd Dissertation, 2012). Purposive sampling is the most appropriate method of sampling, because the research issues pertain ICWA violations, appeals, and policy implementation, which affects the Native American child population.

Population

Culturally, only American Indian/Alaskan Native children are subject to the provisions of ICWA, which are inquiry and notice, active efforts, qualified expert witness testimony, placement preference, and a beyond a reasonable doubt burden of proof (California Courts, n.d.-b). Therefore, purposive sampling is the most appropriate method of sampling as the characteristic of this cultural group (being Native American or potentially having Native American ancestry) is a primary element of this research project. Appellate court case documents pertaining to ICWA violations, appeals, and policy implementation that involve Native American children or children with possible Native American/Alaskan Native heritage were the source of analysis from which the researcher obtained the sample of the targeted population.

An important limitation to this study is that purposive sampling is highly susceptible to the researcher's biases. The concepts of purposive sampling are formulated on the judgment of what this researcher presents and the possibility of biases;

particularly when compared to probability methods that are intended to decrease such biases. However, the judgmental subjective element of purposive sampling is only a substantial disadvantage when judgments are not carefully considered; meaning judgments have not been predicated on clear criteria, whether a theoretical construct, expert elicitation, or some other accepted criteria (Sharma, 2017). In other words, judgements or interpretations are accepted based on clear or specific standards, theories, expert conclusions, or other accepted standards in the field of study.

Therefore, the subjective, nonprobability-based core of unit selection (case studies) in purposive sampling means that it can be challenging to defend the representativeness of the sample. Additionally, it can be challenging to persuade the reader that the judgment utilized to select units to study was suitable. Furthermore, it can also be challenging to persuade the reader that research utilizing purposive sampling attained analytical, logical, or theoretical generalization results or outcomes (Sharma, 2017). The case studies that were chosen for this research study could present ethical issues and cause harm to the individuals who are parties to the appellate court case documents as the appellate court case documents that were provided to this researcher were a combination of appellate court cases that have been published for public opinion and appellate court cases that have not been published for public opinion although both are public record.

All of the appellate court case records were appeals from child welfare proceedings, which are typically confidential; however, appellate court case disposition and appeals whether certified for publication or not certified for publication are public record. To protect the identity and confidentiality of the children and families that were

parties to the appellate court cases, this researcher coded the data to ensure that the individuals involved in the appellate court cases remained confidential. The appellate court case documents were coded based on the district the case came from and the order from which the random sample was selected. The letter "D" was used to indicate the word "district" and Roman numerals were used to signify the district that the appellate court case was from. Moreover, the letter "C" was used to indicate the word "case" and Roman numerals were used to signify the number by which the appellate court case was randomly selected.

For example, the first case selected from appellate court district four was coded "DIV-CI" and the fourth case chosen from appellate court district six was coded "DVI-CIV." Each child on an appellate court case disposition was identified by the word "child," the order in which they were revealed in the appellate court case, and their first and last initials. For example, if the first child revealed on an appellate court case document was "John Doe," the child's name would be coded as "Child 1 – J.D." For additional children appearing on appellate court case documents, the word "child" followed by the subsequent number and their initials was used. For example, if an additional child on the appellate court case document were revealed second and the child's name was "Jane Doe," then it would be coded as "Child 2 – J.D." The social workers in the appellate court case documents were coded with the two letters "SW" to signify the term "social worker" followed by the appropriate Roman numeral to indicate their assignment to the family.

For example, the first social worker assigned to the family was identified as "SW I" followed by "SW II," as the second social worker assigned to the family and any other

subsequent social worker assignments. It is likely that families would have more than one social worker on a case, depending on the stage of the case that the family is in. In the most extreme cases, a family can have four to five social workers, each with different roles and areas of specialization. Areas of specialization include investigations, court intervention investigations, reunification, and permanency. Each social worker must adhere to the provisions of the ICWA despite his or her area of expertise; therefore, it was important to be able to protect the confidentiality, code, and the identity of assigned social worker(s) on each case. The policy implementation provisions of ICWA were also coded. The following is a list of how the provisions were coded:

1. An "I" was used for "inquiry," which is the process of a worker inquiring about familial Native American heritage during an interview with members of a family or after interviewing members of a family.
2. An "N" was used for "notice," if the street-level bureaucrat had enough information to determine that there was "reason to believe" or "reason to know" that there was familial Native American heritage during an interview with members of a family or after interviewing members of a family.
3. An "AE" was used for the "active efforts" provision of the ICWA, which are the services rendered and efforts utilized to prevent the break-up of a Native American family.
4. A "PP" was used for the "placement preference" provision of the ICWA, which is required when an ICWA finding is made by a trial court judge.

5. A “QEW” was used for “qualified expert witness,” a person with expertise in tribal laws, customs, and traditions whom the tribe has identified and agreed is a qualified expert.

Sample

This researcher utilized appellate court case documents involving ICWA appeals, from all six appellate court districts. For the purpose of this study, one criterion was utilized for selecting appellate court case dispositions. The criterion for selecting appellate court case dispositions was those that involve appeals on ICWA cases. Appellate court case dispositions from the last 4 years involving ICWA appeals from all six California appellate courts were obtained from online databases and platforms. This researcher utilized the California Courts: The Judicial Branch of California website for published opinions at https://www.courts.ca.gov/opinions-slip.htm and nonpublished opinions at https://www.courts.ca.gov/opinions-nonpub.htm.

The California Courts platform used to analyze case studies pertaining to ICWA violations and appeals that involve Native American children and children with possible Native American/Alaskan Native heritage was where the researcher obtained the sample of the targeted population. The ideal number of appellate court cases for this study was 20 cases. The total sample size for the case studies was 20. Once all of the ICWA appeals were obtained, this researcher chose every third case to randomly select the sample. This researcher focused on the 4-year period of 2016-2020 for the sample size of 20 appellate court cases. This researcher utilized LexisNexis Academic, a legal database for precedential appellate court cases, to assist in the search of appellate court cases.

Instrumentation

The instrument utilized was document analysis. Case studies are important for extracting themes, concepts, and other data from the transcripts of the case studies. Case studies provide a clear timeline and account of the details of the case for duration of the case (University of Melbourne, 2011).

Data Collection

The researcher collected data through case study documents and analyzed the documents to find common themes pertaining to the effectiveness (successful implementation of a provision) of the implementation of the ICWA by street-level bureaucrats. The data were categorized and evaluated to enable the progression of individual textual and structural explanations, a composite textual explanation, a composite structural explanation, and a combination of textual and structural definitions and implications (Moustakas, 1994).

For this study, the case study research methodology assisted in developing an understanding of this intricate issue and can add strength to what was previously acknowledged through prior research. Case study research was the most appropriate for this study as it places an emphasis on thorough contextual analysis of a limited number of events or conditions and their "associations" (Dooley, 2002, p. 335). This case study research design was utilized to identify gaps or holes with the overall goal of progressing theoretical explanations (Ridder, 2017).

Data were collected through the California Courts website and the LexisNexis website. The California Courts platform allowed access to all appellate court cases published for opinion and not published for opinion in California since 2001. This

researcher began the search for appellate court cases utilizing the California Courts website beginning with 2020 for both published and unpublished opinions. This researcher worked back retroactively on an annual basis to obtain appellate court case documents from years previous to 2020. Because the state of California does not separate ICWA appeals both published and not published for opinion from all other cases published and not published for public opinion, this researcher searched through the database of all cases published and not published for public opinion. The LexisNexis website was also utilized to assist in collecting appellate court case documents if enough cases were not available through a search of the California Courts website. Approximately 4 to 6 weeks were required to collect the data and randomly select the sample.

Data Analysis

For this study, document analysis was used as the methodical process for examining documents, both printed and electronic content (Bowen, 2009). The effectiveness (successful implementation of a provision) of street-level bureaucrats' policy implementation through the use of discretionary decision-making (simplifications) and behaviors (routines) over ICWA cases, was measured through document analysis of ICWA cases, dispositions, and appeals to determine how the street-level bureaucrats utilized their policy interpretation, administrative discretion, and administrative authority to implement the ICWA.

Appellate court case dispositions are textual records with narratives of events that occurred during a case. The narratives revealed the discretionary decision-making and behaviors of street-level bureaucrats as they pertain to implementing provisions of the

ICWA effectively. The appeals contained a multitude of rulings, which were either affirmed or reversed and remanded for correction. Documents also indicated whether a provision of ICWA was implemented effectively (successful implementation of a provision) or whether there was ineffective (unsuccessful implementation of a provision) implementation of that provision. Analyzing the documents allowed for common themes to be extracted related to inquiry, notice, concurrent planning, placement preference, and Indian expert witnesses.

The discretionary decision-making (simplifications) and/or behaviors (routines) were noted in the narrative of the appellate court case. Missteps and/or errors can be identified in the appellate court case dispositions as any action outside the confines of the policy would result in a violation and/or an appeal. Eight weeks were required to analyze the data, extract common themes, and identify trends and/or concepts.

Limitations

A limitation of this case study data collection is the sensitivity and integrity of this researcher. This researcher was the principal instrument for data collection and analysis. Case evaluation is another limitation of collecting data from this case study (Reis, n.d.). A third limitation or concern with this case study research is the lack of rigor. Common concerns with case studies, which could arise as a concern in this case study research, are that researchers have been criticized for being unorganized, not following methodical processes and procedures, and allowing ambivalent evidence or partial perspectives to affect the direction of the results and conclusions (Yin, 2009). A fourth limitation of this case study research is that it offers a limited foundation for scientific.

Avoiding Bias

An indication of potential bias is the level to which this researcher was receptive to opposing research findings. The results of this research were founded upon convincing proof; the outcomes of the case studies showed conflicting findings. This researcher accepted opposing outcomes by discussing the results of initial research findings with four colleagues, while still in the data collection phase. Colleagues offered alternate interpretations and suggestions for collecting data (Yin, 2009).

Construct Validity

Critics of case study research point out that researchers often fail to establish sufficient operational sets of measures by which subjective judgments are utilized to gather data (Yin, 1994).

Internal Validity

Threats to internal validity for this case study research may be expanded to a more general issue of making inferences. This case study research involves an inference in each situation where an event cannot be directly observed. Therefore, this researcher must infer that a specific event resulted from a previous incident based on the interviews and documented evidence obtained as a component of the case study (Yin, 1994).

External Validity

External validity issues can be a significant barrier to this case study research. Opponents claim single cases provide a poor foundation for generalization. With analytical generalization, this researcher attempted to generalize a specific set of outcomes to a general theory for each case study. Generalization is not certain and the theory must be verified through duplications of the findings through each case study.

Replication logic is the utilization of experiments and allowed this researcher to generalize from one study to another (Yin, 1994).

Reliability

The goal of reliability is to decrease the errors and biases in this research project. The objective is to ensure that this researcher followed the same procedures as described by a previous researcher to arrive at the same findings. If the study were conducted all over again, the later researcher should attain the same results and outcomes. To ensure reliability, this researcher documented the procedures followed in this case study. Historically, case study research processes and procedures have been ineffectively recorded, making outside assessors skeptical of the case study (Yin, 1994).

Single-case study designs and multiple-case designs remain within an equal methodological system with no general division between the standard single-case study and multiple-case studies. The preference is regarded as one of research design, with both being contained within the case study strategy. Multiple-case designs have distinctive advantages and disadvantages relative to single-case study designs. The data from multiple cases are generally regarded as more compelling, and the overall research project is consequently considered as being more durable (Yin, 1994).

Summary

In Chapter 3, the methodology of the research project was explored. The purpose statement, research questions, research design, population, sample, instrumentation, data collection, and data analysis were discussed in depth. The discussion included specific step-by-step instructions of how each component of the study would occur. The limitations, avoidance of bias, construct validity, internal validity, external validity, and

reliability were discussed thoroughly to review how to create validity and reliability in the study.

CHAPTER 4: RESEARCH, DATA COLLECTION, AND FINDINGS

Overview

This chapter presents the examination of data obtained from analyzing documents as described in the Instrumentation section of Chapter 3. This chapter contains five sections, which are the Purpose Statement, Research Questions, Research Methods and Data Collections Procedures, Presentation and Analysis of Data, and the Summary. The purpose statement and research questions from Chapter 1 are revisited. The Research Methods and Data Collection Procedures section contains the specific techniques and procedures utilized to identify, choose, organize, manage, and examine the details, facts, and data related to the street-level bureaucrats' implementation of the Indian Child Welfare Act of 1978. The Presentation and Analysis of Data section presents the themes that emerged through the process of data analysis. Appellate court cases were analyzed, and common themes were extracted as thematic analysis was used to formulate themes and subthemes to better understand the areas that require more attention pertaining to the implementation of this public policy.

Purpose Statement

The purpose of this study was for legislators and public child welfare agencies to understand the areas of the Indian Child Welfare Act that need more attention to implement the policy more effectively.

Research Questions

The research questions that were used to guide this study are

1. What top three areas of the Indian Child Welfare Act require the most attention by public child welfare agencies and legislators for the law to be implemented more effectively?
2. What factors contribute to Indian Child Welfare Act violations and appeals?

Research Methods and Data Collection Procedures

The research method that was utilized was document analysis. Through document analysis, thematic analysis occurred to extract common themes, which were utilized to analyze the effectiveness of the implementation of the Indian Child Welfare Act (ICWA) of 1978 by social workers. After common themes were extracted, the process of thematic analysis occurred and themes were grouped together to create subthemes and overarching themes. The documents that this researcher utilized to examine the effectiveness of social workers' implementation of ICWA were published and unpublished opinions from California appellate courts. California appellate courts are medial courts designed for appellate examination of trial court decisions. Each California Court of Appeal presides over trial court decisions within the jurisdictional boundaries of the counties that compose each corresponding district (California Courts, 2020). California's appellate court system consists of six districts, which are the First District Court of Appeal, Second District Court of Appeal, Third District Court of Appeal, Fourth District Court of Appeal, Fifth District Court of Appeal, and Sixth District Court of Appeal (Georgetown Law, n.d.). The First Appellate District consists of 12 counties in Northern California, which are Sonoma, San Mateo, Solano, San Francisco, Marin, Mendocino, Napa, Alameda, Contra Costa, Del Norte, Lake, and Humboldt (California Courts, 2020). The Second Appellate District consists of a mixture

of four counties in Southern and Central California. The counties that encompass the Second Appellate District are Los Angeles County, Ventura County, Santa Barbara County, and San Luis Obispo County. The Second Appellate District comprises eight divisions with divisions one through five, seven, and eight handling affairs related to Los Angeles County and division six handling affairs related to Ventura County, Santa Barbara County, and San Luis Obispo County (California Courts, 2020). The Third Appellate District consists of 23 Northern California Counties. The Northern California counties that makeup the Third Appellate District are Yuba County, Yolo County, Trinity County, Tehama County, Sutter County, Siskiyou County, Sierra County, Shasta County, San Joaquin County, Sacramento County, Plumas County, Placer County, Nevada County, Mono County, Modoc County, Lassen County, Glenn County, El Dorado County, Colusa County, Calaveras County, Butte County, Amador County, and Alpine (California Courts, 2020).

The Fourth Appellate District consists of a mixture of six counties in Southern and Central California. The counties that encompass the Fourth Appellate District are San Diego County, Imperial County, Orange County, Riverside County, San Bernardino County, and Inyo County. Additionally, the Fourth Appellate District is separated into three distinct divisions. The Fourth Appellate District, Division One contains San Diego County and Imperial County; the Fourth Appellate District, Division Two consists of Riverside County, San Bernardino County, and Inyo County; and Orange County in the Fourth Appellate District, Division Three (California Courts, 2020). The Fifth Appellate District Court presides over matters in nine Central California counties. The nine Central California counties that are present in the Fifth Appellate District are Tuolumne County,

Tulare County, Stanislaus County, Merced County, Mariposa County, Madera County, Kings County, Kern County, and Fresno County (California Courts, 2020). The Sixth Appellate District Court presides over matters in four Northern California counties. The four Northern California counties that are present in the Sixth Appellate District are Santa Cruz County, Monterrey County, Santa Clara County, and San Benito County (California Courts, 2020).

This researcher completed a search of unpublished opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour time period from February 18, 2020 to the preceding 100 hours of appellate court decisions. A search of unpublished opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour time period from February 18, 2020 to the preceding 100 hours of appellate court decisions yielded no results (see Figure 1).

Figure 1

Unpublished Opinions 2/18/20 to the Preceding 100 Hours

Unpublished Opinions 2/18/20 to the preceding 100 Hours				
No results				

This researcher completed an additional search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from February 18, 2020 to the preceding 100 hours of appellate court decisions. A search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from

February 18, 2020 to the preceding 100 hours of appellate court decisions yielded no results (see Figure 2).

Figure 2

Published Opinions 2/18/20 to the Preceding 100 Hours

Published Opinions 2/18/20 to the preceding 100 Hours
No results

This researcher completed a second search of unpublished opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour time period from February 22, 2020 to the preceding 100 hours of appellate court decisions. This search yielded two appellate court cases for the study. One case from the Second Appellate District, Division Seven and the other from the Fifth Appellate District (see Figure 3).

Figure 3

Unpublished Opinions 2/22/20 to the Preceding 100 Hours

Unpublished Opinions 2/22/20 to the preceding 100 Hours
Two results yielded:
Second Appellate District, Division Seven - One case (1)
Fifth Appellate District - One case (1)

This researcher completed a second search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from February 22, 2020 to the preceding 100 hours of appellate court decisions. A search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from

February 22, 2020 to the preceding 100 hours of appellate court decisions yielded no results (see Figure 4).

Figure 4

Published Opinions 2/22/20 to the Preceding 100 Hours

Published Opinions 2/22/20 to the preceding 100 Hours
No results

This researcher completed a search of unpublished opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 60-day time period from February 22, 2020 to the preceding 60 days of appellate court decisions. This search yielded 11 cases for the study. The 11 cases yielded were from the First Appellate District, Division Three; First Appellate District, Division Five; two cases from the Second Appellate District, Division Two; one case from the Second Appellate District, Division Five; two from the Third Appellate District; two from the Fourth Appellate District, Division One; Fourth Appellate District, Division Two; and the Fifth Appellate District (see Figure 5).

Figure 5

Unpublished Opinions 2/22/20 to the Preceding 60-Day Time Period

Unpublished Opinions 2/22/20 to the preceding 60-day time period
11 results yielded:
First Appellate District, Division Three - One case (1)
First Appellate District, Division Five - One case (1)
Second Appellate District, Division Two - Two cases (2)
Second Appellate District, Division Five - One case (1)
Third Appellate District - Two cases (2)
Fourth Appellate District, Division One - Two cases (2)
Fourth Appellate District, Division Two - One case (1)
Fifth Appellate District - One case (1)

This researcher completed a search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 60-day time period from February 22, 2020 to the preceding 60 days of appellate court decisions. A search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 60-day time period from February 22, 2020 to the preceding 60 days of appellate court decisions yielded no results (see Figure 6).

Figure 6

Published Opinions 2/22/20 to the Preceding 60-Day Time Period

Published Opinions 2/22/20 to the preceding 60-day time period					
No results					

This researcher completed a third search of unpublished opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour time period from February 28, 2020 to the preceding 100 hours of appellate court decisions. This search yielded three cases for the study. The three cases yielded were from the Second Appellate District, Division Eight; Fourth Appellate District, Division One; and the Fifth Appellate District (see Figure 7).

Figure 7

Unpublished Opinions 2/28/20 to the Preceding 100 Hours

Unpublished Opinions 2/28/20 to the preceding 100 Hours			
Three results yielded:			
Second Appellate District, Division Eight - One case (1)			
Fourth Appellate District, Division One - One case (1)			
Fifth Appellate District - One case (1)			

This researcher completed a third search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from February 28, 2020 to the preceding 100 hours of appellate court decisions. A search of published opinions on www.courts.ca.gov of California appellate court cases from all California appellate courts within a 100-hour period from February 28, 2020 to the preceding 100 hours of appellate court decisions yielded no results (see Figure 8).

Figure 8

Published Opinions 2/28/20 to the Preceding 100 Hours

Published Opinions 2/28/20 to the preceding 100 Hours				
No results				

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the First Appellate District beginning in the year 2020 down through the year 2016 until he obtained enough cases for the sample. The term *In Re* is Latin for "in the matter of" (Legal Information Institute, n.d., para.1). The search of unpublished First Appellate District Opinions did not yield any results (see Figure 9).

Figure 9

Unpublished Opinions From the First Appellate District Between the Years 2020-2016

Unpublished Opinions from the First Appellate District between the Years 2020-2016.							
No results							

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the First Appellate District

beginning in the year 2020 down through the year 2016. A search of published First Appellate District Court cases yielded four appellate court cases. Published First Appellate District Court divisions to yield cases were division one which yielded one case, division four which yielded one case, and division five which yielded two cases (see Figure 10).

Figure 10

Published Opinions From the First Appellate District Between the Years 2020-2016

Published Opinions from the First Appellate District between the Years 2020-2016.
Four results yielded:
First Appellate District, Division One - One case (1)
First Appellate District, Division Four - One case (1)
First Appellate District, Division Five - Two cases (2)

This researcher searched through 4,059 appellate court cases. A search through the 4,059 appellate court cases yielded four results.

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Second Appellate District beginning in the year 2020 down through the year 2016. The search of unpublished Second Appellate District Opinions yielded no results (see Figure 11).

Figure 11

Unpublished Opinions From the Second Appellate District Between the Years 2020-2016

Unpublished Opinions from the Second Appellate District between the years 2020-2016.
No results

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Second Appellate District

beginning in the year 2020 down through the year 2016. A search of published Second Appellate District Court cases yielded five appellate court cases. Second Appellate District Court divisions to yield cases were the Second Appellate District, Division Six, which yielded one case and the Second Appellate District, Division Seven, which yielded four cases (see Figure 12).

Figure 12

Published Opinions From the Second Appellate District Between the Years 2020-2016

Published Opinions from the Second Appellate District between the years 2020-2016.
Five results yielded:
Second Appellate District, Division Six - One Case (1)
Second Appellate District, Division Seven - Four Cases (4)

This researcher searched through 5,322 appellate court cases. A search through the 5,322 appellate court cases yielded five results.

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Third Appellate District beginning in the year 2020 down through the year 2016. The search of unpublished Third Appellate District Opinions did not yield any results (see Figure 13).

Figure 13

Unpublished Opinions From the Third Appellate District Between the Years 2020-2016

Unpublished Opinions from the Third Appellate District between the years 2020-2016.
No Results

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Third Appellate District

beginning in the year 2020 down through the year 2016. A search of published Third Appellate District Court cases yielded one case for this study (see Figure 14).

Figure 14

Published Opinions From the Third Appellate District Between the Years 2020-2016

Published Opinions from the Third Appellate District between the years 2020-2016.						
One result yielded:						
Third Appellate District - One Case (1)						

This researcher searched through 395 appellate court cases. A search through the 395 appellate court cases yielded one result.

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District, Division One beginning in the year 2020 down through the year 2016. The search of unpublished opinions from the Fourth Appellate District, Division One yielded 29 appellate court cases (see Figure 15).

Figure 15

Unpublished Opinions From the Fourth Appellate District, Division One Between the Years 2020-2016

Unpublished Opinions from the Fourth Appellate District, Division One between the years 2020-2016.								
Yielded 29 results:								
Fourth Appellate District, Division One - 29 Cases (29)								

This researcher searched through 3,507 appellate court cases. A search through the 3,507 appellate court cases yielded 29 results.

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District,

Division One beginning in the year 2020 down through the year 2016. A search of published Fourth Appellate District, Division One court cases between the years 2020-2016 yielded three cases (see Figure 16).

Figure 16

Published Opinions From the Fourth Appellate District, Division One Between the Years 2020-2016

Published Opinions from the Fourth Appellate District, Division One between the years 2020-2016.								
Three results results:								
Fourth Appellate District, Division One - Three Cases (3)								

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District, Division Two beginning in the year 2020 down through the year 2016. The search of unpublished opinions from the Fourth Appellate District, Division Two yielded no results (see Figure 17).

Figure 17

Unpublished Opinions From the Fourth Appellate District, Division Two Between the Years 2020-2016

Unpublished Opinions from the Fourth Appellate District, Division Two between the years 2020-2016.								
No results								

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District, Division Two beginning in the year 2020 down through the year 2016. A search of

published Fourth Appellate District, Division Two court cases between the years 2020-2016 yielded three cases (see Figure 18).

Figure 18

Published Opinions From the Fourth Appellate District, Division Two Between the Years 2020-2016

Published Opinions from the Fourth Appellate District, Division Two between the years 2020-2016.
Three results yielded:
Fourth Appellate District, Division Two - Three Cases (3)

This researcher searched through 5,935 appellate court cases. A search through the 5,935 appellate court cases yielded three results.

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District, Division Three beginning in the year 2020 down through the year 2016. The search of unpublished opinions from the Fourth Appellate District, Division Three yielded no results (see Figure 19).

Figure 19

Unpublished Opinions From the Fourth Appellate District, Division Three Between the Years 2020-2016

Unpublished Opinions from the Fourth Appellate District, Division Three between the years 2020-2016.
No Results

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Fourth Appellate District, Division Three between the years 2020-2016 beginning in the year 2020 down through

the year 2016. A search of published Fourth Appellate District, Division Three court cases between the years 2020-2016 yielded two cases (see Figure 20).

Figure 20

Published Opinions From the Fourth Appellate District, Division Three Between the Years 2020-2016

Published Opinions from the Fourth Appellate District, Division Three between the Years 2020-2016.
Two results yielded:
Fourth Appellate District, Division Three - Two cases (2)

This researcher searched through 703 appellate court cases. A search through the 703 appellate court cases yielded three results.

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Fifth Appellate District beginning in the year 2020 down through the year 2016. The search of unpublished Fifth Appellate District Opinions yielded no results (see Figure 21).

Figure 21

Unpublished Opinions From the Fifth Appellate District Between the Years 2020-2016

Unpublished Opinions from the Fifth Appellate District between the Years 2020-2016.
No results

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Fifth Appellate District beginning in the year 2020 down through the year 2016. A search of published Fifth Appellate District Court cases did not yield any results for the years 2020-2016 (see Figure 22).

Figure 22

Published Opinions From the Fifth Appellate District Between the Years 2020-2016

Published Opinions from the Fifth Appellate District between the Years 2020-2016.						
No results						

This researcher completed a search of In re unpublished opinions on www.courts.ca.gov of California appellate court cases from the Sixth Appellate District beginning in the year 2020 down through the year 2016. The search of unpublished Sixth Appellate District Opinions yielded no results (see Figure 23).

Figure 23

Unpublished Opinions From the Sixth Appellate District Between the Years 2020-2016

Unpublished Opinions from the Sixth Appellate District between the years 2020-2016.							
No Results							

This researcher completed a search of In re published opinions on www.courts.ca.gov of California appellate court cases from the Sixth Appellate District beginning in the year 2020 down through the year 2016. A search of published Sixth Appellate District Court cases between the years 2020-2016 yielded one case (see Figure 24).

Figure 24

Published Opinions From the Sixth Appellate District Between the Years 2020-2016

Published Opinions from the Sixth Appellate District between the years 2020-2016.						
One result yielded:						
Sixth Appellate District - One Case (1)						

This was the sole case yielded was from Sixth Appellate District. This researcher searched through 766 appellate court cases to obtain the sole appellate court case yielded for the Sixth District.

This researcher obtained a sample population of 60 appellate court cases (see Appendix B), to obtain the targeted sample size of 20 cases to be used for this study. This researcher selected from a pool of 60 appellate court cases and utilized systemic random sampling (see Appendix C) by counting every third case and picking every third case until a total sample size of 20 cases (see Appendix D) was obtained (see Tables 1 and 2).

Table 1

Total Breakdown of Appellate Court Cases

District	Opinion
First Appellate District	5 cases
Second Appellate District	10 cases
Third Appellate District	3 cases
Fourth Appellate District	38 cases
Fifth Appellate District	3 cases
Sixth Appellate District	1 case

Table 2

Total Breakdown of Randomly Selected Appellate Court Cases

District	Opinion
First Appellate District	1 case
Second Appellate District	3 cases
Third Appellate District	0 cases
Fourth Appellate District	16 cases
Fifth Appellate District	0 cases
Sixth Appellate District	0 cases

After the sample size was obtained, this researcher read through each appellate court case individually to identify common themes in the text. This researcher underlined, highlighted, noted, and labeled the common themes, recording the type of violation(s) present on the appeal, issues with implementation, areas for remand, and reasons for remand distinguished in the narratives of the appellate court cases dispositions authored by the panel of justices presiding over the case.

Presentation and Analysis of Data

Knows or Has Reason to Know Welfare and Institutions Code 224.2

DII-CVII Case 002

Both Parent 1 and Parent 2 checked boxes on the ICWA-020 form indicating they both had Native American/Alaskan Native heritage with the Red Tail tribe. In the detention report, the child protection agency reported Parent 1 indicated Native American/Alaskan Native heritage; however, Parent 2 did not. The child protection agency's ICWA notice indicated Parent 2 had no Native American/Alaskan Native heritage; however, the child welfare agency reported Parent 1 had Native American/Alaskan Native ancestry with the Red Tail tribe. The child protection agency was provided with enough information to know or have reason to know Child 1 – S.M., Child 2 – M.M., Child 3 – E.M., and Child 4 – G.M. had possible Native American/Alaskan Native ancestry based on the parents' self-disclosure of tribal affiliation with the Red Tail tribe (see Figure 25). Both Parent 1 and Parent 2 indicated Native American/Alaskan Native heritage with the Red Tail tribe on their ICWA-020 forms. After being made aware of Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.'s possible Native American/Alaskan Native, the child protection agency had an affirmative

Figure 25

Knows or Has Reason to Know Welfare and Institutions Code 224.2

Knows or Has Reason to Know - Welfare and Institutions Code 224.2					
DII-CVII Case 002					
DI-CIII Case 004					
DIV-CI Case 006					
DII-CII Case 007					
DIV-CI Case 008					
DIV-CII Case 009					
DIV-CI Case 010					
DIV-CII Case 013					
DIV-CIII Case 014					
DII-CVII Case 015					
DIV-CI Case 016					
DIV-CI Case 017					
DIV-CI Case 019					
DIV-CI Case 020					

and continuing duty to explore the children's Native American/Alaskan Native heritage throughout the duration of the juvenile dependency case. In June 2013, SW I interviewed Parent 2 who again reported Native American/Alaskan Native heritage through the Red tail tribe as it pertained to Child 4 -G.M., who was taken into protective custody in May 2013. The child protection agency had enough information to know or have reason to know Child 4 -G.M. had Native American/Alaskan Native ancestry as Parent 2 reported tribal affiliation with the Red Tail tribe. Based on SW I's reasoning that the Red tail tribe was not a federally recognized tribe, no additional inquiry into Parent 1's Native American/Alaskan Native ancestry was conducted. In July 2013, a no ICWA finding was made for Child 4 – G.M., and no further inquiries into the ICWA status of the children was made thereafter. In September 2016 at the 366.26 Selection and Implementation

Hearing, SW I's report indicated the court found ICWA did not apply in November 2012 as it pertained to Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.

DI-CIII Case 004

In March 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 1 – J.M. and Child 2 – C.M. indicating the child might be eligible for membership with the Cree tribe, Apache tribe, Cherokee tribe, and Choctaw tribe. The form contained information pertaining to Parent 1 and Parent 2 and had limited information regarding Parent 1 and Parent 2's relatives. In August 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 2 – C.M. indicating the child might be eligible for membership with the Cree tribe, Apache tribe; however, the child welfare agency did not mention the Cherokee and Choctaw tribes that were included on the ICWA-030 form submitted for Child 1 – J.M. Instead of sending notice to the 15 Cherokee, Choctaw, Chippewa-Cree, and Apache tribes during Child 1 – J.M.'s proceedings, the child protection agency only noticed nine Chippewa-Cree and Apache tribes. Because the child protection agency knew or had reason to know Parent 1 and Parent 2 had Native American/Alaskan Native ancestry with the Cree tribe, Apache tribe, Cherokee tribe, and Choctaw tribe, they had the obligation to notice all 15 tribes associated with each nation. The ICWA-030 form related to Child 2 – C.M.'s familial lineage also did not match the familial lineage of Child 1 – J.M.'s familial lineage although they were siblings with the same parents. The child protection agency provided notices to the tribes with the missing information.

DIV-CI Case 006

Parent 2 submitted an ICWA-020 form indicating no known Indian ancestry as it pertained to Child 1 – A.B. SW I representing the agency reported no contact had been made with the mother to inquire about ICWA status in the detention report regarding Child 1 – A.B. The court found ICWA did not apply at the detention hearing. An ICWA-020 form regarding Parent 1's Native American/Alaskan Native heritage was not completed pertaining to Child 1 – A.B.'s possible Native American/Alaskan Native heritage. At the jurisdiction/disposition hearing, the agency reported that ICWA did not apply in the jurisdiction/disposition report based on the court's first ICWA finding in October 2012. In multiple reports filed with the juvenile court after the initial no ICWA finding, the SWs acting on behalf of the child protection agency reiterated, ICWA did not apply based on the initial no ICWA finding. The child protection agency had an obligation to inquire and pursue inquiry regarding Parent 1's Native American/Alaskan Native ancestry. The determination of *knowing or having reason to know* could not be appropriately made because the child protection agency failed to conduct inquiry into Parent 1's possible Native American/Alaskan Native ancestry.

DII-CII Case 007

In May 2018, Parent 1 indicated Native American/Alaskan Native ancestry with the Hopi-New Mexico tribe through a relative who was a registered member of the tribe on the ICWA-020 form as pertaining to Child 1 – D.G., Child 2 – De. G., and Child 3 – Dez. G. SW I interviewed Parent 1's relative who reported possible Native American/Alaskan Native ancestry with Hopi or Navajo through Parent 1's great-grandfather; however, the relative reported it was not enough for any of their family

members to be registered or associated with a tribe. Parent 1 then refused to provide additional information regarding Native American/Alaskan Native ancestry because of not being on good terms with several relatives. The child protection agency sent notices to the Hopi tribe, the Bureau of Indian Affairs (BIA), and the Secretary of the Interior. The notices contained incorrect names for two of Parent 1's relatives who were members of the Hopi tribe, and other information was unknown. The child protection agency knew or had reason to know Parent 1 had Native American/Alaskan Native ancestry with the Hopi-New Mexico as it was reported on the ICWA-020 form. The child protection agency did not make any attempts to interview Parent 1's relative, who reportedly had Hopi ancestry. There is no mention in case records of SW I or any other personnel in the child protection agency continuing to inquire about the Native American/Alaskan Native ancestry of Parent 1.

DIV-CI Case 008

In November 2015, Parent 1 and Parent 2 filed a ICWA-020 form indicating Native American/Alaskan ancestry. Parent 1 reported Native American/Alaskan ancestry through the Cherokee Nation and Parent 2 reported Indian ancestry through the Cherokee Nation and Blackfeet tribe. The child protection agency sent notices to the Blackfeet Nation, Cherokee Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee, the Secretary of the Interior, and the Sacramento area director for BIA. Based on the information provided, the tribes reported Child 1 – M.B. was not an Indian child and ICWA did not apply. The child protection agency later acknowledged the receipt of additional information provided by Child 1 – M.B.'s relative that was not included in the ICWA notices. The information obtained pertained to M.B.'s lineal descendants related

to Parent 1 and Parent 2. In addition to demographic information the child protection agency obtained, the agency admitted to not updating the information on the notices although such information was readily available. There is no mention in case records of SW I or any other personnel in the child protection agency continuing to inquire about the Native American/Alaskan Native ancestry of Parent 1 and Parent 2. The child protection agency knew or had reason to know Parent 1 and parent 2 had Native American/Alaskan Native ancestry based on their self-disclosure of possible Native American Alaskan Native ancestry with the Cherokee Nation and the Blackfeet tribe.

DIV-CII Case 009

Parent 1 informed the child protection agency neither she nor her three children had Native American/Alaskan Native ancestry. Parent 1 later reported the children might have Native American/Alaskan Native ancestry through Parent 2 who was deceased and possibly had ancestry through the Cherokee Nation. The child protection agency knew or had reason to know Parent 1 had Native American/Alaskan Native heritage based on Parent 1's declaration of Parent 2's possible Indian ancestry. The child protection agency sent notices to the Cherokee Nation, and BIA. The child protection agency received responses from three Cherokee tribes indicating the children were not eligible for enrollment. The juvenile court found ICWA did not apply. The child protection agency sent insufficient notices to the Cherokee Nation tribes. The notices correctly identified Parent 2's Native American/Alaskan Native ancestry; however, the notices did not include contact information, demographic information, and complete names for Parent 2's relatives.

DIV-CI Case 010

In September 2016, Parent 1 reported no Native American/Alaskan Native ancestry. Parent 2 reported Native American/Alaskan Native ancestry with a Cherokee tribe through a relative pertaining to Child 1 – J.C. Under ICWA, when an individual had interest in an Indian child and disclosed possible Native American/Alaskan Native ancestry, the child protection agency was provided with enough information to know or have reason to know that Child 1 – J.C. was a possible Indian child. Parent 2 was unaware of relatives the child protection agency could call who could provide additional information regarding Parent 2's Cherokee heritage; however, the relatives contacted other out-of-state relatives. The juvenile dependency court deferred an ICWA finding and ordered Parent 2 to provide additional information regarding ancestry with the Cherokee Nation. In October 2016, the child protection agency sent notices to the Cherokee Nation, the Eastern Band of Cherokee Indians and the United Keetoowah Band of Cherokee Indians on behalf of Child 1 – J.C. The Eastern Band of Cherokee Indians, the Cherokee Nation, and the United Keetoowah Band of Cherokee Indians informed the child protection agency Child 1 – J.C. was not a descendant or an enrolled member of their tribes. In November 2016, the juvenile court found ICWA did not apply. In December 2016, the Cherokee Nation sent a letter to the child protection agency requesting additional information on Child 1 – J.C.'s relatives. Parent 2 provided the child protection agency with information for a relative, and the agency sent the updated information to all three Cherokee tribes. The Cherokee Nation reported there was insufficient information to make a determination on Child 1 – J.C.'s ICWA status and additional information was needed. The Eastern Band of Cherokee Indians and the

United Keetoowah Band of Cherokee Indians determined Child 1 – J.C. was not eligible for enrollment. In March 2017, Parent 2 provided information on another relative who could verify Parent 2's ancestry with the Cherokee Nation. The court ordered Parent 2 to provide the updated information to the child protection agency and ordered the child protection agency to send updated notices to the three Cherokee tribes. The juvenile dependency court found ICWA did not apply as it pertained to Parent 1, Parent 2, and Child 1 – J.C. after the child protection agency reported SW I did not receive responses from the three tribes after sending them updated notices. The agency later conceded they did not comply with the provisions of ICWA. The agency reported notices were sent to the three tribes with incorrect spelling of Child 1 – J.C.'s name. The child protection agency also reported it did not follow up on additional relative information provided by Parent 2 in March 2017.

DIV-CII Case 013

In March 2011, Parent 2 filed an ICWA-020 form indicating Native American/Alaskan Native ancestry with the Blackfeet or Navajo tribes. Parent 2's relative reported Native American/Alaskan Native ancestry for Parent 2 as it pertained to Child 1 – N.G. The child protection agency knew or had reason to know Child 1 – N.G. was a child with Native American/Alaskan Native heritage based on Parent 2's disclosure of American/Alaskan Native heritage on the ICWA-020 form. In March 2011, the child protection agency sent notices to the Blackfeet Tribe of Montana, the Navajo Nation, the Colorado River Indian Tribes, and the Colorado River Tribal Council. The notices included limited information related to Parent 2 and Parent 2's relatives. The Blackfeet Tribe of Montana and the Navajo Nation reported they were unable to verify Child 1 –

N.G.'s eligibility for membership based on the information they were given. In April 2011, the court found ICWA did not apply to the Blackfeet tribe. The Colorado River Indian Tribes reported Child 1 – N.G. was not an enrolled member nor was the child eligible for enrollment. In October 2011, the court found ICWA did not apply and in April 2012, the court found Child 1 – N.G. was not an Indian child. Prior to the court making these findings, a year earlier in April 2011, the child protection agency reported Parent 2 was in contact with them, and Parent 2 reported being in contact with relatives who were registered members with the Cherokee tribe. Parent 2 was killed in a motorcycle accident in August 2012; therefore, no additional follow-up could be completed with Parent 2. The child welfare agency did not provide notices to any federally recognized tribes and did not have Parent 1 complete an ICWA-020 form. The agency did not interview Parent 2's relatives who were registered members with the Cherokee tribe and failed to interview Parent 1's relatives regarding Native American/Alaskan Native ancestry. The child protection agency failed to interview Parent 1 regarding Native American/Alaskan Native ancestry. The agency failed to fulfill its affirmative and continuing duty obligation mandated by ICWA. There is no evidence of continued inquiry into Parent 2's Native American/Alaskan Native ancestry although it was reported Parent 2 was in contact with patrilineal relatives who were registered members with the Cherokee tribe. Additionally, the record does not reflect any continued efforts to contact any patrilineal or matrilineal relatives for information regarding Parent 2's Native American/Alaskan Native ancestry.

DIV-CIII Case 014

In September 2013, Parent 3 informed SW I of Native American/Alaskan Native heritage through two of the Chippewa tribes and reported Child 1 – R.S. and Child 2 – M.S. might be eligible for membership. The child protection agency knew or had reason to know Child 1 – R.S. and Child 2 – M.S. had Native American/Alaskan Native ancestry based on the disclosure of possible Native American/Alaskan Native ancestry by Parent 3. SW I interviewed the children's maternal great-great-grandmother and maternal great-grandmother, who both confirmed the maternal great-great-grandfather was an enrolled member with the Bad River Band of Lake Superior Tribe of Chippewa Indians. A tribal representative from the Chippewa tribe reported the maternal great-aunt was an enrolled member with the Red Cliff Band of Lake Superior Tribe of Chippewa Indians, and the children might be eligible for membership. In November 2013, the Chippewa tribal representative confirmed the children were eligible for membership with the Chippewa tribe. Parent 3 who was a minor dependent at the time, was informed by SW I that she was eligible for enrollment with both Chippewa tribes. SW I informed the mother she was responsible for enrolling herself in one of the two tribes, and after she was enrolled the agency would move forward with enrolling the children in the mother's tribe. The mother completed no further action, and the court found that ICWA did not apply on April 22, 2014 and June 19, 2014. The parental rights of parent 1, parent 2, and parent 3 were subsequently terminated. The appellate court found that the agency failed to make active efforts to secure tribal membership for the children. Although the child protection agency has an affirmative and continuing duty to inquire and notify tribes regarding the Native American/Alaskan Native heritage of a child, the child protection agency

determined Child 1 – R.S. and Child 2 – M.S. were not eligible for enrollment if Parent 3 was not enrolled. SW I, acting on behalf of the child protection agency, made no further efforts to notice the tribes of the children's court proceedings and did not engage in active efforts to assist the children in obtaining tribal membership. The child protection agency also did not respond to the Red Cliff Band of Lake Superior Chippewas' request for additional information pertaining to Parent 3's matrilineal relatives.

DII-CVII Case 015

In December 2013, Parent 1 for Child 1 – A.M. and Child 2 – K.C. denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-010(a) form and denied Native American/Alaskan Native ancestry for Child 1 – A.M. and Child 2 – K.C. Parent 2's patrilineal relative denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-020 form reporting possible Native American/Alaskan Native ancestry through a matrilineal relative. The child protection agency knew or had reason to know Child 1 – A.M. and Child 2 – K.C. had Native American/Alaskan Native ancestry based on the ICWA-020 form Parent 2 filed. During a juvenile court hearing in December 2013, Parent 2 reported being informed by a social worker during a previous dependency case of Native American/Alaskan Native through a matrilineal relative. Parent 2 recalled being told she was eligible for membership with two tribes; however, she could not recall which tribes she was eligible for membership with. The juvenile court ordered the child protection agency to investigate the ICWA claims; however, the court found ICWA did not apply. Parent 2 who was previously a dependent of the juvenile court reported a previous social worker providing information on Native American/Alaskan Native heritage. The child protection agency searched Parent 2's dependency files and did not

find any mention of Native American/Alaskan Native ancestry. Parent 1 was interviewed and reported no Native American/Alaskan Native ancestry. One of Parent 1's patrilineal relatives reported no Native American/Alaskan Native ancestry. In February 2014, the court asked whether any party to the case wanted to be heard regarding ICWA, and no one responded. The court found ICWA did not apply. Parental rights for Parent 1 and Parent 2 were terminated in August 2015 pertaining to Child 1 – A.M., Child 2 -K.C., and Child 3 – M. The child protection agency erred in not providing notice to the BIA regarding the child custody proceedings of Child 1 – A.M., Child 2 -K.C., and Child 3 – M. The affirmative and continuing duty of the child protection agency did not continue to be fulfilled. The child protection agency did not take the appropriate affirmative steps to ensure adequate investigation into the ICWA eligibility for Child 1 – A.M., Child 2 -K.C., and Child 3 – M. There is no mention of continued inquiry regarding Parent 2's Native American/Alaskan Native ancestry. The court found ICWA did not apply at court hearings in December 2013 and February 2014. During the 366.26 Selection and Implementation Hearing in August 2015, the court found ICWA did not apply based on its previous findings of no application of ICWA hearings in December 2013 and February 2014. No mention of an ICWA finding was made at the 366.26 Selection and Implementation trial in September 2015.

DIV-CI Case 016

Parent 1 denied Native American/Alaskan Native ancestry; however, Parent 2 reported Native American/Alaskan Native ancestry through the Cherokee tribe as it pertained to Child 1 -M.H. On an ICWA worksheet, Parent 2 provided the full names of lineal relatives associated with the Cherokee tribe. The child protection agency knew or

had reason to know Child 1 -M.H. had Native American/Alaskan Native ancestry based on Parent 1's self-disclosure and provision of the full names of lineal relatives associated with the Cherokee tribe. In September 2017, SW I interviewed Parent 2 and was informed Parent 2 had five siblings, with all of whom there was infrequent contact. In September 2017, the child protection agency sent notices to the BIA, Cherokee Nation, Department of the Interior, and the Eastern Band of Cherokee Indians. The forms indicated Parent 2 may have patrilineal heritage and did not mention matrilineal heritage although Parent 2 provided information on matrilineal relatives. In late September 2017, the child protection agency received responses from the United Keetoowah Band of Cherokee and the Eastern Band of Cherokee Indians indicating Child 1 – M.H. was not eligible for membership. The child protection agency waited 60 days; however, the child protection agency did not receive responses from other Cherokee Nation tribes and the court found ICWA did not apply in November 2017. The child protection agency later conceded it did not include Parent 2's matrilineal relatives on ICWA notices. The child protection agency conducted no further inquiry into the Native American/Alaskan Native ancestry of Parent 2 after the juvenile court made a no ICWA finding in November 2017 although no responses had been received from the Cherokee Nation. The child protection agency's reports filed with the court thereafter noted the court previously found ICWA did not apply; however, the child protection agency did not address Parent 2's eligibility for membership with the Cherokee nation tribe, as there was a response pending from the Cherokee nation. During the 366.26 Selection and Implementation Hearing in June 2019, the juvenile court made an additional no ICWA finding and terminated the parental rights

of parent 1 and Parent 2 although no resolution regarding Parent 2's eligibility for membership with the Cherokee nation tribe had been resolved.

DIV-CI Case 017

Parent 1 for Child 1 – D.F. reported Native American/Alaskan Native ancestry to the child protection agency. The child protection agency knew or had reason to know Child 1 – D.F. was an Indian child based on Parent 1's self-disclosure of possible Native American/Alaskan Native ancestry. Parent 1 contended the child protection agency did not fulfill their obligation in determining whether or not the Indian Child Welfare Act of 1978 applied, as it pertained to Child 1 – D.F. The child protection agency sent three incomplete notices to Indian tribes with omitted information although the agency had access to Child 1 - D.F.'s relatives for interviews. The child protection agency agreed the ICWA notices were incomplete and they could have obtained the information from Parent 1's relatives. Initially, the child protection agency failed to conduct further inquiry into Parent 1's Native American/Alaskan Native ancestry; however, the child protection agency later submitted an addendum to the juvenile court indicating ICWA compliance after Parent 1 and Parent 2's services were terminated. The child protection agency's efforts were viewed as moot, because of the child protection agency's attempting to comply with ICWA after Parent 1 and Parent 2's services were terminated.

DIV-CI Case 018

In January 2013, Parent 2 requested placement of Child 1 -R.M. and Child 2 – D.M. and reported possible Native American ancestry with the Cherokee tribe pertaining to the children. The child protection agency knew or had reason to know both Child 1 - R.M. and Child 2 – D.M. had Native American/Alaskan Native ancestry based on Parent

2's self-disclosure of Native American ancestry with the Cherokee tribe. The child protection agency lost contact with Parent 2 and Parent 1 failed to return phone calls from the child protection agency. The child protection agency conceded it failed to conduct proper inquiry despite Parent 2's claims of possible Native American/Alaskan Native ancestry. The agency never attempted to follow up or inquire further to investigate the claims. Parent 2 for Child 1 – R.M. reported Native American/Alaskan Native ancestry, and the child protection agency failed to follow up with claims of Parent 2's Native American/Alaskan Native ancestry. The record does not reflect any further efforts the child protection agency made to inquire about the Native American/Alaskan Native ancestry of Child 1 -R.M. and Child 2 – D.M. and comply with the affirmative and continuing duty obligation of ICWA.

DIV-CI Case 019

Parent 2 for Child 1 – W.W. and Child 2 – J.W. submitted an ICWA-020 form indicating native American/Alaskan Native ancestry through the Sioux tribe and matrilineal lineage. The child protection agency knew or had reason to know Child 1 – W.W. and Child 2 – J.W. had Native American/Alaskan Native ancestry with the Sioux tribe based on Parent 2's ICWA-020 form filing. SW I requested patrilineal lineage information pertaining to Native American/Alaskan Native ancestry and contacted Parent 2's relative. Parent 2 reported no knowledge of the matrilineal relatives' whereabouts; however, Parent 2 reported the last known area of residence of one the matrilineal relatives but could not provide a last name. SW I reported not being able to contact Parent 2's maternal relatives but did not report measures taken to contact the relatives. SW I had information on several of Parent 2's paternal relatives who could have possibly

provided information on the whereabouts or Native American/Alaskan Native ancestry of Parent 2. SW I did not continue to investigate the Native American/Alaskan Native ancestry of Parent 2. Parent 2's patrilineal relatives could have provided information regarding the Native American/Alaskan Native ancestry of Parent 2's matrilineal relatives; however, the child welfare agency did not continue with investigative inquiry. The juvenile court erred in finding ICWA did not apply as the inquiry provision of ICWA was triggered when Parent 2 reported Native American/Alaskan Native ancestry with the Sioux tribe.

DIV-CI Case 020

In March 2017, Parent 1 reported Native American/Alaskan Native ancestry through the Choctaw tribe and reported Native American/Alaskan Native ancestry for Parent 2, who was deceased, with the Oneida tribe as it pertained to Child 1 – H.A. The child protection agency knew or had reason to know Child 1 – H.A. had Native American/Alaskan Native heritage based on Parent 1 reporting Parent 2's Native American/Alaskan Native ancestry through the Choctaw tribe. The juvenile court directed Parent 1 to provide information pertaining to relatives for both Parent 1 and Parent 2 for the purpose of sending notices to both tribes. In April 2017, the child protection agency filed ICWA-030 forms for both parents, identifying three Choctaw tribes for Parent 1 and two Oneida tribes for Parent 2. The child protection agency interviewed Parent 2's relatives and provided some information in the notices for the Oneida tribes although one of Parent 2's patrilineal relatives denied Oneida ancestry; however, the child protection agency did not provide pertinent information for both Parent 1 and parent 2's relatives although they had access to the information from a

previously filed ICWA-030 form from a probate case. The child protection agency sent ICWA forms to the Choctaw tribes, Oneida tribes, Secretary of the Interior, and the BIA. The tribes responded to the child protection agency reporting Child 1 – H.A. was not eligible for membership; however, the agency failed to comply with ICWA because of the missing information on relatives for both Parent 1 and Parent 2 although the child protection agency was in possession of the information.

Improper Notice

DIV-CI Case 001

Parent 1 reported Chippewa, Blackfeet, and Cherokee to the child protection agency pertaining to Child 1 – E.M. and Child 2 – C.M. Parent 1 submitted an extensive ICWA form with much information; however, Parent 1 failed to include relevant information pertaining to the claims of Native American/Alaskan Native ancestry. Consequently, inadequate notice was sent to the tribes (see Figure 26).

DII-CVII Case 002

In September 2012, the child protection agency sent notice to the Secretary of the Interior and BIA. The child protection agency's ICWA notice indicated Parent 2 had no Native American/Alaskan Native heritage; however, the child protection agency reported Parent 1 had Native American/Alaskan Native ancestry with the Red Tail tribe. The notices did not contain the names, demographic information, or biographical information for the paternal or maternal relatives of Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M. and Child 4 – G.M., other than Parent 1 and Parent 2. The child protection agency's ICWA notices erred by indicating Parent 2 had no Native American/Alaskan Native ancestry. The BIA informed the child protection agency that there was

insufficient information to determine the Native American/Alaskan Native ancestry for Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.

Figure 26

Improper Notice

Improper Notice					
DIV-CI Case 001					
DII-CVII Case 002					
DI-CIII Case 004					
DII-CII Case 007					
DIV-CI Case 008					
DIV-CII Case 009					
DIV-CI Case 010					
DIV-CI Case 011					
DIV-CII Case 013					
DIV-CIII Case 014					
DIV-CI Case 016					
DIV-CI Case 017					
DIV-CI Case 020					

DI-CIII Case 004

In March 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 1 – J.M. indicating the child is or might be eligible for membership with the Cree tribe, Apache tribe, Cherokee tribe, and Choctaw tribe. The form contained information pertaining to Parent 1 and Parent 2 and had limited information regarding Parent 1 and Parent 2's relatives. In August 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 2 – C.M. indicating the child is or might be eligible for membership with the Cree tribe, Apache tribe; however, the child protection agency did not mention the Cherokee and Choctaw tribes that were included on the ICWA-030 form submitted for Child 1 – J.M. Instead of

noticing the 15 Cherokee, Choctaw, Chippewa-Cree, and Apache tribes noticed during Child 1 – J.M.'s proceedings, the child protection agency only noticed nine Chippewa-Cree and Apache tribes. The ICWA-030 form related to Child 2 – C.M.'s familial lineage also did not match the familial lineage of Child 1 – J.M.'s familial lineage although they were siblings with the same parents. The child protection agency provided notices to the tribes with the missing information.

DII-CII Case 007

In May 2018, Parent 1 indicated Native American/Alaskan Native ancestry with the Hopi-New Mexico tribe through a relative who was a registered member of the tribe. SW I interviewed Parent 1's relative who reported possible Native American/Alaskan Native ancestry with Hopi or Navajo through Parent 1's great-grandfather; however, Parent 1's relative reported it was not enough for any of their family members to be registered or associated with a tribe. Parent 1 then refused to provide additional information regarding Native American/Alaskan Native ancestry because of not being on good terms with several relatives. The child protection agency sent notices to the Hopi tribe, the BIA, and the Secretary of the Interior. The notices contained incorrect names for two of Parent 1's relatives who were members of the Hopi tribe, and other information was unknown.

DIV-CI Case 008

In November 2015, Parent 1 and Parent 2 filed ICWA-020 form indicating Native American/Alaskan ancestry. Parent 1 reported Native American/Alaskan ancestry through the Cherokee Nation, and Parent 2 reported Indian ancestry through the Cherokee Nation and Blackfeet tribe. The child protection agency sent notices to the

Blackfeet Nation, Cherokee Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee, the Secretary of the Interior, and the Sacramento Area Director for the BIA. Based on the information provided, the tribes reported Child 1 – M.B. was not an Indian child and ICWA did not apply. The child protection agency later acknowledged the receipt of additional information provided by Child 1 – M.B.'s relative that was not included in the ICWA notices. The information obtained pertained to M.B.'s lineal descendants related to Parent 1 and Parent 2. In addition to demographic information the child protection agency obtained, the agency admitted to not updating the information on the notices although such information was readily available. There is no mention in case records of SW I or any other personnel in the child protection agency continuing to inquire about the Native American/Alaskan Native ancestry of Parent 1 and Parent 2.

DIV-CII Case 009

Parent 1 informed the child protection agency neither she nor her three children had Native American/Alaskan Native ancestry. Parent 1 later reported the children might have Native American/Alaskan Native ancestry through Parent 2, who was deceased, and they possibly had ancestry through the Cherokee Nation. The child protection agency sent notices to the Cherokee Nation, and the BIA. The child protection agency received responses from three Cherokee tribes indicating the children were not eligible for enrollment. The juvenile court found ICWA did not apply. The child protection agency sent insufficient notices to the Cherokee Nation tribes. The notices correctly identified Parent 2's Native American/Alaskan Native ancestry; however, the notices did not

include contact information, demographic information, and complete names for Parent 2's relatives.

DIV-CI Case 010

In September 2016, Parent 1 reported no Native American/Alaskan Native ancestry. Parent 2 reported Native American/Alaskan Native ancestry with a Cherokee tribe through a relative. Parent 2 was unaware of relatives the child protection agency could call who could provide additional information regarding Parent 2's Cherokee heritage; however, Parent 2 would contact out-of-state relatives. The juvenile dependency court deferred an ICWA finding and ordered Parent 2 to provide additional information regarding ancestry with the Cherokee Nation. In October 2016, the child protection agency sent notices to the Cherokee Nation, the Eastern Band of Cherokee Indians and the United Keetoowah Band of Cherokee Indians on behalf of Child 1 – J.C. The Eastern Band of Cherokee Indians, the Cherokee Nation, and the United Keetoowah Band of Cherokee Indians informed the child protection agency Child 1 -J.C. was not a descendant or an enrolled member of their tribes. In November 2016, the juvenile court found ICWA did not apply. In December 2016, the Cherokee Nation sent a letter to the child protection agency requesting additional information on Child 1 – J.C.'s relatives. Parent 2 provided the child protection agency with information for a relative, and the agency sent the updated information to all three Cherokee tribes. The Cherokee Nation reported there was insufficient information to make a determination on Child 1 – J.C.'s ICWA status and additional information was needed. The Eastern Band of Cherokee Indians and the United Keetoowah Band of Cherokee Indians determined Child 1 – J.C. was not eligible for enrollment. In March 2017, Parent 2 provided information on

another relative who could verify Parent 2's ancestry with the Cherokee Nation. The court ordered Parent 2 to provide the updated information to the child protection agency and ordered the child protection agency send updated notices to the three Cherokee tribes. The juvenile dependency court found ICWA did not apply as it pertained to Parent 1, Parent 2, and Child 1 – J.C. after the child protection agency reported SW I did not receive responses from the three tribes after sending them updated notices. The agency later conceded they did not comply with the provisions of ICWA. The agency reported notices were sent to the three tribes with incorrect spelling of Child 1 – J.C.'s name. The child protection agency also reported it did not follow up on additional relative information provided by Parent 2 in March 2017.

DIV-CI Case 011

Parent 2 for Child 1 – C.M. reported Native American/Alaskan Native ancestry with the Campo tribe, revealing a relative lived on the reservation and received financial assistance from the tribe. Parent 2 completed the ICWA-020 form indicating possible membership or eligibility for membership with the Campo or Kumeyaay tribes. In April 2016, the child protection agency sent notices to multiple tribes; however, the child protection agency received responses from the tribes indicating Parent 2 was not eligible for membership and did not receive a response from the Campo tribe. The juvenile court found ICWA did not apply. In January 2017, Parent 2 provided the child protection agency with an updated ICWA-020 form, which included updated information on a patrilineal relative. The child protection agency was not able to make contact with the relative and did not send the updated information to tribes based on the reasoning of no new information being provided by Parent 2. The juvenile court found ICWA did not

apply. The child protection agency conceded it did not comply with the inquiry and notice provisions of ICWA. The child protection agency failed to send notices with the updated information on Parent 2's patrilineal relative. Additionally, the child protection agency failed to conduct further inquiry regarding the Native American heritage of the patrilineal relative.

DIV-CII Case 013

In March 2011, Parent 2 filed an ICWA-020 form indicating Native American/Alaskan Native ancestry with the Blackfeet or Navajo tribes. Parent 2's relative reported Native American/Alaskan Native ancestry for Parent 2 as it pertained to Child 1 – N.G. In March 2011, the child protection agency sent notices to the Blackfeet Tribe of Montana, the Navajo Nation, the Colorado River Indian Tribes, and the Colorado River Tribal Council. The notices included limited information related to Parent 2 and Parent 2's relatives. The Blackfeet Tribe of Montana and the Navajo Nation reported they were unable to verify Child 1 – N.G.'s eligibility for membership based on the information they were given. The Colorado River Indian Tribes reported Child 1 – N.G. was neither an enrolled member nor eligible for enrollment. In October 2011, the court found ICWA did not apply, and in April 2012, the court found Child 1 – N.G. was not an Indian child. Prior to the court making these findings, a year earlier in April 2011, the child protection agency reported Parent 2 was in contact with them and Parent 2 reported being in contact with relatives who were registered members with the Cherokee tribe. Parent 2 was killed in a motorcycle accident in August 2012; therefore, no additional follow-up could be completed with Parent 2. The child welfare agency did not

provide notices to any federally recognized tribes and did not have Parent 1 complete an ICWA-020 form.

DIV-CIII Case 014

In September 2013, Parent 3 informed SW I of Native American/Alaskan Native heritage through two of the Chippewa tribes and reported Child 1 – R.S. and Child 2 – M.S. might be eligible for membership. SW I interviewed the children's maternal great-great-grandmother and maternal great-grandmother, who both confirmed the maternal great-great-grandfather was an enrolled member with the Bad River Band of Lake Superior Tribe of Chippewa Indians. A tribal representative from the Chippewa tribe reported the maternal great-aunt was an enrolled member with the Red Cliff Band of Lake Superior Tribe of Chippewa Indians and the children might be eligible for membership. In November 2013, the Chippewa tribal representative confirmed the children were eligible for membership with the Chippewa tribe. Parent 3, who was a minor dependent at the time, was informed by SW I that she was eligible for enrollment with both Chippewa tribes. SW I informed Parent 3 she was responsible for enrolling herself in one of the two tribes and after she was enrolled the agency would move forward with enrolling the children in Parent 3's tribe. The child protection agency did not send updated notices to the tribes informing them of Child 1 – R.S. and Child 2 – M.S.'s hearings as they continued to progress. Parent 3 completed no further action, and the court found that ICWA did not apply on April 22, 2014 and June 19, 2014. The parental rights of parent 1, parent 2, and parent 3 were subsequently terminated. The appellate court found that the agency failed to make active efforts to secure tribal membership for the children.

DIV-CI Case 016

Parent 1 denied Native American/Alaskan Native ancestry; however, Parent 2 reported Native American/Alaskan Native ancestry through the Cherokee tribe. On an ICWA worksheet, Parent 2 provided the full names of his lineal relatives associated with the Cherokee tribe. In September 2017, SW I interviewed Parent 2 and was informed Parent 2 had five siblings, with all of whom there was infrequent contact. In September 2017, the child protection agency sent notices to the BIA, Cherokee Nation, Department of the Interior, and the Eastern Band of Cherokee Indians. The forms indicated Parent 2 might have patrilineal heritage and did not mention matrilineal heritage although Parent 2 provided information on matrilineal relatives. In late September 2017, the child protection agency received responses from the United Keetoowah Band of Cherokee and the Eastern Band of Cherokee Indians indicating Child 1 – M.H. was not eligible for membership. The child protection agency waited 60 days; however, the child protection agency did not receive responses from other Cherokee Nation tribes, and the court found ICWA did not apply. The child protection later conceded it did not include Parent 2's matrilineal relatives on ICWA notices.

DIV-CI Case 017

Parent 1 for Child 1 – D.F. contended the child protection agency did not fulfill their obligation in determining whether or not the Indian Child Welfare Act of 1978 applied as it pertained to Child 1 – D.F. The child protection agency sent three incomplete notices to Indian tribes with omitted information although the agency had access to Child 1 - D.F.'s relatives for interviews. The child protection agency agreed the

ICWA notices were incomplete and they could have obtained the information from Parent 1's relatives.

DIV-CI Case 020

In March 2017, Parent 1 reported Native American/Alaskan Native ancestry through the Choctaw tribe and reported Native American/Alaskan Native ancestry for Parent 2, who was deceased, with the Oneida tribe as it pertained to Child 1 – H.A. The juvenile court directed Parent 1 to provide information pertaining to relatives for both Parent 1 and Parent 2 for the purpose of noticing both tribes. In April 2017, the child protection agency filed ICWA-030 forms for both parents, identifying three Choctaw tribes for Parent 1 and two Oneida tribes for Parent 2. The child protection agency interviewed Parent 2's relatives and provided some information in the notices for the Oneida tribes although one of Parent 2's patrilineal relatives denied Oneida ancestry; however, the child protection agency did not provide pertinent information for both Parent 1 and parent 2's relatives although they had access to the information from a previously filed ICWA-030 form from a probate case. The child protection agency sent ICWA forms to the Choctaw tribes, Oneida tribes, Secretary of the Interior, and the Bureau of Indian Affairs. The tribes responded to the child protection agency's report that Child 1 – H.A. was not eligible for membership; however, the agency failed to comply with ICWA because of the missing information on relatives for both Parent 1 and Parent 2 although the child protection agency was in possession of the information.

Improper Inquiry

DIV-CI Case 001

Parent 1 reported Chippewa, Blackfeet, and Cherokee tribal affiliation to the child protection agency pertaining to Child 1 – E.M. and Child 2 – C.M. Parent 1 submitted an extensive ICWA form with much information; however, failed to include relevant information pertaining to the claims of Native American/Alaskan Native ancestry. The agency agreed SW I did not complete a full inquiry regarding the Native American/Alaskan Native ancestry of the children (see Figure 27). After the children were taken into protective custody, Parent 1 reported of Native American/Alaskan Native ancestry with the Chippewa, Blackfeet, and Cherokee tribes. SW I was in contact with Parent 1's relatives; however, SW I did not ask questions to provide adequate notice to the three tribes or obtain information pertinent to the Indian ancestry for Parent 1, Child 1 – E.M., or Child 2 – C.M. Consequently, inadequate notice was sent to the tribes.

Figure 27

Improper Inquiry

Improper Inquiry					
DIV-CI Case 001					
DII-CVII Case 002					
DII-CII Case 007					
DIV-CI Case 008					
DIV-CI Case 011					
DIV-CII Case 013					
DII-CVII Case 015					
DIV-CI Case 016					
DIV-CI Case 018					
DIV-CI Case 019					

DII-CVII Case 002

In September 2012, the child protection agency sent notice to the Secretary of the Interior and Bureau of Indian Affairs. Both Parent 1 and Parent 2 checked boxes on the ICWA-020 form indicating they both had Native American/Alaskan Native heritage with the Red Tail tribe. In the detention report the child protection agency reported Parent 1 indicated Native American/Alaskan Native heritage; however, Parent 2 did not. The child protection agency's ICWA notice indicated Parent 2 had no Native American/Alaskan Native heritage; however, reported Parent 1 had Native American/Alaskan Native ancestry with the Red Tail tribe. The notices did not contain the names, demographic information, or biographical information for the paternal or maternal relatives of Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M., other than Parent 1 and Parent 2. In June 2013, SW I interviewed Parent 2 who again reported Native American/Alaskan Native heritage through the Red tail tribe as it pertained to Child 4 – G.M. Based on SW I's reasoning that the Red tail tribe was not a federally recognized tribe, no additional inquiry into Parent 1's Native American/Alaskan Native ancestry was conducted. The juvenile court found ICWA did not apply. The child protection agency's ICWA notices erred by indicating Parent 2 had no Native American/Alaskan Native ancestry. The BIA informed the child protection agency that there was insufficient information to determine the Native American/Alaskan Native ancestry for Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.

DII-CII Case 007

In May 2018, Parent 1 indicated Native American/Alaskan Native ancestry with the Hopi-New Mexico tribe through a relative who was a registered member of the tribe.

SW I interviewed Parent 1's relative who reported possible Native American/Alaskan Native ancestry with Hopi or Navajo through Parent 1's great-grandfather; however, reported it was not enough for any of their family member be registered or associated with a tribe. Parent 1 then refused to provide additional information regarding Native American/Alaskan Native ancestry because of not being on good terms with several relatives. The child protection agency sent notices to the Hopi tribe, the BIA, and the Secretary of the Interior. The notices contained incorrect names for two of Parent 1's relatives who were members of the Hopi tribe and other information was unknown. The child protection agency did not make any attempts to interview Parent 1's relatives, who reportedly had Hopi ancestry. Additionally, the child protection agency failed to inquire further about the whereabouts or contact information of the relative with Native/Alaskan Native ancestry, during the earlier interview with Parent 1's relative.

DIV-CI Case 008

In November 2015, Parent 1 and Parent 2 filed ICWA-020 form indicating Native American/Alaskan ancestry. Parent 1 reported Native American/Alaskan ancestry through the Cherokee Nation and Parent 2 reported Indian ancestry through the Cherokee Nation and Blackfeet tribe. The child protection agency sent notices to the Blackfeet Nation, Cherokee Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee, the Secretary of the Interior, and the Sacramento area director for the BIA. Based on the information provided, the tribes report Child 1 – M.B. was not an Indian child and ICWA did not apply. The child protection agency later acknowledged the receipt of additional information provided by Child 1 – M.B.'s relative that was not included in the ICWA notices. The child protection agency interviewed Child 1 – M.B.'s

patrilineal relative and inquired about placement; however, the child protection agency did not ask about the relatives' birthdates, birthplaces, and other information pertinent to providing notices to tribes on the ICWA-030 form. Likewise, the child protection agency interviewed Child 1 – M.B.'s matrilineal relative and obtained some identifying information, but did not obtain pertinent information required for the ICWA-030 form to appropriately provide notice to the tribes. The information obtained pertained to Child 1 – M.B.'s lineal descendants related to Parent 1 and Parent 2. In addition to demographic information the child protection agency obtained, the agency admitted to not updating the information on the notices, although such information was readily available.

DIV-CI Case 011

Parent 2 for Child 1 – C.M. reported Native American/Alaskan Native ancestry with the Campo tribe, revealing a relative lived on the reservation and received financial assistance from the tribe. Parent 2 completed the ICWA-020 form indicating possible membership or eligibility for membership with the Campo or Kumeyaay tribes. In April 2016, the child protection agency sent notices to multiple tribes; however, received responses from the tribes indicating Parent 2 was not eligible for membership and did not receive a response from the Campo tribe. The juvenile court found ICWA did not apply. In January 2017, Parent 2 provided the child protection agency with an updated ICWA-020 form, which included updated information on a patrilineal relative. The child protection agency was not able to make contact with the relative and did not send the updated information to tribes based on the reasoning of no new information being provided by Parent 2. The juvenile court found ICWA did not apply. The child protection agency conceded it did not comply with the inquiry and notice provisions of

ICWA. The child protection agency failed to send notices with the updated information on Parent 2's patrilineal relative.

DIV-CII Case 013

In March 2011, Parent 2 filed an ICWA-020 form indicating Native American/Alaskan Native ancestry with the Blackfeet or Navajo tribes. Parent 2's relative reported Native American/Alaskan Native ancestry for Parent 2 as it pertained to Child 1 – N.G. In March 2011, the child protection agency sent notices to the Blackfeet Tribe of Montana, the Navajo Nation, the Colorado River Indian Tribes, and the Colorado River Tribal Council. The notices included limited information related to Parent 2 and Parent 2's relatives. The Blackfeet Tribe of Montana and the Navajo Nation reported they were unable to verify Child 1 – N.G.'s eligibility for membership based on the information they were given. The Colorado River Indian Tribes reported Child 1 – N.G. was not an enrolled member nor was the child eligible for enrollment. In October 2011, the court found ICWA did not apply and in April 2012, the court found Child 1 – N.G. was not an Indian child. Prior to the court making these findings, a year earlier in April 2011, the child protection agency reported Parent 2 was in contact with them and Parent 2 reported being in contact with relatives who were registered members with the Cherokee tribe. Parent 2 was killed in a motorcycle accident in August 2012; therefore, no additional follow-up could be completed with Parent 2. The child welfare agency did not provide notices to any federally recognized tribes and did not have Parent 1 complete an ICWA-020 form. The agency did not interview Parent 2's relatives that were registered members with the Cherokee tribe and failed to interview Parent 1's relatives

regarding Native American/Alaskan Native ancestry. The child protection agency failed to interview Parent 1 regarding Native American/Alaskan Native ancestry.

DII-CVII Case 015

In December 2013, Parent 1 for Child 1 – A.M. and Child 2 – K.C. denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-010(a) form and denied Native American/Alaskan Native ancestry for Child 1 – A.M. and Child 2 – K.C. Parent 2's patrilineal relative denied Native American/Alaskan Native ancestry. Parent filed an ICWA-020 form reporting possible Native American/Alaskan Native ancestry through a matrilineal relative. During a juvenile court hearing in December 2013, Parent 2 reported being informed by a social worker during a previous dependency case of Native American/Alaskan Native through a matrilineal relative. Parent 2 recalled being told she was eligible for membership with two tribes; however, could not recall which tribes she was eligible for membership with. The juvenile court ordered the child protection agency to investigate the ICWA claims but found ICWA did not apply. Parent 2 who was previously a dependent of the juvenile court reported a previous social worker providing information on Native American/Alaskan Native heritage. The child protection agency searched Parent 2's dependency files and did not find any mention of Native American/Alaskan Native ancestry. Parent 1 was interviewed and reported no Native American/Alaskan Native ancestry. One of Parent 1's patrilineal relatives reported no Native American/Alaskan Native ancestry. In February 2014, the court asked whether any party to the case wanted to be heard regarding ICWA and no one responded. The court found ICWA did not apply. Parental rights for Parent 1 and Parent 2 were terminated in August 2015 as it pertained to Child 1 – A.M., Child 2 -K.C., and Child 3 –

M. The child protection agency erred in not providing notice to the BIA regarding the child custody proceedings of Child 1 – A.M., Child 2 -K.C., and Child 3 – M. The child protection agency did not conduct an adequate investigation of Parent 2's Native American/Alaskan Native ancestry, although the juvenile court directed them to do so. The child protection agency made no efforts to locate Parent 2's matrilineal relatives for interviews who had direct associations with the tribes. Parent 2 provided the child protection agency with the location of her matrilineal relative; however, no further investigation was completed. Parent 2 reported having two siblings; however, the child protection agency made no efforts to interview them. The child protection agency did not inquire from Parent 1's matrilineal and patrilineal relatives whether they had any knowledge or information regarding the no Native American/Alaskan Native ancestry of Parent 2 or Parent 2's matrilineal and patrilineal relatives.

DIV-CI Case 016

Parent 1 denied Native American/Alaskan Native ancestry; however, Parent 2 reported Native American/Alaskan Native ancestry through the Cherokee tribe. On an ICWA worksheet, Parent 2 provided the full names of his lineal relatives associated with the Cherokee tribe. In September 2017, SW I interviewed Parent 2 and was informed Parent 2 had five siblings, all of whom there was infrequent contact with. The child protection agency never made any attempt to interview Parent 2's siblings or other family members regarding their Native American/Alaskan Native ancestry. In September 2017, the child protection agency sent notices to the BIA, Cherokee Nation, Department of the Interior, and the Eastern Band of Cherokee Indians. The forms indicated Parent 2 may have patrilineal heritage and did not mention matrilineal heritage, although Parent 2

provided information on matrilineal relatives. In late September 2017, the child protection agency received responses from the United Keetoowah Band of Cherokee and the Eastern Band of Cherokee Indians indicating Child 1 – M.H. was not eligible for membership. The child protection agency waited 60 days; however, did not receive a response from other Cherokee Nation tribes and the court found ICWA did not apply. The child protection later conceded it did not include Parent 2's matrilineal relatives on ICWA notices. Additionally, the child protection agency failed to interview Parent 2's relatives regarding Parent 2's Native American ancestry through the Cherokee tribe.

DIV-CI Case 018

In January 2013, Parent 2 requested placement of Child 1 – R.M. and Child 2 – D.M. and reported possible Native American ancestry as it pertained to the children. The child protection agency lost contact with Parent 2 and Parent failed to return phone calls from the child protection agency. The child protection agency conceded it failed to conduct proper inquiry, despite Parent 2's claims of possible Native American/Alaskan Native ancestry. The agency never attempted to follow up or inquire further to investigate the claims. Parent 2 for Child 1 – R.M. reported Native American/Alaskan Native ancestry and the child protection agency failed to follow up with claims of Parent 2's Native American/Alaskan Native ancestry.

DIV-CI Case 019

Parent 2 for Child 1 – W.W. and Child 2 – J.W. submitted an ICWA-020 form indicating native American/Alaskan Native ancestry through the Sioux tribe and matrilineal lineage. SW I requested patrilineal lineage information pertaining to Native American/Alaskan Native ancestry and contact Parent 2's relative. Parent 2 reported no

knowledge of the matrilineal relatives' whereabouts; however, reported the last known area of residence of one the matrilineal relatives but could not provide a last name. SW I reported not being able to contact with Parent 2's maternal relatives but did not reported measures taken to contact the relatives. SW I had information on several of Parent 2's paternal relatives that could have possibly provided information on the whereabouts or Native American/Alaskan Native ancestry of Parent 2. SW I did not continue to investigate the Native American/Alaskan Native ancestry of Parent 2. Parent 2's patrilineal relatives could have provided information regarding the Native American/Alaskan Native ancestry of Parent 2's matrilineal relatives; however, SW I did not continue with investigative inquiry. The juvenile court erred in finding ICWA did not apply, as the inquiry provision of ICWA was triggered when Parent 2 reported Native American/Alaskan Native ancestry with the Sioux tribe.

Failure to Notice

DIV-CI Case 001

Parent 1 reported Chippewa, Blackfeet, and Cherokee to the child protection agency as it pertained to Child 1 – E.M. and Child 2 – C.M. Parent 1 submitted an extensive ICWA form with much information; however, Parent 1 failed to include relevant information pertaining to the claims of Native American/Alaskan Native ancestry. Consequently, inadequate notice was sent to the tribes and the child protection agency did not send notice to two of the Chippewa tribes (see Figure 28).

DII-CVII Case 002

In September 2012, the child protection agency sent notice to the Secretary of the Interior and BIA. The child protection agency's ICWA notice indicated Parent 2 had no

Native American/Alaskan Native heritage; however, the child protection agency reported Parent 1 had Native American/Alaskan Native ancestry with the Red Tail tribe. The notices did not contain the names, demographic information, or biographical information for the paternal or maternal relatives of Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M. other than Parent 1 and Parent 2. No notice was sent directly to the Red Tail tribe.

Figure 28

Failure to Notice

Failure to Notice					
DIV-CI Case 001					
DII-CVII Case 002					
DI-CIII Case 004					
DIV-CI Case 005					
DIV-CII Case 013					
DIV-CIII Case 014					
DII-CVII Case 015					
DIV-CI Case 019					

DI-CIII Case 004

In March 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 1 – J.M. indicating the child was or might be eligible for membership with the Cree tribe, Apache tribe, Cherokee tribe, and Choctaw tribe. The form contained information pertaining to Parent 1 and Parent 2 and had limited information regarding Parent 1 and Parent 2's relatives. In August 2018, the child protection agency filed an ICWA-030, Notice of Custody Proceeding for Child 2 – C.M. indicating the child was or might be eligible for membership with the Cree tribe, Apache tribe; however, the child protection agency did not mention the Cherokee and Choctaw tribes that were included on the ICWA-030 form submitted for Child 1 – J.M. Instead of

sending notice to the 15 Cherokee, Choctaw, Chippewa-Cree, and Apache tribes noticed during Child 1 – J.M.'s proceedings, the child protection agency only noticed nine Chippewa-Cree and Apache tribes.

DIV-CI Case 005

In June 2018, Parent 1 filed an ICWA-020 form indicating there was Native American/Alaskan Native ancestry through a relative. The court continued the jurisdiction hearing partly for the child protection agency to continue to investigate Parent 1's claims of Native American/Alaskan Native ancestry. The child protection agency informed the court it mailed notices to Parent 1 and Parent 2, the BIA, the U.S. Department of the Interior, and a multitude of Cherokee tribes. The child protection agency failed to file a copy of the ICWA-030 form, which contained information related to Child 1 – A.F.'s known Native American/Alaskan Native ancestry.

DIV-CII Case 013

In April 2011, Parent 2 reported contact with relatives who were registered members of the Cherokee nation. Neither Parent 2 nor Parent 2's father were registered members of the Cherokee Nation pertaining to Child 1 – N.G.; however, Parent 2 and his father may have had Cherokee ancestry. The child protection agency failed to send ICWA notices to any federally recognized Cherokee tribe or the BIA.

DIV-CIII Case 014

In October 2013, the Red Cliff Band of Lake Superior Tribe of Chippewa Indians requested family history related to Parent 3's relative. In November 2013, SW I was informed Child 1 – R.S. and Child 2 – M.S. were eligible for enrollment with the Red Cliff Band of Lake Superior Tribe of Chippewa Indians. SW I was informed by the Bad

River Band of Lake Superior Tribe of Chippewa Indians Child 1 – R.S. and Child 2 – M.S. were eligible for enrollment with the tribe. SW I was informed Parent 3 was eligible for enrollment with both the River Band of Lake Superior Tribe of Chippewa Indians and the Bad River Band of Lake Superior Tribe of Chippewa Indians. SW I, acting on behalf of the child protection agency, did not follow up with the Chippewa Tribes. No further action, such as notices, was fulfilled by the child protection agency.

DII-CVII Case 015

In December 2013, Parent 1 for Child 1 – A.M. and Child 2 – K.C. denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-010(a) form and denied Native American/Alaskan Native ancestry for Child 1 – A.M. and Child 2 – K.C. Parent 2's patrilineal relative denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-020 form reporting possible Native American/Alaskan Native ancestry through a matrilineal relative. During a juvenile court hearing in December 2013, Parent 2 reported being informed by a social worker during a previous dependency case of Native American/Alaskan Native through a matrilineal relative. Parent 2 recalled being told she was eligible for membership with two tribes; however, Parent 2 could not recall which tribes she was eligible for membership with. The juvenile court ordered the child protection agency to investigate the ICWA claims; however, the juvenile court found ICWA did not apply. Parent 2, who was previously a dependent of the juvenile court, reported a previous social worker providing information on Native American/Alaskan Native heritage. The child protection agency searched Parent 2's dependency files and did not find any mention of Native American/Alaskan Native ancestry. Parent 1 was interviewed and reported no Native American/Alaskan Native ancestry. One of Parent

1's patrilineal relatives reported no Native American/Alaskan Native ancestry. In February 2014, the court asked whether any party to the case wanted to be heard regarding ICWA, and no one responded. The court found ICWA did not apply. Parental rights for Parent 1 and Parent 2 were terminated in August 2015 as they pertained to Child 1 – A.M., Child 2 – K.C., and Child 3 – M. The child protection agency erred in not providing notice to the BIA regarding the child custody proceedings of Child 1 – A.M., Child 2 -K.C., and Child 3 – M.

DIV-CI Case 019

Parent 2 for Child 1 – W.W. and Child 2 – J.W. submitted an ICWA-020 form indicating native American/Alaskan Native ancestry through the Sioux tribe and matrilineal lineage. SW I requested patrilineal lineage information pertaining to Native American/Alaskan Native ancestry and contact Parent 2's relative. Parent 2 reported no knowledge of the matrilineal relatives' whereabouts; however, Parent 2 reported the last known area of residence of one the matrilineal relatives but could not provide a last name. SW I reported not being able to contact with Parent 2's maternal relatives but did not report measures taken to contact the relatives. SW I had information on several of Parent 2's paternal relatives that could have possibly provided information on the whereabouts or Native American/Alaskan Native ancestry of Parent 2. The juvenile court erred in finding ICWA did not apply as the inquiry provision of ICWA was triggered when Parent 2 reported Native American/Alaskan Native ancestry with the Sioux tribe. The court had reason to know; therefore, the Sioux tribe was entitled to notice. The agency failed to send notices to the Sioux tribe.

Affirmative and Continuing Duty

DII-CVII Case 002

Both Parent 1 and Parent 2 checked boxes on the ICWA-020 form indicating they both had Native American/Alaskan Native heritage with the Red Tail tribe. In the detention report, the child protection agency reported Parent 1 indicated Native American/Alaskan Native heritage; however, Parent 2 did not. The child protection agency's ICWA notice indicated Parent 2 had no Native American/Alaskan Native heritage; however, Parent 2 reported Parent 1 had Native American/Alaskan Native ancestry with the Red Tail tribe. After being made aware of Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.'s possible Native American/Alaskan Native, the child protection agency had an affirmative and continuing duty (see Figure 29) to explore the children's Native American/Alaskan Native heritage throughout the duration of the juvenile dependency case. In June 2013, SW I interviewed Parent 2 who again reported Native American/Alaskan Native heritage through the Red tail tribe as it pertained to Child 4 – G.M., who was taken into protective custody in May 2013. Based on SW I's reasoning that the Red tail tribe was not a federally recognized tribe, no additional inquiry into Parent 1's Native American/Alaskan Native ancestry was conducted. In July 2013, a no ICWA finding was made for Child 4 – G.M., and no further inquiries into the ICWA status of the children was made thereafter. In September 2016 at the 366.26 Selection and Implementation Hearing, SW I's report indicated the court found ICWA did not apply in November 2012 as it pertained to Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M.

Figure 29

Affirmative and Continuing Duty

Affirmative and Continuing Duty					
DII-CVII Case 002					
DIV-CI Case 006					
DII-CII Case 007					
DIV-CI Case 008					
DIV-CI Case 011					
DIV-CII Case 013					
DIV-CIII Case 014					
DII-CVII Case 015					
DIV-CI Case 016					
DIV-CI Case 017					
DIV-CI Case 018					

DIV-CI Case 006

Parent 2 submitted an ICWA-020 form indicating no known Indian ancestry as it pertained to Child 1 – A.B. SW I, representing the agency, reported no contact had been made with the mother to inquire about ICWA status in the detention report regarding Child 1 – A.B. The court found ICWA did not apply at the detention hearing. An ICWA-020 form regarding Parent 1's Native American/Alaskan Native heritage was not completed pertaining to Child 1 – A.B. At the jurisdiction/disposition hearing, the agency reported that ICWA did not apply in the jurisdiction/disposition report based on the court's first ICWA finding in October 2012. In multiple reports filed with the juvenile court after the initial no ICWA finding, the SWs, acting on behalf of the child protection agency, reiterated that ICWA did not apply based on the initial no ICWA finding.

DII-CII Case 007

In May 2018, Parent 1 indicated Native American/Alaskan Native ancestry with the Hopi-New Mexico tribe through a relative who was a registered member of the tribe. SW I interviewed Parent 1's relative who reported possible Native American/Alaskan Native ancestry with Hopi or Navajo through Parent 1's great-grandfather; however, Parent 1's relative reported it was not enough for any of their family members to be registered or associated with a tribe. Parent 1 then refused to provide additional information regarding Native American/Alaskan Native ancestry because of not being on good terms with several relatives. The child protection agency sent notices to the Hopi tribe, the BIA, and the Secretary of the Interior. The notices contained incorrect names for two of Parent 1's relatives who were members of the Hopi tribe, and other information was unknown. The child protection agency did not make any attempts to interview Parent 1's relative, who reportedly had Hopi ancestry. There was no mention in case records of SW I or any other personnel in the child protection agency continuing to inquire about the Native American/Alaskan Native ancestry of Parent 1.

DIV-CI Case 008

In November 2015, Parent 1 and Parent 2 filed ICWA-020 form indicating Native American/Alaskan ancestry. Parent 1 reported Native American/Alaskan ancestry through the Cherokee Nation, and Parent 2 reported Indian ancestry through the Cherokee Nation and Blackfeet tribe. The child protection agency sent notices to the Blackfeet Nation, Cherokee Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee, the Secretary of the Interior, and the Sacramento Area Director for the BIA. Based on the information provided, the tribes reported Child 1 –

M.B. was not an Indian child and ICWA did not apply. The child protection agency later acknowledged the receipt of additional information provided by Child 1 – M.B.'s relative that was not included in the ICWA notices. The information obtained pertained to M.B.'s lineal descendants related to Parent 1 and Parent 2. In addition to demographic information the child protection agency obtained, the agency admitted to not updating the information on the notices although such information was readily available. There was no mention in case records of SW I or any other personnel in the child protection agency continuing to inquire about the Native American/Alaskan Native ancestry of Parent 1 and Parent 2.

DIV-CI Case 011

Parent 2 for Child 1 – C.M. reported Native American/Alaskan Native ancestry with the Campo tribe, revealing a relative lived on the reservation and received financial assistance from the tribe. Parent 2 completed the ICWA-020 form indicating possible membership or eligibility for membership with the Campo or Kumeyaay tribes. In April 2016, sent notices to multiple tribes; however, the child protection agency received responses from the tribes indicating Parent 2 was not eligible for membership and did not receive a response from the Campo tribe. The juvenile court found ICWA did not apply. In January 2017, Parent 2 provided the child protection agency with an updated ICWA-020 form, which included updated information on a patrilineal relative. The child protection agency was not able to make contact with the relative and did not send the updated information to tribes based on the reasoning of no new information being provided by Parent 2. The juvenile court found ICWA did not apply. SW I failed to continue to inquire about the Native American/Alaskan Native ancestry of Parent 2

although the child protection agency was provided with updated information regarding Parent 2's patrilineal relative. The agency did not fulfill its affirmative and continuing duty obligation mandated by ICWA. The child protection agency conceded it did not comply with the inquiry and notice provisions of ICWA. The child protection agency failed to send notices with the updated information on Parent 2's patrilineal relative.

DIV-CII Case 013

In March 2011, Parent 2 filed an ICWA-020 form indicating Native American/Alaskan Native ancestry with the Blackfeet or Navajo tribes. Parent 2's relative reported Native American/Alaskan Native ancestry for Parent 2 as it pertained to Child 1 – N.G. In March 2011, the child protection agency sent notices to the Blackfeet Tribe of Montana, the Navajo Nation, the Colorado River Indian Tribes, and the Colorado River Tribal Council. The notices included limited information related to Parent 2 and Parent 2's relatives. The Blackfeet Tribe of Montana and the Navajo Nation reported they were unable to verify Child 1 – N.G.'s eligibility for membership based on the information they were given. In April 2011, the court found ICWA did not apply to the Blackfeet tribe. The Colorado River Indian Tribes reported Child 1 – N.G. was neither an enrolled member nor eligible for enrollment. In October 2011, the court found ICWA did not apply, and in April 2012, the court found Child 1 – N.G. was not an Indian child. Prior to the court making these findings, a year earlier in April 2011, the child protection agency reported Parent 2 was in contact with them, and Parent 2 reported being in contact with relatives who were registered members with the Cherokee tribe. Parent 2 was killed in a motorcycle accident in August 2012; therefore, no additional follow-up could be completed with Parent 2. The child welfare agency did not provide

notices to any federally recognized tribes and did not have Parent 1 complete an ICWA-020 form. The agency did not interview Parent 2's relatives who were registered members with the Cherokee tribe and failed to interview Parent 1's relatives regarding Native American/Alaskan Native ancestry. The child protection agency failed to interview Parent 1 regarding Native American/Alaskan Native ancestry. The agency failed to fulfill its affirmative and continuing duty obligation mandated by ICWA. There is no evidence of continued inquiry into Parent 2's Native American/Alaskan Native ancestry although it was reported Parent 2 was in contact with patrilineal relatives who were registered members with the Cherokee tribe. Additionally, the record does not reflect any continued efforts to contact any patrilineal or matrilineal relatives for information regarding Parent 2's Native American/Alaskan Native ancestry.

DIV-CIII Case 014

In September 2013, Parent 3 informed SW I of Native American/Alaskan Native heritage through two of the Chippewa tribes and reported Child 1 – R.S. and Child 2 – M.S. might be eligible for membership. SW I interviewed the children's maternal great-great-grandmother and maternal great-grandmother who both confirmed the maternal great-great-grandfather was an enrolled member with the Bad River Band of Lake Superior Tribe of Chippewa Indians. A tribal representative from the Chippewa tribe reported the maternal great-aunt was an enrolled member with the Red Cliff Band of Lake Superior Tribe of Chippewa Indians and the children might be eligible for membership. In November 2013, the Chippewa tribal representative confirmed the children were eligible for membership with the Chippewa tribe. Parent 3, who was a minor dependent at the time, was informed by SW I that she was eligible for enrollment

with both Chippewa tribes. SW I informed the mother she was responsible for enrolling herself in one of the two tribes and after she was enrolled the agency would move forward with enrolling the children in the mother's tribe. The mother completed no further action, and the court found that ICWA did not apply on April 22, 2014 and June 19, 2014. The parental rights of Parent 1, Parent 2, and Parent 3 were subsequently terminated. The appellate court found that the agency failed to make active efforts to secure tribal membership for the children. Although the child protection agency has an affirmative and continuing duty to inquire and notice tribes regarding the Native American/Alaskan Native heritage of a child, the child protection agency determined Child 1 – R.S. and Child 2 – M.S. were not eligible for enrollment if Parent 3 was not enrolled. SW I, acting on behalf of the child protection agency, made no further efforts to send notice to the tribes of the children's court proceedings and did not engage in active efforts to assist the children in obtaining tribal membership. The child protection agency also did not respond to the Red Cliff Band of Lake Superior Chippewas' request for additional information pertaining to Parent 3's matrilineal relatives.

DII-CVII Case 015

In December 2013, Parent 1 for Child 1 – A.M. and Child 2 – K.C. denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-010(a) form and denied Native American/Alaskan Native ancestry for Child 1 – A.M. and Child 2 – K.C. Parent 2's patrilineal relative denied Native American/Alaskan Native ancestry. Parent 2 filed an ICWA-020 form reporting possible Native American/Alaskan Native ancestry through a matrilineal relative. During a juvenile court hearing in December 2013, Parent 2 reported being informed by a social worker during a previous dependency case of Native

American/Alaskan Native through a matrilineal relative. Parent 2 recalled being told she was eligible for membership with two tribes; however, Parent 2 could not recall which tribes she was eligible for membership with. The juvenile court ordered the child protection agency to investigate the ICWA claims; however, the juvenile court found ICWA did not apply. Parent 2, who was previously a dependent of the juvenile court, reported a previous social worker providing information on Native American/Alaskan Native heritage. The child protection agency searched Parent 2's dependency files and did not find any mention of Native American/Alaskan Native ancestry. Parent 1 was interviewed and reported no Native American/Alaskan Native ancestry. One of Parent 1's patrilineal relatives reported no Native American/Alaskan Native ancestry. In February 2014, the court asked whether any party to the case wanted to be heard regarding ICWA, and no one responded. The court found ICWA did not apply. Parental rights for Parent 1 and Parent 2 were terminated in August 2015 as they pertained to Child 1 – A.M., Child 2 – K.C., and Child 3 – M. The child protection agency erred in not providing notice to the BIA regarding the child custody proceedings of Child 1 – A.M., Child 2 – K.C., and Child 3 – M. The affirmative and continuing duty of the child protection agency did not continue to be fulfilled. The child protection agency did not take the appropriate affirmative steps to ensure adequate investigation into the ICWA eligibility for Child 1 – A.M., Child 2 – K.C., and Child 3 – M. There is no mention of continued inquiry regarding Parent 2's Native American/Alaskan Native ancestry. The court found ICWA did not apply at court hearings in December 2013 and February 2014. During the 366.26 Selection and Implementation Hearing in August 2015, the court found ICWA did not apply based on its previous findings of no application of ICWA

hearings in December 2013 and February 2014. No mention of an ICWA finding was made at the 366.26 Selection and Implementation trial in September 2015.

DIV-CI Case 016

Parent 1 denied Native American/Alaskan Native ancestry; however, Parent 2 reported Native American/Alaskan Native ancestry through the Cherokee tribe. On an ICWA worksheet, Parent 2 provided the full names of his lineal relatives associated with the Cherokee tribe. In September 2017, SW I interviewed Parent 2 and was informed Parent 2 had five siblings, with all of whom there was infrequent contact. In September 2017, the child protection agency sent notices to the BIA, Cherokee Nation, Department of the Interior, and the Eastern Band of Cherokee Indians. The forms indicated Parent 2 might have patrilineal heritage and did not mention matrilineal heritage although Parent 2 provided information on matrilineal relatives. In late September 2017, the child protection agency received responses from the United Keetoowah Band of Cherokee and the Eastern Band of Cherokee Indians indicating Child 1 – M.H. was not eligible for membership. The child protection agency waited 60 days; however, the child protection agency did not receive a response from other Cherokee Nation tribes, and the court found ICWA did not apply in November 2017. The child protection agency later conceded it did not include Parent 2's matrilineal relatives on ICWA notices. The child protection agency conducted no further inquiry into the Native American/Alaskan Native ancestry of Parent 2 after the juvenile court made a no ICWA finding in November 2017 although no responses had been received from the Cherokee Nation. The child protection agency's reports filed with the court thereafter noted the court had previously found ICWA did not apply; however, the child protection agency did not address Parent 2's eligibility for

membership with the Cherokee nation tribe as there was a response pending from the Cherokee nation. During the 366.26 Selection and Implementation Hearing in June 2019, the juvenile court made an additional no ICWA finding and terminated the parental rights of parent 1 and Parent 2 although no resolution regarding Parent 2's eligibility for membership with the Cherokee nation tribe had been resolved.

DIV-CI Case 017

Parent 1 for Child 1 – D.F. contended the child protection agency did not fulfill their obligation in determining whether or not the Indian Child Welfare Act of 1978 applied as it pertained to Child 1 – D.F. The child protection agency sent three incomplete notices to Indian tribes with omitted information although the agency had access to Child 1 - D.F.'s relatives for interviews. The child protection agency agreed the ICWA notices were incomplete and they could have obtained the information from Parent 1's relatives. Initially, the child protection agency initially failed to conduct further inquiry into Parent 1's Native American/Alaskan Native ancestry; however, the child protection agency later submitted an addendum to the juvenile court indicating ICWA compliance after Parent 1 and Parent 2's services were terminated. The child protection agency's efforts were viewed as moot because the child protection agency attempted to comply with ICWA after Parent 1 and Parent 2's services were terminated.

DIV-CI Case 018

In January 2013, Parent 2 requested placement of Child 1 – R.M. and Child 2 – D.M. and reported possible Native American ancestry with the Cherokee tribe as it pertained to the children. The child protection agency lost contact with Parent 2, and Parent 1 failed to return phone calls from the child protection agency. The child

protection agency conceded it failed to conduct proper inquiry despite Parent 2's claims of possible Native American/Alaskan Native ancestry. The agency never attempted to follow up or inquire further to investigate the claims. Parent 2 for Child 1 – R.M. reported Native American/Alaskan Native ancestry, and the child protection agency failed to follow up with claims of Parent 2's Native American/Alaskan Native ancestry. The record does not reflect any further efforts the child protection agency made to inquire about the Native American/Alaskan Native ancestry of Child 1 – R.M. and Child 2 – D.M. and comply with the affirmative and continuing duty obligation of ICWA.

Active Efforts

DIV-CIII Case 014

In September 2013, Parent 3 informed SW I of Native American/Alaskan Native heritage through two of the Chippewa tribes and reported Child 1 – R.S. and Child 2 – M.S. might be eligible for membership. SW I interviewed the children's maternal great-great-grandmother and maternal great-grandmother who both confirmed the maternal great-great-grandfather was an enrolled member with the Bad River Band of Lake Superior Tribe of Chippewa Indians. A tribal representative from the Chippewa tribe reported the maternal great-aunt was an enrolled member with the Red Cliff Band of Lake Superior Tribe of Chippewa Indians and the children might be eligible for membership. In November 2013, the Chippewa tribal representative confirmed the children were eligible for membership with the Chippewa tribe. Parent 3, who was a minor dependent at the time, was informed by SW I that she was eligible for enrollment with both Chippewa tribes. SW I informed the mother she was responsible for enrolling herself in one of the two tribes and after she was enrolled the agency would move

forward with enrolling the children in the mother's tribe. The mother completed no further action, and the court found that ICWA did not apply on April 22, 2014 and June 19, 2014. The parental rights of Parent 1, Parent 2, and Parent 3 were subsequently terminated. The appellate court found that the agency failed to make active efforts to secure tribal membership for the children (see Figure 30).

Figure 30

Active Efforts

Active Efforts					
DIV-CIII Case 014					

Failure to Inquire

DII-CVII Case 002

In June 2013, Parent 2 informed SW I of Redtail Native American ancestry on her father's side; however, Parent 2 reported she did not have identifying information on the relative. Parent 2 reported her grandmother provided her with the information regarding her Native American/Alaskan Native ancestry. SW I failed to pursue an interview with Parent 2's grandmother or other relatives with possible knowledge regarding Native American/Alaskan Native ancestry (see Figure 31). In July 2013, Parent 1 filed an ICWA-020 form indicating Native American/Alaskan Native ancestry. The court ordered the agency to conduct further inquiry into Parent 2's claims of Native American/Alaskan Native ancestry and interview Parent 2. SW I, acting on behalf of the agency, did not conduct further inquiry into Parent 1 and Parent 2's claims of Native American/Alaskan Native ancestry. SW I also did not interview Parent 1 and Parent 2's

relatives who were present at various court proceedings. The court made a no ICWA finding and subsequently terminated Parent 1 and Parent 2's parental rights.

Figure 31

Failure to Inquire

Failure to Inquire					
DII-CVII Case 002					
DIV-CI Case 003					
DIV-CI Case 006					
DII-CII Case 007					
DIV-CII Case 009					
DIV-CII Case 013					
DIV-CI Case 019					
DIV-CI Case 020					

DIV-CI Case 003

Child 1 – J.M. was taken into protective custody in January 2016. The child protection agency attempted to locate and notice Parent 1 of the child custody proceedings; however, the child protection agency was unsuccessful in its attempts. Parent 1 made his first appearance in the case in September 2017 at the 366.26 selection and implementation permanency hearing. Once Parent 1's whereabouts were known, the child protective agency failed to inquire about Parent 1's Native American/Alaskan Native ancestry. The agency conceded their error in failing to inquire about Parent 1's Native American/Alaskan Native ancestry and therefore failing to comply with the ICWA.

DIV-CI Case 006

In September 2012, a protective custody petition was filed on behalf of Child 1 – A.B. by the child protection agency. Parent 3's whereabouts were unknown, and Parent 3

had not been notified of the juvenile dependency proceedings. Although Parent 3's whereabouts were unknown, the court found ICWA did not apply in the case. After Parent 3 was located, no attempts to inquire about Native American/Alaskan Native ancestry were made. At each hearing thereafter, the court continued to find IUCWA did not apply. In August 2015, parental rights were terminated for all legal parents of Child 1 – A.B. Inquiry into Parent 3's Native American/Alaskan Native ancestry was not completed, and the court's findings of ICWA not applying were based on Parent 1's denial of Native American/Alaskan Native heritage at the inception of the case. Parent 3 was never asked about Native American/Alaskan Native ancestry.

DII-CII Case 007

In May 2018, Parent 1 indicated Native American/Alaskan Native ancestry with the Hopi-New Mexico tribe through a relative who was a registered member of the tribe. SW I interviewed Parent 1's relative who reported possible Native American/Alaskan Native ancestry with Hopi or Navajo through Parent 1's great-grandfather; however, Parent 1's relative reported it was not enough for any of their family members to be registered or associated with a tribe. Parent 1 then refused to provide additional information regarding Native American/Alaskan Native ancestry because of not being on good terms with several relatives. The child protection agency sent notices to the Hopi tribe, the BIA, and the Secretary of the Interior. The notices contained incorrect names for two of Parent 1's relatives who were members of the Hopi tribe, and other information was unknown. The child protection agency did not make any attempts to interview Parent 1's relative, who reportedly had Hopi ancestry.

DIV-CII Case 009

Parent 1 reported no Native American/Alaskan Native ancestry; however, the agency received information indicating Parent 2, who was deceased, might have had Native American/Alaskan Native heritage. The child protection agency noticed three Cherokee tribes and received responses indicating none of the three children were eligible for enrollment. The court subsequently found ICWA did not apply and terminated the parental rights of Parent 1 and Parent 2. The child protection agency did not interview any of Parent 2's relatives regarding possible Native American/Alaskan Native ancestry. The ICWA noticing forms contained incomplete information that could have been completed through inquiry with Parent 2's relatives. The two relatives for whom demographic information was missing were readily available to be interviewed and may have provided additional information. The child protection agency made contact with one of the relatives but did not inquire about Native American/Alaskan Native heritage. Other relatives with information on Parent 2's Native American/Alaskan Native ancestry were not contacted.

DIV-CII Case 013

In March 2011, a protective custody petition was filed on behalf of Child 1 – N.G. by the child protection agency. Child 1 – N.G. was subsequently taken into protective custody, and information was provided to the agency regarding Child 1 -N.G.'s possible Native American/Alaskan Native ancestry. Parent 2 reported Native American/Alaskan Native ancestry with several tribes. The agency provided notice to the tribes Parent 2 provided to the agency, and each tribe indicated that neither Parent 2 nor Child 1 – N.G. were eligible for membership. In October 2011, the court found ICWA did not apply and

in April 2012 the court found Child 1 – N.G. was not an Indian child. A year earlier**,** Parent 2 reported having contact with relatives who were registered members of the Cherokee tribe; however, Parent 2 passed away in a car accident in August 2012. The child protection agency did not attempt to interview Parent 2's relatives registered with the Cherokee tribe or other relatives to obtain additional information regarding Native American/Alaskan Native ancestry. Additionally, neither Parent 1 nor Parent 1's relatives were interviewed regarding Native American/Alaskan Native ancestry although the child protection agency was in contact with both Parent 1 and Parent 1's relatives. The child protection agency failed to fully investigate claims of Native American/Alaskan Native ancestry.

DIV-CI Case 019

Parent 2 for Child 1 – W.W. and Child 2 – J.W. submitted an ICWA-020 form indicating native American/Alaskan Native ancestry through the Sioux tribe and matrilineal lineage. SW I requested patrilineal lineage information pertaining to Native American/Alaskan Native ancestry and contacted Parent 2's relative. Parent 2 reported no knowledge of the matrilineal relatives' whereabouts; however, Parent 2 reported the last known area of residence of one the matrilineal relatives but could not provide a last name. SW I reported not being able to contact Parent 2's maternal relatives but did not reported measures taken to contact the relatives. SW I had information on several of Parent 2's paternal relatives who could have possibly provided information on the whereabouts or Native American/Alaskan Native ancestry of Parent 2. The juvenile court erred in finding ICWA did not apply as the inquiry provision of ICWA was

triggered when Parent 2 reported Native American/Alaskan Native ancestry with the Sioux tribe.

DIV-CI Case 020

In March 2017, Parent 1 reported Native American/Alaskan Native ancestry through the Choctaw tribe and reported Native American/Alaskan Native ancestry for Parent 2, who was deceased, with the Oneida tribe as it pertained to Child 1 – H.A. The juvenile court directed Parent 1 to provide information pertaining to relatives for both Parent 1 and Parent 2 for the purpose of noticing both tribes. In April 2017, the child protection agency filed ICWA-030 forms for both parents, identifying three Choctaw tribes for Parent 1 and two Oneida tribes for Parent 2. The child protection agency interviewed Parent 2's relatives and provided some information in the notices for the Oneida tribes although one of Parent 2's patrilineal relatives denied Oneida ancestry; however, the child protection agency did not provide pertinent information for both Parent 1 and parent 2's relatives although they had access to the information from a previously filed ICWA-030 form from a probate case. The child protection agency sent ICWA forms to the Choctaw tribes, Oneida tribes, Secretary of the Interior, and the BIA. The tribes responded to the child protection agency, reporting Child 1 – H.A. was not eligible for membership; however, the agency failed to comply with ICWA because of the missing information on relatives for both Parent 1 and Parent 2 although the child protection agency was in possession of the information. Additionally, the Agency did not attempt to interview any of Parent 1 or Parent 2's relatives for the missing information on the relatives.

ICWA Forms

ICWA-010(a)

DII-CVII Case 015. SW I correctly completed the ICWA-010(a) information for Parent 1's (children's mother) Native American/Alaskan native ancestry as it pertained to Child 1 – A.M., Child 2 – K.C., and Child 3 – M (see Figure 32). SW I failed to complete any information regarding Parent 2 and Parent 3's Native American/Alaskan native ancestry as it pertained to Child 1 – A.M., Child 2 – K.C., and Child 3 – M. on the ICWA-010(a). Parent 2 and Parent 3 were the fathers of the children, and their Native American/Alaskan native ancestry was left blank on the ICWA-010(a), Child Inquiry Attachment.

Figure 32

ICWA-010(a)

ICWA Forms					
ICWA – 010 (A):					
DII-CVII Case 015					

ICWA-020

DII-CVII Case 002 . In August 2012, SW I received the ICWA-020, Parental Notification of Indian Status from Parent 1 and Parent 2 indicating that both Parent 1 and Parent might have Native American/Alaskan Native ancestry as it pertained to Child 1 – S.M., Child 2 – M.M., and Child 3 – E.M (see Figure 33). Both Parent 1 and Parent 2 reported that they were members of the Redtail Indian Tribe. In the detention report for the three children when updating the court on the parents' ICWA status, SW I correctly reported Parent 1 had Native American/Alaskan Native heritage; however, SW I

incorrectly reported Parent 2 did not have any Native American/Alaskan Native ancestry. The juvenile court found that ICWA did not apply in the case for the three children. In May 2013, Parent 2 filed an additional ICWA-020 form indicating that she had Native American/Alaskan Native ancestry and was a member of the Redtail Indian Tribe pertaining to Child 4 – G.M. Child 4 – G.M. had a separate juvenile dependency case, and at the detention hearing, the juvenile court found ICWA did not apply; however, the juvenile court ordered the department to continue investigating Parent 2's ICWA claim. In July 2013, Parent 1, who was incarcerated, filed an additional ICWA-020 form pertaining to Child 4 – G.M. Parent 1 reported Native American/Alaskan Native ancestry with the Redtail tribe. The court ordered further ICWA inquiry into Parent 1's ICWA claims; however, the court never made a further ruling regarding ICWA findings.

Figure 33

ICWA-020

ICWA Forms					
ICWA - 020:					
DII-CVII Case 002					
DIV-CI Case 006					

DIV-CI Case 006. Parent 2 submitted an ICWA-020 form indicating no known Indian ancestry as it pertained to Child 1 – A.B. (see Figure 33). SW I, representing the agency, reported in the detention report regarding Child 1 – A.B. that no contact had been made with the mother to inquire about ICWA status. The court found ICWA did not apply at the detention hearing. At the jurisdiction/disposition hearing, the agency reported that ICWA did not apply in the jurisdiction/disposition report based on the

court's first ICWA finding. An ICWA-020 form regarding Parent 1's Native American/Alaskan Native heritage was not completed pertaining to Child 1 – A.B.

ICWA-030

DI-CIII Case 004. In March 2018, the agency filed two ICWA-030, Notice of Child Custody Proceeding forms on behalf of Child 1 – J.M. pertaining to Parent 1 and Parent 2. The agency reported Child 1 – J.M. was or might be eligible for membership in the Cree, Apache, Cherokee, and Choctaw tribes. The forms contained attachments with the parents' information and limited information on Child 1 – J.M.'s maternal and paternal relatives. In August 2018, the agency filed two ICWA-030, Notice of Child Custody Proceeding forms on behalf of Child 2 – C.M. pertaining to Parent 1 and Parent 2 for a separate dependency case. The agency reported Child 2 – C.M. was or might be eligible for membership in the Cree and Apache tribes; however, the agency did not mention the Cherokee and Choctaw tribes as listed on the ICWA-030, Notice of Child Custody Proceeding forms on behalf of Child 1 – J.M. The ICWA-030 document for Child 2 – C.M. did not match the ICWA-030 for Child 1 -J.M. as it pertained to familial information. The paternal great-grandmothers listed for Child 1 – J.M. and Child 2 – C.M. were different.

DIV-CI Case 005. In June 2018, the agency filed a protective custody petition on behalf of Child 1 – A.F. Parent 1 reported Native American/Alaskan Native ancestry with the Cherokee Nation. The Agency failed to file an ICWA-030, Notice of Child Custody Proceeding form on behalf of Child 1 – A.F. pertaining to Parent 1. The agency conceded that the ICWA-030 form was not filed indicating Child 1 – A.F. might have Native American/Alaskan Native ancestry.

DIV-CI Case 012. In June 2018, the agency detained Child 1 – A.W. into protective custody. Parent 2 reported Native American/Alaskan Native ancestry with the Cherokee Nation. An ICWA-030 form containing information on Parent 2 and lineal descendants of Parent 2 was not filed with the court prior to the jurisdiction and disposition hearing. The agency acknowledged the error.

DIV-CI Case 020. In March 2017, the agency filed a protective custody petition on behalf of Child 1 – H.A. Parent 1 reported possible tribal affiliation through the Choctaw Tribe, and Parent 2 reported possible tribal affiliation through the Oneida Tribe and indicated Child 1 – H.A. was a member or might be eligible for membership. The agency filed two ICWA-030, Notice of Child Custody Proceeding forms on behalf of Child 1 – H.A. pertaining to Parent 1 and Parent 2. Neither ICWA-030 form contained information regarding Parent 1 or Parent 2's grandparents (Child 1 – H.A.'s great-grandparents). Lineal descendant information pertaining to the Child 1 – H.A.'s great-grandparents is required to fully complete the ICWA-030 form; however, the boxes for Child -1 H.A.'s great-grandparents were left blank. The agency conceded it had identifying information for Child 1 – H.A.'s great-grandparents and failed to include it on the ICWA-030 form (see Figure 34).

Figure 34

ICWA-030

ICWA Forms					
ICWA – 030:					
DI-CIII Case 004					
DIV-CI Case 005					
DIV-CI Case 012					
DIV-CI Case 020					

Summary

Common themes from the research study that emerged were policy interpretation, administrative discretionary decision-making (simplifications), and discretionary behaviors (routines). In the implementation of the Indian Child Welfare Act of 1978, violations occurred when street-level bureaucrats exhibited poor judgement, procedural execution, and understanding of policy. Each of the themes that emerged manifested through implementation of specific provisions of ICWA such as knowing or having reason to know a child is an Indian child, inquiry, notice, continuing and affirmative duty, and ICWA forms (see Table 3).

Table 3

ICWA Forms and Provisions Violations

Case Number	WIC 224.2	IN	II	FN	FI	A&CD	AE	I-101(a)	I-020	I-030
DIV-CI Case 001		x	x	x						
DII-CVII Case 002	x	x	x	x	x	x			x	
DIV-CI Case 003					x					
DI-CIII Case 004	x	x		x						x
DIV-CI Case 005				x						x
DIV-CI Case 006	x				x	x			x	
DII-CII Case 007	x	x	x		x	x				
DIV-CI Case 008	x	x	x			x				
DIV-CII Case 009	x	x			x					
DIV-CI Case 010	x	x								
DIV-CI Case 011		x	x			x				
DIV-CI Case 012										x
DIV-CII Case 013	x	x	x	x	x	x				
DIV-CIII Case 014	x	x		x		x	x			
DII-CVII Case 015	x		x	x		x		x		
DIV-CI Case 016	x	x	x			x				
DIV-CI Case 017	x	x				x				
DIV-CI Case 018			x			x				
DIV-CI Case 019	x		x	x	x					
DIV-CI Case 020	x	x			x					x

Note. WIC 224.2 = knows or has reason to know—Welfare and Institutions Code 224.2; IN = improper notice; II = improper inquiry; FN = failure to notice; FI = failure to inquire; A&CD = affirmative and continuing duty; AE = active efforts; I-010(a) = ICWA-010(a) form; I-020 = ICWA-020 form; I-030 = ICWA-030 form.

CHAPTER 5: FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Chapter 5 contains the findings, conclusion, and recommendations obtained from the research and data collection from Chapter 4. The common themes of knows or has reason to know Welfare and Institutions Code 224.2, policy interpretation, routines, simplifications, affirmative and continuing duty, notice, inquiry, active efforts, and the proper completion of ICWA forms are discussed and analyzed in-depth as the findings are interpreted, conclusions are formulated, and recommendations are suggested. This researcher concludes the chapter with a call for accountability for public child welfare agencies and street-level bureaucrats to continue to strive to improve the quality of services provided to Native American/Alaskan Native children and families.

Major Findings

Simplifications (Discretionary Decision-Making)

Knows or Has Reason to Know Welfare and Institutions Code 224.2

According to Lipsky (1969), simplification involves the use of administrative discretion to easily manage a work environment and simplify processes. Simplifications involve the use of biases, judgements, and stereotypes in the decision-making process. The *knowing or having reason to know* component of the Indian Child Welfare Act of 1978 involves an extensive amount of discretionary decision-making. It arose as a common theme in 15 of the 20 cases analyzed and is a pivotal point in child welfare cases. The law provides the framework for knowing or having reason to know a child is an Indian child; however, the street-level bureaucrat is obligated to make the determination of knowing or having reason to know whether the child is an Indian child or not. Findings from this research study indicate the street-level bureaucrats responsible

for this determination are the juvenile court judges and child protection agencies. Social workers representing the child protection agencies are responsible for presenting the information obtained to juvenile court judges, who must make a determination based on the information provided to them. The knowing or having reason to know component of the Indian Child Welfare Act of 1978 involves an extensive amount of discretionary decision-making and is a collaborative effort between social workers and judges utilizing the tenets of Welfare and Institutions Code 224.2, which are triggered when a child protection agency knows or has reason to know a child may be an Indian child.

According to WIC 224.2, there is reason to know a child with Native American/Alaskan Native ancestry is involved in a child welfare proceeding under any of the following conditions (§ 220, 2020):

- An individual with an interest in the child notifies the juvenile court the child has Native American/Alaskan Native ancestry.
- The child, child's parent, or the child's Indian custodian's permanent residence is on a reservation or an Alaskan Native village.
- Individuals participating in the proceeding, officer of the court, Indian tribe, Indian organization, or child protection agency informs the court that it has discovered information indicating the child has Native American/Alaskan Native ancestry.
- The child who is the focus of the child welfare proceedings "gives the court reason to know" that they have Native American/Alaskan Native ancestry (p. 1).
- "The court is informed that the child is or has been a dependent of a tribal court" (p. 1)

- The court is informed that either the child or parent possess an identification indicative of membership or citizenship in an Indian tribe.
- "If the court, social worker, or probation officer has reason to believe" that a child with Native American/Alaskan Native heritage is involved in a child welfare proceeding, "the court, social worker, or probation officer shall make further inquiry regarding the possible [Native American/Alaskan Native heritage] of the child, and shall make the inquiry as soon as practicable" (p. 1).

Further inquiry includes, but is not limited to, all of the following:

- Interviewing the child's parents, Indian custodian, and extended family members to obtain pertinent information
- "Contacting the Bureau of Indian Affairs and the State Department of Social Services for assistance in identifying the names and contact information of the tribes in which the child may be a member, or eligible for membership in, and contacting the tribes and any other person that may reasonably be expected to have information concerning the child's membership status or eligibility" for membership (§ 220, 2020, p. 2).

Upon making contact with a child, family, or individual with an interest in the child, the street-level bureaucrat has an obligation to inquire about the child's possible Native American/Alaskan Native heritage. Utilizing the information gathered and provided by all parties, the social worker must make a determination as to whether or not to provide notice to Native American/Alaskan Native tribes, who must then determine the child's eligibility for membership within each of their respective nations. Depending upon the response provided by Native American/Alaskan Native nations, the juvenile

court would enter an ICWA finding for the child. A street-level bureaucrat's administrative discretion is pertinent in assisting to determine the ICWA political status of a child.

Policy Interpretation

Policy interpretation is defined as an agency's existing presumption regarding the meaning of relevant statutory language. This would include bulletins, releases, and other statements issued by an agency which specify its interpretation of the provisions of a law (Administrative Regulation, Order, Ruling, Approval, or Interpretation, 2020).

Policy interpretation is another process that involves simplification. Interpreting the specific provisions of the Indian Child Welfare Act (ICWA) that applied to each case required street-level bureaucrats to utilize discretionary decision-making to make determinations based on the way that they perceived the law to apply to each specific case. Policy interpretation emerged as a common theme in two of the 20 cases analyzed. In each instance, the street-level bureaucrats experienced issues interpreting the policies correctly and misinterpreted the noticing provision for a tribe that was mistaken to not have federal recognition. Additionally, the 60-day notice deadline was misinterpreted in such a manner that the child protection agency and juvenile court believed that an ICWA ruling could be made final on the basis of a tribe failing to respond in a timely manner.

Routines (Discretionary Behaviors/Administrative Authority)

Routines are noted by Lipsky (1969) as functions developed as shortcuts to free scarce and inadequate resources by saving time. The routines of street-level bureaucrats in the child protection agencies had major impacts on each case. The routines related to the discretionary behavior and administrative authority of street-level bureaucrats

manifested in the implementation of many of the provisions and tenets of the ICWA such as affirmative and continuing duty, notice, inquiry, active efforts, and completing ICWA forms.

Affirmative and Continuing Duty

Several areas of the ICWA that need to be implemented more effectively emerged during the analysis of the 20 appellate court cases. The first area to be discussed is centered on the affirmative and continuing duty for street-level bureaucrats to explore the Native American/Alaskan Native ancestry of children and families. The affirmative and continuing duty theme emerged in 11 of 20 cases analyzed. Affirmative duties are multifaceted legal obligations separated into two distinct categories. Affirmative duties are performed within "special relationships" or "voluntary undertakings" (Abraham & Kendrick, 2019). For the purpose of this study, the special relationships component of affirmative duties was the focus because the social worker-client relationship was applicable in this context. The "special relationships" component of Tort law affirmative duties enforces an obligation of care when there is a duty of care because of a distinct relationship between Person A and Person B, typically, although not always, concerning some type of dependence by one person on the other (Abraham & Kendrick, 2019).

The Indian Child Welfare Act of 1978 triggers provisions in Welfare and Institutions Code (WIC) 224.2. According to WIC 224.2, the juvenile court, county child protection agency, and the probation department have an affirmative and continuing duty to inquire about the Native American/Alaskan Native heritage of a child under Sections 300, 601, or 602 of the Welfare and Institutions Code (Article 1., 224.2, (a)). The duty of inquiry is completed when

- Preliminary contact is made with the reporting party on a case or someone with knowledge of the Indian Child Welfare Act political status of a child.
- If a child is taken into protective custody, the county child protection agency or county probation department bears the obligation of inquiring about a child's ICWA political status by asking the child, the child's parents, the child's legal guardian, the child's extended family members, and others who have an interest in the child.
- During the first court appearance, the juvenile court is obligated to ask each party present at the hearing whether there is reason to know the child may be Indian child. The court will inform the parties of the obligation to provide updated information to the court if the child is believed to be an Indian child (§ 220, 2020).

In each case, street-level bureaucrats' routines were not consistent with provisions set forth in WIC 224.2. The affirmative and continuing duty to inquire about a child, parent, custodian, or relative's Native American/Alaskan Native ancestry was not properly conducted although the framework for how to conduct this routine is present in the WIC 224.2 provision. The affirmative and continuing duty tenet should be conducted throughout the case for the duration of the case if the child protection agency knows, has reason to know, or has not been able to make contact with individuals with information on the specific case. Additionally, affirmative and continuing duty involves inquiries to the maternal side about the paternal side and to the paternal side about the maternal side. Inquiries extend to anyone mentioned and anyone with any sort of information pertaining to a case. Inquiries continue if persons interviewed provide information on other

individuals who may have information pertaining to a child, parent, Indian custodian, or relative's Native American/Alaskan Native ancestry. In each instance, the child protection agency either failed to continue to inquire about a child, parent, Indian custodian, or relative's Native American/Alaskan Native ancestry or failed to interview individuals who may have had information pertaining to a child, parent, Indian custodian, or relative's Native American/Alaskan Native ancestry. The street-level bureaucrats within the child protection agencies failed to develop routines consistent with constant inquiry regarding the Native American/Alaskan Native heritage of the children in the majority of the cases analyzed. This was evident because in many of the cases analyzed; the street-level bureaucrats often reiterated dates of previous ICWA findings and never updated their affirmative and continuing duty efforts with the juvenile court.

Indian Child Welfare Act Provisions

Notice

The second area to be discussed is centered on public child welfare agencies' obligation to notice tribes about children and family with possible Native American/Alaskan Native Heritage and child welfare proceedings. The common themes that emerged about noticing were improper notice and failure to notice. Typically, notices inform individuals of proceedings in which their interests may be affected. Notices also provide information pertaining to rights in the proceeding. At a minimum, 1912(a) of the ICWA mandates notice be given for all involuntary proceedings in a State court where the court knows or has reason to know that a child with Native American/Alaskan Native ancestry is included in the proceedings and the foster care placement or the termination of parental rights is being sought for the child (National

Indian Law Library, n.d.-b). The child's parents and/or Indian custodian, if any, of the Native American/Alaskan Native child must be given notice. The Bureau of Indian Affairs (BIA) guidelines strongly recommend notice be given to both parents and Indian custodians. Case law and specific state laws such as Iowa Code 232B.5 (2003); cf. Colo. Rev. Stat. 19-1-126 (2002) similarly endorse notice to extended family members under certain conditions. Notice must be provided to every tribe in which the child is a member or is eligible for membership (National Indian Law Library, n.d.-b).

Improper Notice

Improper notice emerged as a common theme in 13 of the 20 cases analyzed. Issues related to improper notice included providing notices with inaccurate information, notices with missing information, and notices with incorrect information. Notices with inaccurate information often contained inaccurate names and demographic information of a child's relatives pertaining to the Indian Child Welfare Act of 1978. Notices with missing information contained missing names either partially or whole and contained missing demographic information either partially or whole. Notices with incorrect information often contained incorrect names and incorrect demographic information either partially or whole. The routines of street-level bureaucrats were inconsistent and led to improper noticing to tribes. There was lack of uniformity and consistency with the routines.

Failure to Notice

Failure to notice emerged as a common theme on eight of the 20 cases analyzed (see Appendix E). Street-level bureaucrats failed to provide notice to tribes when information was readily available and the specific tribal affiliations were known. The

eight cases analyzed provide additional examples of the ineffectiveness of the routines of street-level bureaucrats.

Inquiry

ICWA inquiry can be described in two phases. The first phase of inquiry, referred to as initial inquiry, is completed at the beginning of a case in each case where a petition is filed. The second phase of inquiry, referred to as further inquiry, is mandatory in the cases where initial inquiry gives reason to know that a Native American/Alaskan Native child may be involved in the child welfare system (Judicial Council of California, ***n.d.-b***). Initial inquiry entails inquiring of the child's Native American/Alaskan Native ancestry from

- The child, if appropriate
- The child's parents
- The child's guardians
- The child's custodians (CRC 5.481 (a)(1)), and mandating each individual disclose on the record at the initial hearing whether the individual knows or has reason to know that the child has Native American/Alaskan Native heritage and instructing them to notify the court if they subsequently obtain information that provides reason to know the child has Native American/Alaskan Native ancestry (25 CFR §23.2).

Further inquiry requires

- Parent interviews
- Interviews with extended family members

- Interviews with any other person that could sensibly be expected to have information concerning a child's eligibility for membership (Judicial Council of California, n.d.-b).

Improper Inquiry

Improper inquiry emerged as a common theme on 10 of the 20 cases analyzed (see Appendix F). Street-level bureaucrats struggled to appropriately inquire about Native American/Alaskan Native ancestry on the 10 cases where improper ICWA inquiry was present. In the 10 cases analyzed, the street-level bureaucrats failed to ask questions pertinent to Native American/Alaskan Native ancestry, did not continue to inquire about Native American/Alaskan Native ancestry because they believed a tribe was not federally recognized, did not interview relatives with Native American/Alaskan Native heritage, failed to continue to inquire about Native American/Alaskan Native ancestry when provided with updated information, failed to locate relatives who may have information regarding a child or parent's Native American/Alaskan Native heritage, and failed to follow up on claims of Native American/Alaskan Native ancestry.

Failure to Inquire

Failure to inquire about Native American/Alaskan Native ancestry emerged as a common theme on eight of the 20 cases analyzed (see Appendix G). Street-level bureaucrats faced additional barriers when implementing the inquiry provision of the Indian Child Welfare Act of 1978. In the eight cases evaluated, street-level bureaucrats did not interview relatives who were readily available for interviewing to inquire about Native American/Alaskan Native ancestry, failed to inquire about parents' Native

American/Alaskan Native ancestry, and did not interview relatives with Native American/Alaskan Native ancestry.

Active Efforts

The federal government defines active efforts as affirmative, active, thorough, and timely attempts aimed at preserving or reuniting a Native American/Alaskan child with his or her family. When a public child welfare agency is involved in the child custody proceeding, active efforts should include supporting the Native American/Alaskan Native caregivers through the processes of a case plan, which includes obtaining or establishing the resources required to execute the case plan. To the highest degree possible, active efforts should be provided in a way that is consistent with the prevailing societal and cultural practices of the Indian child's tribe and must be implemented collaboratively with the Indian child and the Indian child's parents, extended family members, Indian custodians, and the tribe. Active efforts are to be personalized to the details and conditions of the case (Judicial Council of California, n.d.-b). Active efforts include taking the actions required to obtain tribal membership for a child if the child qualifies for membership with a Native American/Alaskan Native tribe (Cal. Rules of Court, rule 5.484(c)); this includes contacting the tribal representative to obtain information on how to get the child registered with the tribe and performing the procedures of the tribe to get the child registered (Judicial Council of California, n.d.-b).

Active efforts emerged as a common theme on one of the 20 appellate court cases analyzed (see Appendix H). In the sole appellate court case where active efforts emerged as a theme, the street-level bureaucrat failed to enroll Parent 3, who was a minor

dependent and Child 1 – R.S. and Child 2 – M.S. who were also minor dependents with the Bad River Band of Lake Superior Tribe of Chippewa Indians.

ICWA Forms

ICWA-010(a). The ICWA-010(a) form is a Child Inquiry Attachment that is submitted to court as a supplement to the 300 petition when a petition is being filed. The ICWA-010(a) contains information regarding the child's possible Native American/Alaskan Native ancestry and is utilized as a verification of inquiry (Santa Clara County Social Services Agency, n.d.). The ICWA-010(a) form emerged as a common theme on one of the 20 cases analyzed (see Appendix I). The ICWA-010(a) form is a primary indication of a child's Native American/Alaskan Native ancestry. The street-level bureaucrat on the sole case with an ICWA-010(a) violation failed to include each parent's information on the ICWA-010(a) form.

ICWA-020. The ICWA-020 is the Parental Notification of Indian Status that is utilized to confirm parents' declarations pertaining to their eligibility for membership in a federally recognized Native American/Alaskan Native nation. The ICWA-020 document is submitted to the court as a supplement to the court report for filing with the court (Los Angeles County Department of Children and Family Services, 2014).

ICWA-020 forms emerged as a common theme on two of the 20 cases analyzed (see Appendix J). The ICWA violations occurred when the street-level bureaucrats failed to adequately analyze the ICWA-020 form for accurate information pertaining to Native American/Alaskan Native ancestry and when they did not obtain an ICWA-020 for a parent during a juvenile dependency case.

ICWA-030. The ICWA-030 attachment form is a Notice of Child Custody Proceeding for Indian Child. It is a document that provides notice to a tribe of a possible Indian child's involvement with a child protection agency. The ICWA-030 solicits the tribe's response regarding familial tribal affiliation. Each child involved in child custody proceedings must have an ICWA-030 completed on his or her lineal descendants. The ICWA-030 must be sent to every federally recognized tribe for which the child is a member or eligible for membership. If all of the child's tribes cannot be listed on the ICWA-030, the ICWA-030(a) is a supplement used to notice additional tribes for the child custody proceedings (Los Angeles County Department of Children and Family Services, 2014).

ICWA-030 forms emerged as a common theme on four of the 20 cases analyzed (see Appendix K). Street-level bureaucrats failed to include specific tribes on the ICWA-030 form, failed to file the ICWA-030 form, and failed to fully complete the ICWA-030 form with all of the required demographic information.

In the 20 appellate court cases analyzed, the majority of the violations occurred as a result of street-level bureaucrats' routines. There was no evidence of any formalized routines or protocols practiced by any of the street-level bureaucrats within any of the child welfare agencies. Street-level bureaucrats' simplifications often involved error as there were constant struggles with discretionary decision-making. Many areas of attention of the Indian Child Welfare Act of 1978 emerged during this research study. The common themes related to ICWA provisions that arose are inquiry, notice, active efforts, knows or has reason to know, affirmative and continuing duty, and ICWA forms.

Conclusions

The top three areas of the ICWA that need to be implemented more effectively are inquiry, notice, and active efforts. During the analysis of the 20 California appellate court cases, inquiry, notice, and active efforts emerged as the most commonly violated provisions of the Indian Child Welfare Act of 1978 (see appendices L, M, and N).

Inquiry violations emerged in two distinct forms (see Appendix O). An analysis was conducted on the two most common forms of inquiry ICWA violations which were improper inquiry and failure to inquire. Improper inquiry violations were present on 10 of the 20 (50%) appellate cases analyzed. Improper inquiry violations were related to street-level bureaucrats' failure to comply with further inquiry requirements of ICWA, which include interviewing parents, extended family members, and/or anyone who could be sensibly expected to have information regarding the child's Native American/Alaskan Native heritage (Judicial Council of California, n.d.-b). Additionally, street-level bureaucrats failed to inquire about Native American/Alaskan Native heritage from the parents, extended family members, and/or anyone who could be sensibly expected to have information regarding the child's Native American/Alaskan Native heritage on eight of the 20 (40%) ICWA appellate court cases analyzed. In total, ICWA inquiry violations in either form (improper inquiry or failure to inquire) were present on 14 of the 20 (70%) cases and in both forms (improper inquiry and failure to inquire) in four of the 20 (20%) cases analyzed.

Similar to inquiry violations, notice violations emerged in two distinct forms. An analysis was conducted on the two most common forms of notice of ICWA violations which were improper notice and failure to notice. Improper notice violations were

present on 13 of the 20 (65%) appellate cases analyzed (see Appendix P). Improper notice violations were associated with street-level bureaucrats' failure to provide tribes proper notice because street-level bureaucrats provided notices with inaccurate information, notices with missing information, and notices with incorrect information. Moreover, street-level bureaucrats failed to notice Native American/Alaskan Native in instances where the child was believed to have Native American/Alaskan Native heritage on nine of the 20 (45%) ICWA appellate court cases analyzed. Overall, ICWA notice violations in either form (improper notice or failure to notice) were present on 17 of the 20 (85%) cases and on both forms (improper notice and failure to notice) in five of the 20 (25%) cases analyzed.

The final provision of the Indian Child Welfare Act of 1978 to emerge as a common theme was active efforts. The active efforts violation was present on one of the 20 (5%) appellate cases analyzed. The active efforts violation materialized as a result of the street-level bureaucrat's failing to take the actions required to obtain tribal membership for the children because the children were qualified for membership with multiple Native American/Alaskan Native tribes (Cal. Rules of Court, rule 5.484(c)). The street-level bureaucrat failed to contact the tribal representative to obtain information on how to get the children registered with the tribe and perform the procedures of the tribe to get the children registered (Judicial Council of California, n.d.-b).

The data from the cases analyzed indicate inquiry and notice in one or both of their distinct forms in addition to active efforts are the top three areas of the ICWA that require the most attention by public child welfare agencies and legislators for the law to be implemented more effectively.

Research Question 2 asked, "What factors contribute to Indian Child Welfare Act violations and appeals?" Analysis of California appellate court cases revealed a multitude of factors that contributed to ICWA violations and appeals. Common themes that emerged during the study were routines (discretionary behaviors), simplifications (discretionary decision-making), compliance with the knowing or having reason to know a child had Native American/Alaskan Native Ancestry, affirmative and continuing duty of ICWA, correctly analyzing and filling out ICWA forms, correct policy interpretation of ICWA. The routines (discretionary behaviors) of street-level bureaucrats contributed to violations on 15 of the 20 appellate court cases analyzed.

The knowing or having reason to know tenet of the ICWA was a factor that contributed to violations of the Indian Child Welfare Act of 1978 on 15 of the 20 (75%) cases analyzed (see Appendix Q). Based on a multitude of factors such as self-disclosure of Native American/Alaskan Native heritage by the child or a person with interest in the child, the child has a Native American/Alaskan Native identification card, the child's relatives are or may be associated with a Native American/Alaskan Native tribe, or the street-level bureaucrat knows or has reason to know based on another set of factors (child or family lives on a reservation, Native American/Alaskan Native artifacts in the home, child or family has ties to tribal court, etc.).

The adequate implementation of the affirmative and continuing duty tenet of ICWA was present on 11 of the 20 (55%) appellate court cases analyzed (see Appendix R). The affirmative and continuing duty tenet of ICWA is the legal obligation child welfare agencies bear as it pertains to continually exploring a child's possible Native American/Alaskan Native ancestry if the child welfare agency or street-level bureaucrat

within the child welfare agency knows or has reason to know that the child involved in the child welfare proceedings may be of Native American/Alaskan Native descent. In the cases analyzed, street-level bureaucrats failed to fulfill their affirmative and continuing duty obligation by not continuing to follow up with people who possibly had information regarding the children's Native American/Alaskan Native heritage. Furthermore, street-level bureaucrats utilized old dates of no ICWA findings from the juvenile courts to justify a child's ineligibility for ICWA.

Correctly completing and analyzing ICWA forms is another factor that contributed to ICWA violations. The ICWA-010(a), ICWA-020, and ICWA-030 forms are all vital in identifying the Native American/Alaskan Native heritage of children and families in addition to noticing the appropriate tribes that children and families are associated with. The ICWA-010(a) form provides information regarding the child's possible Native American/Alaskan Native ancestry, ICWA-020 form provides information regarding the parents' possible Native American/Alaskan Native ancestry, and the ICWA-030 form is used for noticing purposes. Street-level bureaucrats struggled with filling out the ICWA-030 form accurately and completely failed to assess the form correctly, and did not notice all of the tribes present on the form. Street-level bureaucrats failed to have parents fill out the ICWA-020 form. Street-level bureaucrats failed to include each parent's information on the ICWA-010(a) form.

Routines (administrative behaviors) contributed to ICWA violations on 15 of the 20 (75%) cases analyzed (see Appendix S). There was no evidence of formalized processes, procedures, or protocols. The lack of uniformity, consistency, and expertise was evident in how the street-level bureaucrats within the child welfare agencies

implemented provisions of ICWA and understood the tenets of ICWA. As street-level bureaucrats implemented the affirmative and continuing duty tenet of the ICWA, street-level bureaucrats' routines were not consistent with continual inquiry until there was confirmed eligibility or ineligibility of ICWA. Street-level bureaucrats routinely utilized the juvenile court's initial ICWA ineligibility finding and failed to continually inquire although they knew or had reason to know a child may have Native American/Alaskan Native ancestry. The tenets of ICWA are clear regarding the affirmative and continuing duty of street-level bureaucrats when there is knowledge of or reason to believe that a child may have Native American/Alaskan Native ancestry. Street-level bureaucrats struggled to develop routines when completing, analyzing, and noticing tribes using the ICWA-010(a), ICWA-020, and ICWA-030 (see Appendix T). The ICWA is clear regarding the purpose of the forms and the information that is needed on the forms. The forms themselves are self-explanatory and are simple to follow. The forms themselves guide street-level bureaucrats on the information that needs to be present. If the information is not obtainable, efforts to obtain the information need to be documented. Street-level bureaucrats did not appear to have any formalized routines for completing and analyzing ICWA forms in addition to using ICWA forms to notice tribes. In the sole case where there was an active effort ICWA violation, the child welfare agency's apparent lack of a formalized routine regarding active efforts contributed to the street-level bureaucrat's inability to assist the children and their mother with registering for tribes for which they were eligible for membership. The ICWA clearly states that it is the responsibility of the child welfare agency to inquire about children's membership and register children for tribes (California Courts, n.d.-a).

Simplification

Simplifications (discretionary decision-making) contributed to ICWA violations on 11 of the 20 (55%) cases analyzed (see Appendix U). Street-level bureaucrats struggled in their decision-making although the Indian Child Welfare Act of 1978 provides guidance on the implementation of the policy. Street-level bureaucrats struggled with the knows or has reason to know tenet of ICWA. Street-level bureaucrats struggled with decision-making as it pertained to analyzing the information provided by families to determine whether there was enough information to know or have reason to know that a child had Native American/Alaskan Native ancestry. The ICWA provides street-level bureaucrats with a set of requirements to know or have reason to know that a child has Native American/Alaskan Native ancestry (California Courts, n.d.-a).

Within the confines of the law, street-level bureaucrats must utilize the information provided to them to determine whether a child is a possible Native American/Alaskan Native child. Although street-level bureaucrats had ICWA as a guide, decision-making was poor when attempting to determine the possible ICWA eligibility of children. Street-level bureaucrat simplification was also an issue when engaging in the interpretation of policy. The street-level bureaucrat incorrectly asserted that tribes forfeited their sovereignty and ability to intervene in a case that involved a potential Native American/Alaskan Native child when a time period of more than 60 days elapsed after initial noticing.

Implications for Action

This researcher recommends the state of California create a regulatory body to provide oversight for ICWA compliance. Child welfare agencies currently oversee their

own ICWA compliance and are not subject to oversight or regulation by any third party (public, private, or nonprofit agency). This researcher is concerned with the lack of progression of ICWA policy implementation since its inception in 1978. Approximately 42 years have passed, and some of the same issues that persisted during the times of the Indian Removal Act of 1830, the Indian Adoption Project of 1958, and the Native American boarding school era continue to persist today. The primary issues that continue to persist are systemic racism and the violation of the civil rights of Native American/Alaskan Native children and families. Congress enacted ICWA to provide Native American/Alaskan Native children and families with protection against the bureaucratic systems that so willing and easily violated their civil rights without the threat of accountability for their actions. Currently, there is no fear of retribution for ICWA violations, appeals, poor implementation of the policy, or a blatant disregard for any of its provisions or tenets. A child and families' civil rights are violated when street-level bureaucrats take the law into their own hands and implement it as they see fit. The act of failing or improperly inquiring about one's Native American/Alaskan Native heritage and failing or improperly providing notice to the Native American/Alaskan Native nations that one claims to be associated with should be considered poor policy implementation, a blatant disregard for any of its provisions or tenets, gross misconduct, negligence, and a violation of the civil rights for the children and families involved in the child welfare system. Furthermore, Native American/Alaskan Native nations are being stripped of their right to intervene in a child welfare case involving a member of their nation as is sanctioned by the Indian Child Welfare Act of 1978. There were 33 children negatively affected from the 20 appellate court cases documents analyzed and several

tribes that were negatively affected as they were stripped of their right to intervention. On an individual level, street-level bureaucrats need some sort of sanction and retribution for civil rights violations, poor policy implementation, gross misconduct and/or negligence when performing work-related duties. Similar to how the Board of Behavioral Sciences (BBS) provides oversight over licensed mental health professionals and can take punitive actions or render sanctions, social workers need a governing body to hold them to the same level of accountability, which would make the individual responsible for poor implementation of policy and violations of civil rights. The Board of Behavioral Sciences has the authority to put licensed mental health professionals on probation, suspend licenses, revoke licenses, and make the list public record for the knowledge of potential employers and the protection of potential clients (Board of Behavioral Sciences, 2020). An oversight body for social workers similar to the BBS is ideal to monitor individual practice.

Systemic racism toward Native American children and families continues to plague child welfare agencies in California today. Although ICWA has been enacted and implemented since 1978, Native Americans/Alaskan Native children have some of the highest rates of disproportionality in California's public child welfare system in comparison to their counterparts of other racial, ethnic, and cultural backgrounds. It is disheartening to imagine what the rates of disproportionality would be if ICWA were not a federal law and discouraging to reflect on how slow, stagnant, and minimal progress has been since the inception of ICWA. The system that has brutalized, torn apart, and marginalized Native American/Alaskan Native children and families needs to be held accountable for the detriment that their conduct in perpetuating systemic racism has

caused. The United States is a society built upon capitalism, and the only way get the attention of bureaucratic systems is to implement fiscal sanctions that force systems to change and improve their policy implementation practices. There is often the threat of fiscal sanctions being levied against bureaucratic systems; however, rarely if ever is there any follow through with financial sanctions. Without affecting the bottom line of keeping children and families safe, monetary losses in the form of withholding additional funding and special funding and reduced funding should occur. Poor policy implementation practices that perpetuate systemic racism should not be rewarded with funding. No accountability or pressure to change is placed on the bureaucratic systems that perpetuate institutional racism in their policies and practice as long as funding continues to flow. In my professional experience from working in bureaucratic systems and for governmental entities, any actions, goals, or requirements related to funding motivates management to intertwine employee performance to the actions, goals, or requirements related to funding. Organizational trainings, policies, practices, and initiatives are also often linked to actions, goals, or requirements related to funding. It is my belief that fiscal sanctions would have the same affect and force management in public child welfare agencies to change and improve policies and practices that perpetuate systemic racism by connecting employee performance to each measure identified to combat and reduce systemic racism and avoid sanctions such as the loss of funding. In a capitalist society, loss of capital will motivate the leadership in these bureaucratic systems to act swiftly.

A second recommendation is for each county to develop routines (discretionary behaviors) consistent with the ICWA tenets and provisions and organizational policies

that eliminate ambiguity and make organizational goals clearer. Developing specific routines, processes, and protocols for implementing ICWA provisions and tenets will lead to greater success with compliance and implementation. Routines, processes, and protocols should be focused on affirmative and continuing duty, ICWA forms, inquiry, notice, and active efforts. Providing street-level bureaucrats with an accessible and tangible set of guidelines related to routines, processes, and protocols reinforces the agency's expectation in addition to the expectation for implementation by the federal government and provides strategies for appropriate implementation.

Poor policy implementation of the ICWA can also be attributed to the ambiguity of organizational goals. Oftentimes, street-level bureaucrats lack understanding of the customs, traditions, and practices of Native American/Alaskan Native cultures and misconstrue them as a form of abuse or neglect. Culture should always be taken into account when conducting investigations or providing case management to a family. The ambiguity in organizational goals becomes more apparent and magnified when public child welfare agencies whose primary goals are the safety, permanency, and well-being of children and families are counterproductive when they project biases, inflict harm, and cause unnecessary trauma because of a lack of cultural understanding. The ICWA contains several cultural components that are unique and relative to Native American/Alaskan Native children and families. The cultural components and provisions of ICWA must be implemented in such a way as to satisfy tribal, local, state, and federal requirements associated with the law. Oftentimes, street-level bureaucrats apply policies to cases meant for children and families without the unique political status of ICWA eligible children to cases involving ICWA eligible children. Child welfare policy for

children and families without ICWA status and ICWA policy require different levels of effort for implementation, and when social workers lack an understanding of the unique intricacies of Native American/Alaskan Native culture, the ambiguity of organizational goals is exacerbated. For example, juvenile courts in California only require reasonable efforts for children and families without the ICWA political status that is providing a service that anyone could reasonably attend on their own with a minimal level of assistance from the social worker. For a non-ICWA child and family needing assistance with signing up for a service, the social worker is only required to provide information and directions on how to sign up for the service. On the contrary, as indicated in DIV-CIII Case 014, active efforts are required for Native American/Alaskan Native children and families. The social worker on the case was required to register the mother who was a minor dependent and her two children with one of the two Native American/Alaskan Native tribes that they were eligible for membership with. The social worker failed to do so and put the responsibility on the mother to first register herself and then her children. For children and families who do not have ICWA political status, the social worker would have been correct in his or her approach to implement the ICWA policy; however, because of the unique political status of the children and parent involved, the social worker was held to a higher standard of policy implementation. The social worker was held to the standard of ICWA because the children and parent held the unique ICWA political status, and the social worker was required to implement the policy utilizing active efforts that required the social worker to register the children and parent for one of the two tribes that they were eligible for membership with. In the 20 cases analyzed, street-level bureaucrats routinely struggled with policy implementation, because of the

lack of understanding of the uniqueness of the more general Native American/Alaskan Native culture and ambiguity of organizational goals.

A third recommendation is for counties to develop training regarding the simplifications (discretionary decision-making) of street-level bureaucrats. Counties can develop trainings regarding discretionary decision-making within the confines of the law and how to make sound decisions. The knows or has reason to know tenet of ICWA and policy interpretation should be provided annually as a training for ongoing knowledge and understanding of how to apply, interpret, and implement the discretionary tenets of ICWA correctly.

A fourth recommendation is for each individual county to utilize a backward mapping approach to formulate trainings, routines, processes, protocols, and policies to understand where issues with ICWA implementation are occurring at the root of the issues where street-level bureaucrats are experiencing issues with policy implementation rather than a forward mapping approach where policy makers and agency management create policies to address issues associated with street-level bureaucrats' policy implementation. The key to a backward mapping approach is understanding how and where the street-level bureaucrats interact with stakeholders at each level of policy implementation within the collaborative structure. There are three forms of primary stakeholders connected to the child welfare agency's implementation of ICWA. The three primary forms of stakeholders are the implementing population, the interpreting population, and the consumer population. The implementing population consists of street-level bureaucrats sanctioned by the U.S. legal and political structure to implement and enforce provisions of a law (Canon & Johnson, 1984). Judges are at the forefront of

the interpreting population because of the authoritative nature of their decision-making (Canon & Johnson, 1999). The consumer population consists of the recipients of the provisions of judicial policies. They develop trainings, routines, processes, protocols, and policies to meet and fulfill the obligations that the implementing population (street-level bureaucrats) has to the consumer population (families and tribal partners) to satisfy requirements set forth by the interpreting population (judges). All trainings, routines, processes, protocols, and policies should be designed with an understanding of all of the major stakeholders involved in the policy goals and objectives.

A fifth recommendation is for more training regarding the effects of intergenerational historical trauma, the uniqueness of the general Native American/Alaskan Native culture, how to correctly implement WIC 224.2 and affirmative and continuing duty, and the impact that poor policy implementation, violations, and appeals have on Native Americans/Alaskan Natives is needed. A program similar to the Cultural Responsiveness Academy would be ideal for all 58 public child welfare agencies to implement as a form of training for new social workers and as a recurring annual training for all social workers in each respective agency. The cultural responsiveness academy utilizes content experts from the respective culture of focus to fully articulate how social workers need to alter their practice to meet the needs of each individual, child, and family within a specific culture. The Native American/Alaskan Native series tribal social workers, tribal social service directors, and tribal judges are utilized as content experts to provide unique perspectives of ICWA policy implementation from the viewpoint of Native American/Alaskan Native tribal members, Native American/Alaskan Native social service practitioners, and Native

American/Alaskan Native Juvenile Dependency judges. Issues such as intergenerational trauma from a historical and present-day context, the uniqueness of the Native American/Alaskan Native culture in regard to the differences among each Native American/Alaskan Native within the general culture, and methods of tailoring child welfare policy and practice to comply with ICWA and meet the unique needs of each Native American/Alaskan Native child and family within the child welfare system are examined.

After participating in the 6-month series of the Cultural Responsiveness Academy, public child welfare agency personnel are required to complete a project that can be implemented into each respective public child welfare agencies' policy and practice to improve ICWA policy and practice. This program is open to line workers, supervisors, managers, and directors. All 58 public child welfare agencies in California should partner with local tribes in each of their respective counties and collaborate to implement a mandatory series of trainings similar to the Cultural Responsiveness Academy. The trainings would be provided to all public child welfare agency social workers regardless of years of experience. All 58 public child welfare agencies in California should partner with tribal subject matter experts in each of their respective counties for consultation on ICWA cases to collaborate and implement trainings similar to what Tribal Star offers for public child welfare agencies in California.

It is important for subject matter experts with the closest ties to Native American/Alaskan Native tribes to provide training and expertise to public child welfare personnel. Utilizing a resource such as a subject matter expert could bridge the gap between public child welfare agencies and Native American/Alaskan Native

communities. A subject matter expert would be able to train child welfare personnel on cultural nuances and intricacies otherwise not known by an individual outside of the broader Native American/Alaskan Native community. A subject matter expert would be able to gain the support of the community and advocate for their needs. Additionally, a subject matter expert would be able to provide trainings that are specific to the regional tribes within each respective county while also assisting public child welfare agencies with the knowledge, skills, and abilities to tailor case plan services to meet the needs of the Native American/Alaskan Native children and families whom the public child welfare agencies serve. Case plan services would be tailored to meet cultural needs as well as meet the criteria for child welfare needs and services.

In-depth training on WIC 224.2 is needed. Public child welfare agencies currently struggle with their understanding of knowing or having reason to know a child and/or family may have Native American/Alaskan Native heritage. Street-level bureaucrats' inability to recognize possible Native American/Alaskan Native heritage has led to ICWA violations on 70% of the cases analyzed. Failure to properly assess a child and/or family's eligibility is a violation of ICWA, adds to the intergenerational historical trauma that Native American/Alaskan Native children and families have endured for centuries, and is poor child welfare practice.

In-depth training on the Continuing and Affirmative Duty tenet of ICWA is also needed. Public child welfare social workers have struggled with continual inquiry throughout the duration of a case if the agency knows or has reason to know that a child may be a Native American/Alaskan Native child. Failure to properly implement this tenet of ICWA undermines the authority, sovereignty, and legal right of Native

American/Alaskan Native tribes to intervene in child welfare proceedings on behalf of the members of each respective nation. Additionally, it adds to the intergenerational historical trauma that Native American/Alaskan Native children and families have endured for centuries and keeps children separated from their culture.

Trainings with an emphasis on intergenerational historical trauma, the uniqueness of the general Native American/Alaskan Native culture, how to correctly implement WIC 224.2 and affirmative and continuing duty, and the impact that poor policy implementation, violations, and appeals has on Native Americans/Alaskan Natives are crucial because of the past and current injustices that Native Americans/Alaskan Natives have endured. Governmental entities have routinely perpetrated violence, racism, and theft on Native American/Alaskan Native children and families without regard for culture, life, or heritage. There is a longstanding history of disregard for the Native American/Alaskan Native population as it pertains to their place in society. The Indian Child Welfare Act of 1978 was enacted by Congress as law to provide advocacy and rectification for atrocities against Native American/Alaskan Native children and families such as the Indian Adoption Project of 1958 and the Native American boarding school era. After approximately 42 years, there has been very little change because of the lack of accountability for public child welfare agencies. These trainings are a start to moving ICWA forward and complying with the law as Congress intended when it was first enacted into law.

Value of the Study

It is pivotal to understand the issues associated with the implementation of the Indian Child Welfare Act of 1978. The violations and appeals related to ICWA

demonstrate how there continues to be an infringement of the sovereignty of Native American/Alaskan Native tribes to intervene on behalf of children with possible Native American/Alaskan Native heritage. The ICWA was created over 40 years ago and continues to present a multitude of barriers to Native American/Alaskan Native children and families. This study strives to bring knowledge to the field about what is occurring in the state of California pertaining to the implementation of ICWA. There are very few studies that examine the implementation of the provisions and tenets of ICWA as a means of identifying areas where implementation could be improved. This study identifies and classifies a multitude of issues related to incompetent implementation of ICWA. The goal is for child welfare agencies in California to implement ICWA and collaborate with federally recognized tribes more effectively. This study can be used to assist public child welfare agencies, county executives, local legislators, and state legislators in correcting (or eliminating) the barriers to effective policy implementation by identifying the factors that contribute to ICWA violations and appeals. The findings in this study support the critical need for trainings for street-level bureaucrats to strengthen their abilities to interpret policies and to develop protocols that address gaps or missing links in services. This study was rooted in the theory of street-level bureaucracy. There was no evidence that street-level bureaucrats' decision-making was affected or influenced by a lack of resources (Lipsky, 1969); however, administrative discretion, administrative authority, ambiguity in organizational goals, and policy interpretation affected policy implementation. This study is important in understanding the need for more effective compliance and implementation of ICWA.

Recommendations for Further Research

This research and further research are critical for rectifying the historical atrocities of unethical removal of Native American/Alaskan Native from their homes and placement with non-Native American/Alaskan Native families and the current issues associated with ICWA implementation in the state of California. Future research should focus on barriers tribal social services departments experience when attempting to work collaboratively with the state's 58 county social services departments. After examining barriers to effective implementation of ICWA from the state/county level, examination from the perspective of tribal governments and social service practitioners will provide a broader perspective of the scope of the problem of effective implementation of ICWA. This study provided some examples (lack of collaboration to enroll children who were eligible for membership, failure to provide additional information for children who were possibly eligible for membership, issues with inquiry, and issues with notice) that tribes experience when attempting to collaborate with county public child welfare agencies. More insight into the hindrances that tribes face when collaborating with county governments from a tribal perspective would further this research.

Concluding Remarks and Reflections

The research process was an extremely challenging and gratifying process. This research revealed key issues with ICWA implementation by county public child welfare agencies in California. The research revealed inquiry, notice, and active efforts to be the primary ICWA provisions associated with ICWA violations and appeals. Additionally, the affirmative and continuing duty and knows or has reason to know tenets of ICWA also contributed to violations and appeals. The ineffective implementation of the ICWA

provisions and tenets were driven by inconsistent and undeveloped routines and a lack of understanding of how to interpret the law and struggles by street-level bureaucrats to appropriately utilized administrative discretion to implement the tenets and provisions of ICWA. Although this research was challenging because of the amount of information that needed to be processed and analyzed, it was equally gratifying for the contribution that has been made to the field of public administration and in particular, the implementation of the Indian Child Welfare Act of 1978; however, more advocacy for Native American/Alaskan Native children and families is needed now. The cracks and failure in the system even with a law such as ICWA have been exposed with the evidence of missteps, incompetence, and the blatant disregard for the well-being of the Native American/Alaskan Native children and families on the 20 cases analyzed. The lives of 33 on children on the 20 cases were negatively affected, and I am fearful that violations are underreported and the number of appeals that are received by California appellate courts are lower as a result. It is my hope that this research will be utilized to be bring forth the change that has been lacking over the past 42 years of the ICWA's existence.

This researcher understands the magnitude of importance that successful implementation of the ICWA carries and the implications that ICWA has on tribal sovereignty and decision-making in the child welfare system. Failure to properly implement the ICWA causes Native American/Alaskan Native children and families to be deprived of their cultural connections with each of their respective tribes and violates the rights of each Native American/Alaskan Native child, family, and tribe. It also undermines tribal sovereignty and communicates a one-sided power structure rather than collaborative governance. The rights that the ICWA policy was intended to protect have

been mismanaged and at times disregarded during implementation. The quality of services that have been afforded to Native American/Alaskan Native children and families have been marginal at best and must be improved in order to heal and rectify the past atrocities perpetrated against Native American/Alaskan Native children and families by public child welfare governmental entities. The efforts put forth to reconcile past atrocities, current mismanagement, and the blatant disregard for the ICWA, its tenets, and its provisions should demonstrate a paradigm shift in how public child welfare agencies have traditionally conducted business with marginalized communities. It should demonstrate widespread awareness of the conscious effort and need to transform organizational culture to meet the individual needs of children and families, commencing with the Native American/Alaskan Native population. To continue to move the implementation of this public policy forward, I will meet with local, state, and tribal stakeholders to provide an awareness of the issues hindering successful implementation of the ICWA and advocate for change at a macrolevel for the betterment of Native American/Alaskan Native children and families.

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APPENDICES

APPENDIX A

Native American Disproportionality

National statistics for the racial disproportionality index (RDI) from the Children's Bureau indicate Native American/Alaskan Native children make-up 0.9% of the total child population in the United States; however, account for 1.3% of the victims identified in child welfare cases and 2.4% of the children in foster care. The RDI for Native American/Alaskan Native children identified as victims in child welfare cases is 1.5 and the RDI for Native American/Alaskan Native children in foster care is 2.8. Native American/Alaskan Native children trail African-American children in RDI for children identified as victims; however, lead the nation in RDI for children in foster care (Child Welfare Information Gateway, 2016).

Additionally, Native American/Alaskan Native children account for 2.1% of existing children in foster care and 1.5% of the children adopted with public agency involvement. The RDI for Native American/Alaskan Native children for existing children in foster care is 2.4 and the RDI for Native American/Alaskan Native children for children adopted with public child welfare agency involvement is 1.7. Native American/Alaskan Native children lead the nation for RDI in both categories. Racial disproportionality index (RDI) scores above 1 indicate overrepresentation and only African-American and Native Americans have scores above 1, as it pertains to a singular racial identity (Child Welfare Information Gateway, 2016).

In the state of California, Native American/Alaskan Native children have the second highest rate of disproportionality and are removed at a rate of 20.7 per 1,000 children (Kids Data, 2020).

To provide context for how significant the rates of removal are, the average rate of removal for all children in foster care is 5.3 per 1,000. Furthermore, White children are removed at a rate of 4.4 per 1,000, Hispanic/Latino children are removed at a rate of 5.3 per 1,000, and Asian/Pacific Islander children are removed at a rate of 1.0 per 1,000. Native American/Alaskan Native children are

Furthermore, White children are removed at a rate of 4.4 per 1,000, Hispanic/Latino children are removed at a rate of 5.3 per 1,000, and Asian/Pacific

Islander children are removed at a rate of 1.0 per 1,000. Native American/Alaskan Native children are removed at a rate of 4.7 to 1 in comparison to White children, 3.91 to 1 in comparison to Hispanic/Latino children, 3.91 in comparison to all racial/ethnic groups in the child welfare system, and 20.7 to 1 in comparison to Asian/Pacific Islander children (Kids Data, 2020).

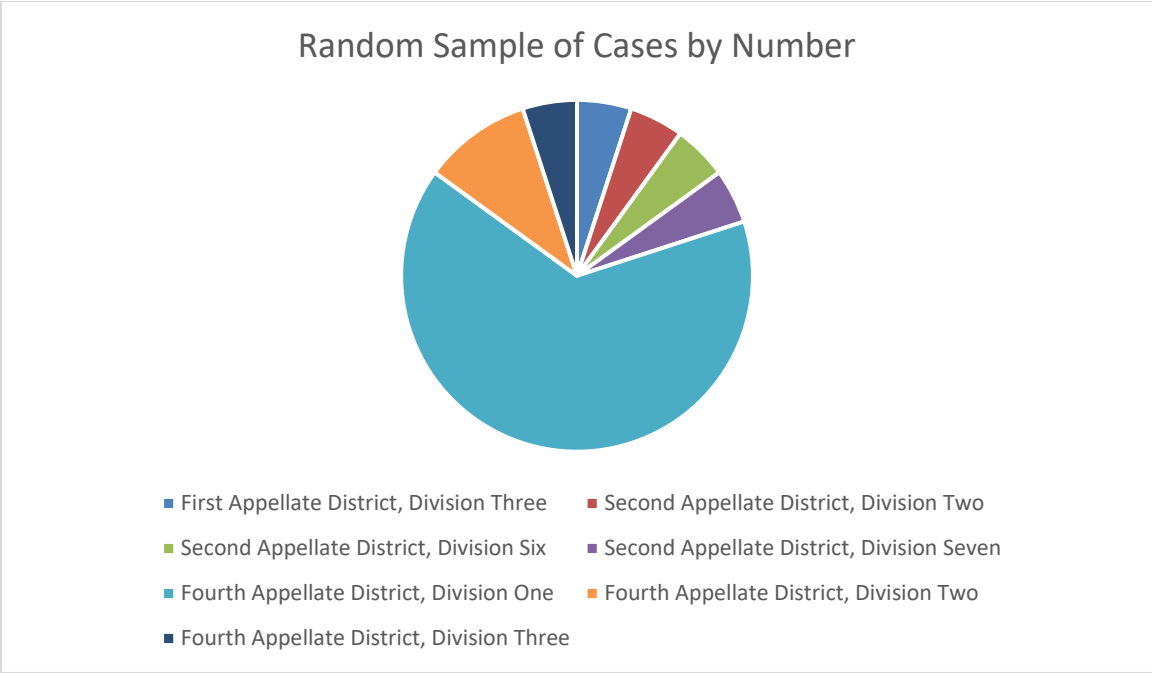
APPENDIX B

Total Number of Appellate Court Cases and Appellate Court Districts

	Total Number of Appellate Court Cases and Appellate Court Districts
First District, Division One	I (1)
First District, Division three	I (1)
First District, Division Four	I (1)
First District, Division Five	II (2)
Second District, Division Two	II (2)
Second District, Division Five	I (1)
Second District, Division Six	I (1)
Second District, Division Seven	V (5)
Second District, Division Eight	I (1)
Third District	III (3)
Fourth District, Division One	XXXII (32)
Fourth District, Division Two	IIII (4)
Fourth District, Division Three	II (2)
Fifth District	III (3)
Sixth District	I (1)

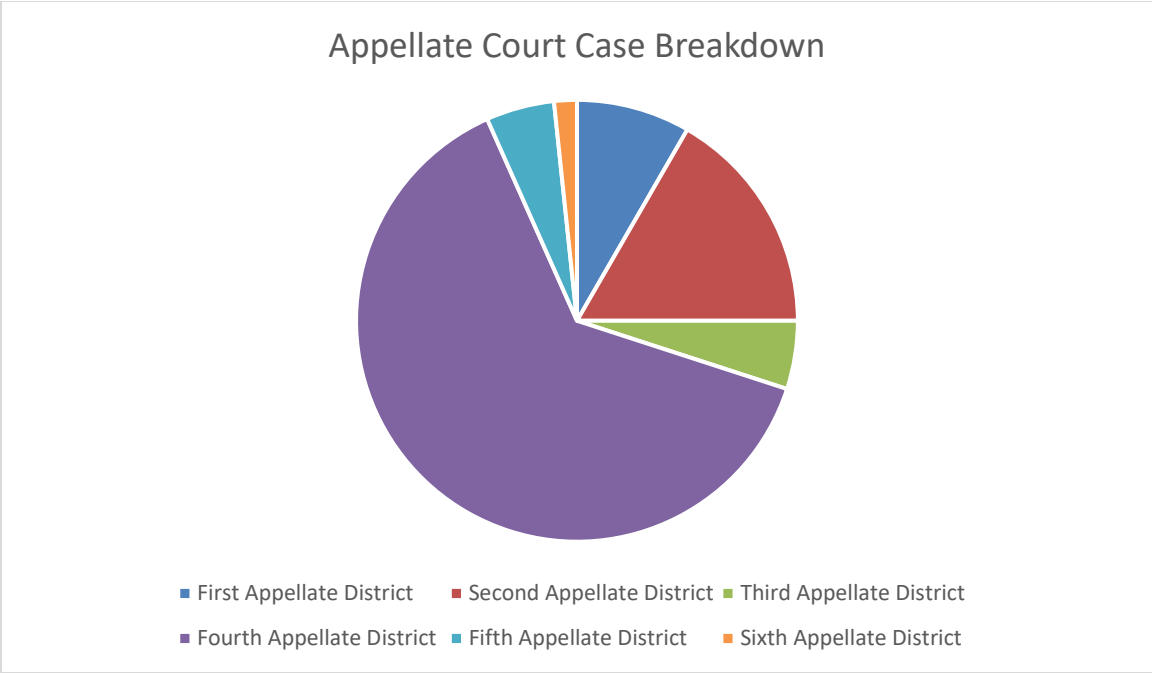
APPENDIX C

Random Sample of Cases by Number



APPENDIX D

Appellate Court Case Breakdown



APPENDIX E

Failure to Notice

				Failure to Notice		
				Present	Not Present	
DIV-CI Case 001				x		
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004				x		
DIV-CI Case 005				x		
DIV-CI Case 006					x	
DII-CII Case 007					x	
DIV-CI Case 008					x	
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014				x		
DII-CVII Case 015				x		
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019				x		
DIV-CI Case 020					x	

APPENDIX F

Improper Inquiry

				Improper Inquiry		
				Present	Not Present	
DIV-CI Case 001				x		
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006					x	
DII-CII Case 007				x		
DIV-CI Case 008				x		
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011				x		
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014					x	
DII-CVII Case 015				x		
DIV-CI Case 016				x		
DIV-CI Case 017					x	
DIV-CI Case 018				x		
DIV-CI Case 019				x		
DIV-CI Case 020					x	

APPENDIX G

Failure to Inquire

				Failure to Inquire		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002				x		
DIV-CI Case 003				x		
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006				x		
DII-CII Cas					x	
DIV-CI Case 008					x	
DIV-CII Case 009				x		
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014					x	
DII-CVII Case 015					x	
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018				x		
DIV-CI Case 019				x		
DIV-CI Case 020				x		

APPENDIX H

Active Efforts

				Active Efforts		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002					x	
DIV-CI Case 003					x	
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006					x	
DII-CII Case 007					x	
DIV-CI Case 008					x	
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013					x	
DIV-CIII Case 014				x		
DII-CVII Case 015					x	
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019					x	
DIV-CI Case 020					x	

APPENDIX I

ICWA-010(a)

				ICWA 10 (A)		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002					x	
DIV-CI Case 003					x	
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006					x	
DII-CII Case 007					x	
DIV-CI Case 008					x	
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013					x	
DIV-CIII Case 014					x	
DII-CVII Case 015				x		
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019					x	
DIV-CI Case 020					x	

APPENDIX J

ICWA-020

				ICWA -020		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006				x		
DII-CII Case 007					x	
DIV-CI Case 008					x	
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013					x	
DIV-CIII Case 014					x	
DII-CVII Case 015					x	
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019					x	
DIV-CI Case 020					x	

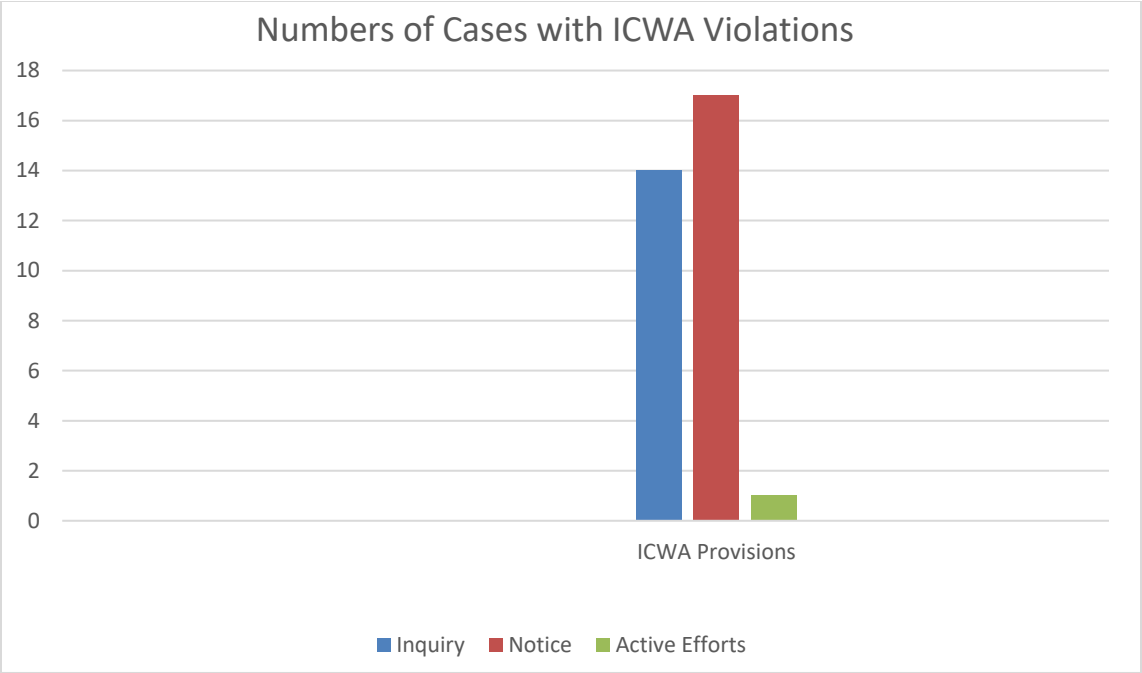
APPENDIX K

ICWA-030

				ICWA -030		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002					x	
DIV-CI Case 003					x	
DI-CIII Case 004				x		
DIV-CI Case 005				x		
DIV-CI Case 006					x	
DII-CII Case 007					x	
DIV-CI Case 008					x	
DIV-CII Case 009					x	
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012				x		
DIV-CII Case 013					x	
DIV-CIII Case 014					x	
DII-CVII Case 015					x	
DIV-CI Case 016					x	
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019					x	
DIV-CI Case 020				x		

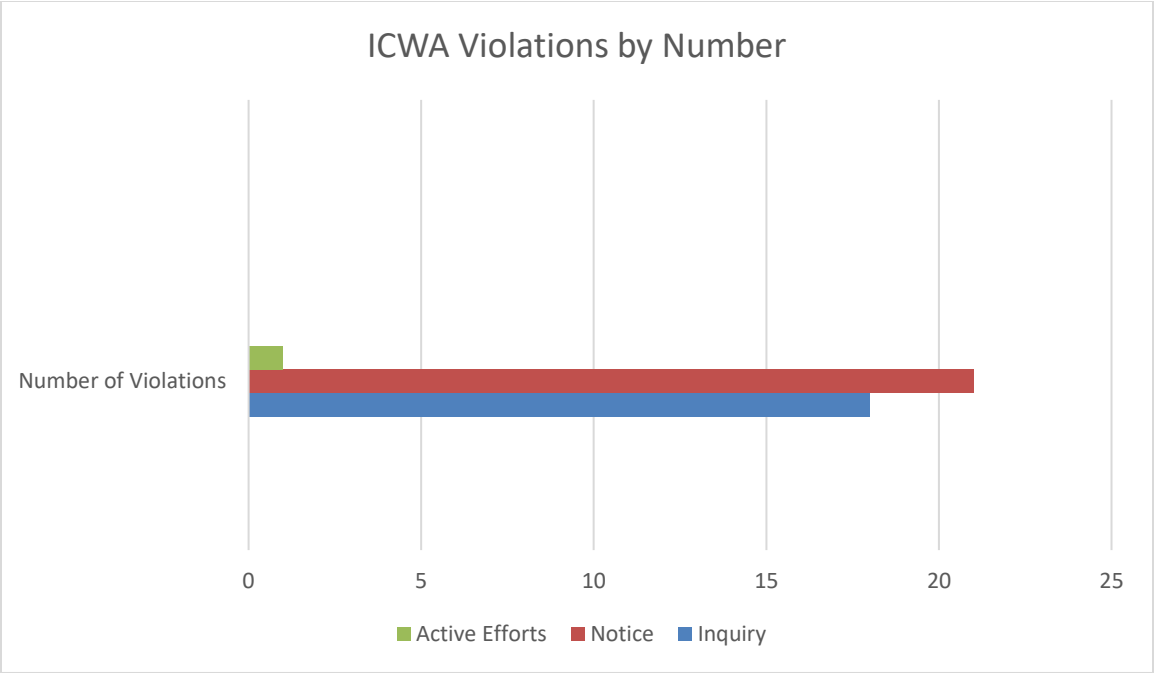
APPENDIX L

Number of Cases With ICWA Violations



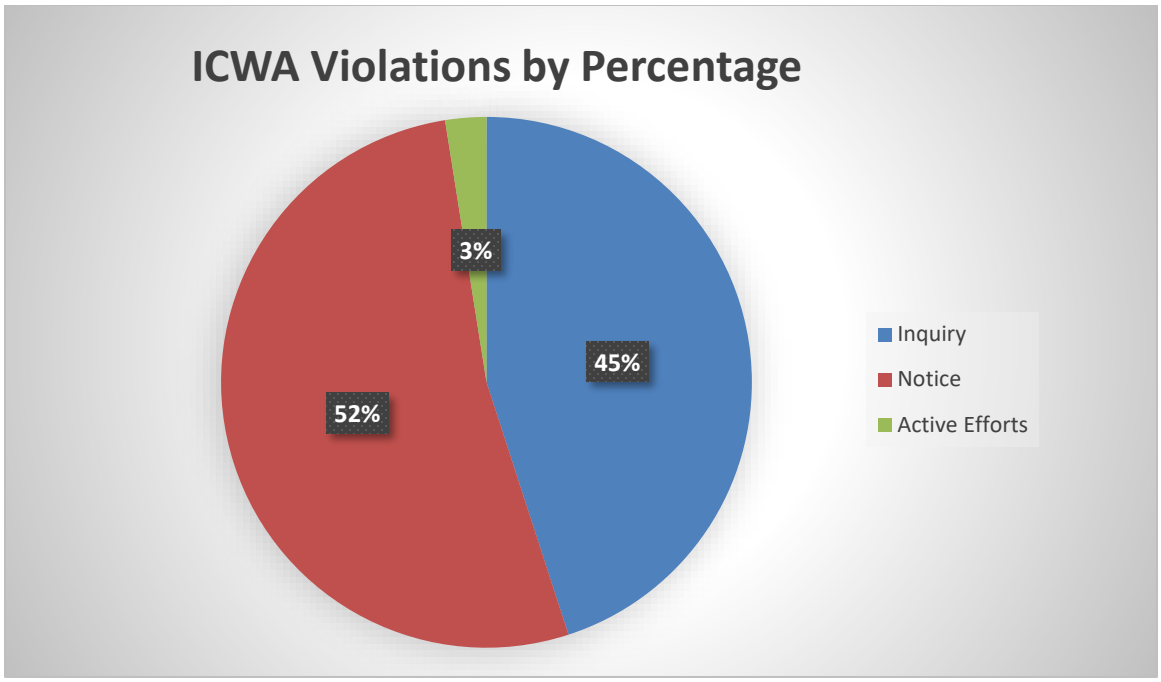
APPENDIX M

ICWA Violations by Number



APPENDIX N

ICWA Violations by Percentage



APPENDIX O

Failure to Inquire and Improper Inquiry

				Failure to	Inquire & Improper Inquiry		
				Present	Not Present		
DIV-CI Case 001					x		
DII-CVII Case 002				x			
DIV-CI Case 003					x		
DI-CIII Case 004					x		
DIV-CI Case 005					x		
DIV-CI Case 006					x		
DII-CII Case 007					x		
DIV-CI Case 008					x		
DIV-CII Case 009					x		
DIV-CI Case 010					x		
DIV-CI Case 011					x		
DIV-CI Case 012					x		
DIV-CII Case 013				x			
DIV-CIII Case 014					x		
DII-CVII Case 015					x		
DIV-CI Case 016					x		
DIV-CI Case 017					x		
DIV-CI Case 018				x			
DIV-CI Case 019				x			
DIV-CI Case 020					x		

APPENDIX P

Improper Notice

				Improper Notice		
				Present	Not Present	
DIV-CI Case 001				x		
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004				x		
DIV-CI Case 005					x	
DIV-CI Case 006					x	
DII-CII Case 007				x		
DIV-CI Case 008				x		
DIV-CII Case 009				x		
DIV-CI Case 010				x		
DIV-CI Case 011				x		
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014				x		
DII-CVII Case 015					x	
DIV-CI Case 016				x		
DIV-CI Case 017				x		
DIV-CI Case 018					x	
DIV-CI Case 019					x	
DIV-CI Case 020				x		

APPENDIX Q

Knows or Has Reason to Know

				Knows or Has Reason to Know		
				Present	Not Present	
DIV-CI Case 001					x	
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004				x		
DIV-CI Case 005					x	
DIV-CI Case 006				x		
DII-CII Case 007				x		
DIV-CI Case 008				x		
DIV-CII Case 009				x		
DIV-CI Case 010				x		
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014				x		
DII-CVII Case 015				x		
DIV-CI Case 016				x		
DIV-CI Case 017				x		
DIV-CI Case 018				x		
DIV-CI Case 019				x		
DIV-CI Case 020				x		

APPENDIX R

Affirmative and Continuing Duty

				Affirmative & Continuing Duty			
				Present	Not Present		
DIV-CI Case 001					x		
DII-CVII Case 002				x			
DIV-CI Case 003					x		
DI-CIII Case 004					x		
DIV-CI Case 005					x		
DIV-CI Case 006				x			
DII-CII Case 007				x			
DIV-CI Case 008				x			
DIV-CII Case 009					x		
DIV-CI Case 010					x		
DIV-CI Case 011				x			
DIV-CI Case 012					x		
DIV-CII Case 013				x			
DIV-CIII Case 014				x			
DII-CVII Case 015				x			
DIV-CI Case 016				x			
DIV-CI Case 017				x			
DIV-CI Case 018				x			
DIV-CI Case 019					x		
DIV-CI Case 020					x		

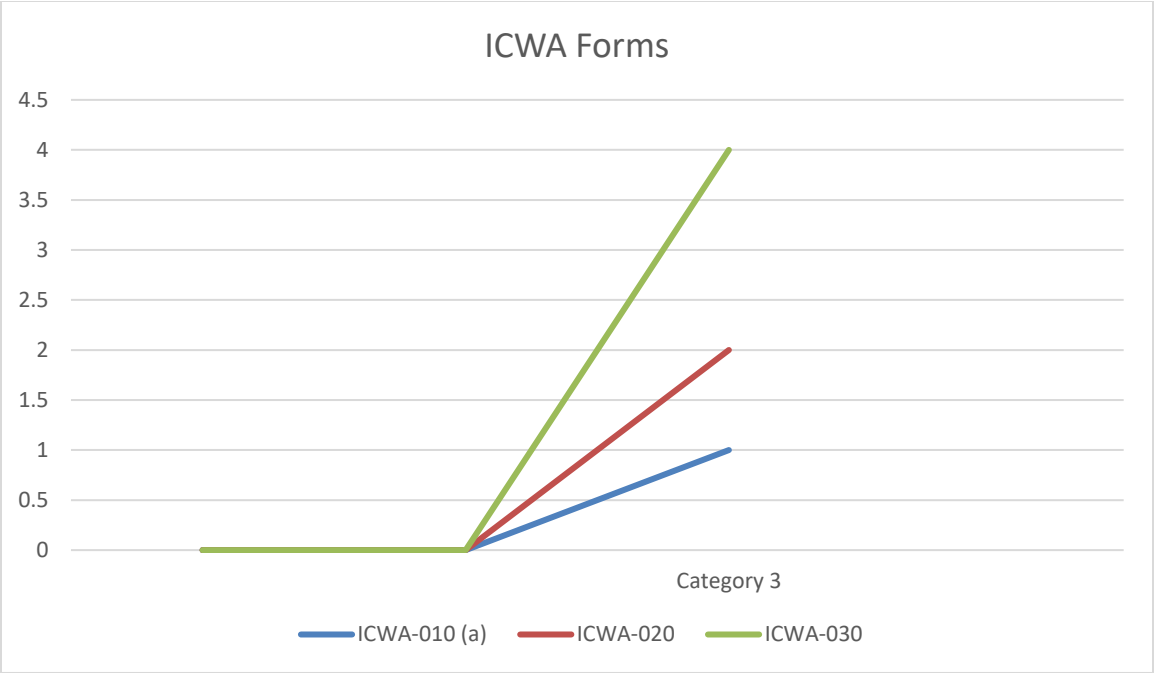
APPENDIX S

Routines

				Routines		
				Present	Not Present	
DIV-CI Case 001				x		
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004				x		
DIV-CI Case 005					x	
DIV-CI Case 006				x		
DII-CII Case 007				x		
DIV-CI Case 008				x		
DIV-CII Case 009				x		
DIV-CI Case 010					x	
DIV-CI Case 011					x	
DIV-CI Case 012				x		
DIV-CII Case 013				x		
DIV-CIII Case 014				x		
DII-CVII Case 015				x		
DIV-CI Case 016				x		
DIV-CI Case 017				x		
DIV-CI Case 018					x	
DIV-CI Case 019				x		
DIV-CI Case 020				x		

APPENDIX T

ICWA Forms



APPENDIX U

Simplifications

				Simplifications		
				Present	Not Present	
DIV-CI Case 001				x		
DII-CVII Case 002				x		
DIV-CI Case 003					x	
DI-CIII Case 004					x	
DIV-CI Case 005					x	
DIV-CI Case 006					x	
DII-CII Case 007					x	
DIV-CI Case 008				x		
DIV-CII Case 009				x		
DIV-CI Case 010				x		
DIV-CI Case 011					x	
DIV-CI Case 012					x	
DIV-CII Case 013				x		
DIV-CIII Case 014				x		
DII-CVII Case 015				x		
DIV-CI Case 016				x		
DIV-CI Case 017					x	
DIV-CI Case 018					x	
DIV-CI Case 019				x		
DIV-CI Case 020				x		