

Continuing The Dialogue: The Linked Histories of the People of California—
A New Way of Learning

Dr. Maria Yellow Horse Brave Heart has recently coined the term historical trauma. And Dr. Brave Heart defines historical trauma as a cumulative emotional and psychological wounding over the lifespan and across generations emanating from massive group trauma experiences.

Massive group trauma experiences. Unfortunately our history is littered with them. And they may seem like isolated incidents but in fact they fit together. They are connected. Injuries that occurred a century ago continue to wound today. They link the generations. They also link seemingly disparate groups together.

I am Kimberly Papillon.

Today we are going to explore these connections. We will discover how events in history are connected as moments on a timeline. How these moments on a timeline are connected to our laws and how our laws are connected to our people and our stories. We tell these stories because we simply cannot dispense justice in isolation. If we understand the history behind the laws that we implement every day we come to appreciate our role in providing justice in the State of California.

Many of us know the story of the Japanese internment. As World War Two began American citizens who were of Japanese descent were rounded up, taken from their homes and businesses and placed in camps. They were not allowed to leave. They were not able to protect their homes from being taken over while they were imprisoned. They had no choice at all and it was all sanctioned by law.

They call the December 7th 1941 Day of Infamy. We call February 19th 1942 Years of Infamy. That was the day that Franklin Roosevelt signed the order that allowed the Japanese or required the Japanese Americans to be imprisoned. There were 110,000, 120,000 Americans of Japanese ancestry who were sent to essentially prisons and without the right of a hearing without an attorney, without any notice of charges. So they were essentially denied all of their due process rights, some were taken away with as little as forty-eight hours notice. So the theory was that these potential saboteurs and spies needed to be removed from the West Coast to make sure that our shores were safe from the onslaught of Japanese Imperial Army. And so my folks went to Arkansas where they stayed for anywhere from two to four years.

Well, the Japanese internment camps connected, certainly, with World War Two and the fear that was generated, especially on the West Coast, that if we don't lock up the Japanese Americans, they're going to turn against us and go with the Japanese invaders because there were submarines spotted along the Pacific coast and the folks were alarmed. And so where did those Japanese camps, where were they established? They were established near reservations. Gila River Reservation in Arizona, near the Bishop Reservation down in Inyo County and other places.

They say that if you do not learn from history you are doomed to repeat it. After World War Two, the Japanese relocation program ended. Soon thereafter the federal government created a new plan: the Indian Relocation Program.

Now ironically the man who was in charge of the relocation program was the same man who established the relocation camps for the Japanese during World War Two. So I guess since he lost his job after that he moved over to the Bureau of Indian Affairs and named his program there the same as he had named it in the War Department and it was probably equally as effective and equally as wrong-headed in my mind.

The idea of Indian relocation, the name, was changed later so that it didn't reflect the Japanese American relocation. They called it employment development and placement.

The federal government's policy was to try to assimilate Native American Indians from across the country by inducing them to move away from their reservation lands and resettling them in urban areas.

They were encouraged to leave the reservation by federal officials. Leave the reservation and you're going to get good jobs. Here on the reservation there's nothing for you. If you leave, you're going to get a good job and going to be able to provide for your family and you're going to get part of that American Dream that everybody wishes for. Now, it was a bill of goods.

So what you did as you took these people, you move them, you put them in without a support system. They really didn't get jobs and they moved into the ghetto, basically into urban ghettos, and they lost track of themselves, they lost track of their families. They did not have whatever remaining social structure they had they lost, basically, because they were thousands of miles away. You still see many times now people trying to get home for summer or for ceremony or whatever, and people torn going back and forth, back and forth, back and forth constantly which makes it very hard to hold jobs, which makes it very hard for the schooling to be consistent and just the economics of it. They did not come here with good education and good job placement and oftentimes not with great English skills. So you have a lot of people that were sort of dumped into an urban area who really didn't have life skills for an urban area and who only came because they thought that they would have this, these things that were promised, then they just didn't happen.

People died. People drank themselves to death. People committed suicides. People engaged in domestic violence. People didn't have the money to return home because you didn't get a round-trip ticket. If you were in South Dakota, you didn't get a round-trip ticket back to South Dakota. You had to get there on your own. If you had a family or four or five people, that was hard to do. So we have a lot of Indians today in San Francisco Bay Area and Oakland, in San Jose because these were relocation centers, and in the Los Angeles area, and a lot of these folks are not from California, and they're stranded.

The history of interaction of Native people and the government of California does not begin with relocation. We must look back. The California gold rush is a central point in California history, and it was at this point that the connections become strikingly clear.

Right before the gold rush started there was an attempt to make treaties with the tribes.

The U.S. had sent out representatives to negotiate treaties with those Indians and upwards of seventeen treaties were actually signed.

Those treaties were sent back to Congress and in a sort of unprecedented secret meeting of Congress, Congress decided not to ratify those treaties.

An injunction of secrecy, they are used so rarely in U.S. history. With the issue of the California Indian treaties they won instance of its use. It's actually difficult to explain what it is and how it's used. It's not supposed to be known to the public. It is essentially to put any sort of legal act aside and away from public eyes, and there is no way or recourse for any of the people who are subject to those treaties to go back and ask for any compensation for the loss of their lands.

The whole ratification process was never explained to the people who signed the treaties on the Indian side of the table as it were, so they thought they had treaties. So all of these treaties that were signed were unratified and were basically hidden.

It was fifty-five years later when the tribes received the first notification that the treaties were not ratified. I buy your house, I promise to pay, I move in, you move out, I decide not to pay you for your house, and nobody ever tells you that the deal is no good.

For fifty-five years the tribes were never officially informed that the lands they were supposed to move to actually were not going to be held for their benefit. Those lands, as it turns out, encompassed the majority of gold country in California. So it is no mistake and it no coincidence that the tribes were never going to end up with lands there in trust.

So the relationship between Indians and non-Indians historically from those two events, the gold rush and treaty period was very negative.

When the tribes were told these lands are not going to be held for you they were instructed to go back home, and at the same time California had passed a law called the Land Claims Act that allowed for anybody to come in and pay to have a parcel of land so long as they were a U.S. citizen, and at that time Indians were not U.S. citizens. So the lands were, basically, swept out from underneath them. So California tribes were literally just sprinkled throughout California and all of the areas which were remaining in which they could build their own villages and continue to live with their families, and it quickly dwindled down to very few lands.

The government's failure to honor these treaties did not exist in isolation. It had a lasting impact and sometimes unexpected modern day consequences.

One of the things we like to do in Indian country is teach with stories. Let me share with you a story about a Navajo elder and NASA, National Aeronautic and Space Administration. When NASA preparing for the Apollo project, they did some astronaut training on the Navajo Indian reservation. One day a Navajo elder and his son were herding sheep and came across the space crew. The old man, who only spoke Navajo, asked a question which his son translated. What are the guys in the big suits doing? A member of the crew said they were practicing for their trip to the moon, and the old man asked if he could send a message to the moon with the astronauts. Recognizing an opportunity for the spin doctors, the NASA folks found a tape recorder. After the old man recorded his message, he asked the son to translate and he refused. So the NASA reps brought the tape to other members of the tribe who listened and laughed. Well, they also refused to translate the elder's message to the moon. Finally, NASA called in an official government translator and he reported that the moon message said "Watch out for these guys. They've come to steal your land."

Decades before NASA trained to go to the moon native people faced dangers more grave than the loss of their lands.

I grew up in a small town in Mendocino County. It's the county seat. It's called Ukiah, California. Ukiah was a place where Indian kids were sold to white folks under the laws of California at that time. They were sold because in early California history militias were hired, private militias, to go out and exterminate adult Indians. They probably killed Indian kids as well, but they were exterminating Indians, but the Indian kids were rounded up and sold for the purpose of being either physical labor or sexual labor, and that was authorized under California law by the first state legislature.

Child stealing and the sale of children became a normal practice. The newspapers at the time in northern California are rampant with stories about people who would steal children and thought nothing of killing the adults who were taking care of those children in order to sell the children.

The next law that came into being was the act for the government protection of Indians, and don't let the name fool you. The act was primarily an indentured servitude act.

There are judicial documents in this state that show that judges approved the indenture of Indians as young as young as two and as old as fifty.

One of the main roles of the justice of the peace was to indenture Indian people, and so they could indenture them and they did indenture them for very long periods.

And the justice of the peace would essentially assign a new name and assign them as a property now belonging to the person who brought them in.

Now you have groups of Indians who have the gold rush experience, groups of Indians who have the treaty experience, and now more groups of people who have the experience of the indentured servitude, which is basically enslavement.

Slavery is a familiar concept in the United States. It links some of our most shameful chapters. The native people of this country and African Americans are connected by such a chapter. There are ways to destroy cohesion and unity in a people. There are ways to wound a culture. Long ago people were taken from the continent of Africa into slavery. As part of their enslavement they were assigned new names, forbidden to speak their languages, or practice their religions. The system was designed to not only provide slave labor but to break the bonds and the traditional practices that gave them strength and stability. After abolition, colleges were set up for African Americans. One of these colleges was the Hampton Institute. By 1878 the colleges were seen not only as places to learn important skills and accomplish academic goals they were also viewed as a way to force former slaves to assimilate.

Someone got the idea that if it worked for slaves maybe it would work for Indians. A man, I think his name was Paul Pratt, got the idea of bringing a trainload of adult Indian males to the Hampton Institute to see if that same kind of experiment would work for them. After a year they concluded that it would not work.

They recognized that you could not take adults and wipe out from them their culture and their values and their religion and their spirituality and their language, that if you took children away early enough, maybe you could.

So the next year they brought in a trainload of kids.

So they round up Indian children and put them in boarding schools, usually hundreds of miles away from their homes.

What we know about the Indian boarding schools is that their emphasis and their focus was particularly on Indian children for the reasons that we know that Indian adults were not being assimilated by the same means used in the Black colleges or what were now the Indian boarding schools. Children were, however, someone that they could focus on. A certain age level, a certain fear, if you will, of being away from home, a need to have something stable in their lives meant that the boarding schools could impose themselves as the educator as the parent and as the caregiver.

By 1890 boarding schools were mandatory for many Native American children. Many Native parents were told that they would receive no rations. Unless they were willing to send their children to the boarding school, there would be no more food, clothes, or supplies.

When the children were removed from their communities, often times directly from their parents' homes under the act of the government protection of Indians in California, they were assigned new names.

And the little ones would cry themselves to sleep at night because they missed their mommy and their daddy.

From a child's perspective, everything that they knew that was happy and healthy and comforting and nurturing and loving was ripped away.

And we had many instances of families who can account for parents who searched every school that they came across who would walk for miles and would go to the gates and just yell out their child's tribal name. But no child was allowed to use their tribal language when in a school. They were punished for it. They oftentimes forgot that name. And so, if a parent was lucky enough to find the right school, they probably wouldn't be able to still find a child because the name had been changed.

Oh yes, I went to boarding school. That's where they whipped me often mean. Oh it was terrible.

Some were beaten. Many of them were exposed to sexual abuse.

The sexual abuse, the physical abuse, that's a model of being in the world. It's a negative model, it's not good by any means, but it's what they were around, it's what they saw. And so a child growing up in that learns that, and not having access to their parents or traditional ways, children learn what they live.

The hallmark of many of these schools is the graveyards that are attached to them. For their first fifty or so years that these schools were in existence the survival rate, quite literally getting out alive, was less than fifty percent.

Children were targeted as a way of destroying tribal communities and tribal cultures. That's what the boarding school was all about. It was about assimilation.

Education was seen as part of the civilizing process. The early documents surrounding the bureau boarding schools quite literally said that the goal was "Kill the Indian and save the child."

"Kill the Indian, save the child" or "Kill the Indian, save the man" or "Kill the Indian, save the woman" goes to the idea that as a policy matter, as a federal policy matter with regard to Indian people killing the Indian is to kill the culture, to kill the language.

Children were forced to speak English and not allowed to speak their own language, and if they did speak their own language to have the penalty be a beating or possibly not to eat. We have heard many stories where the older children, the teens that were taking care of the younger kids told them "Do not speak your language. You will all get in trouble if you speak your language."

I have contemporaries my age who when they were in boarding schools had their mouths washed out with soap for speaking their tribal language in their free time outside of class.

It essentially disassociated the child from what they could understand, the beliefs, the concepts, everything they knew in the language that they learned first was now taken away from them.

I, I couldn't talk Indian. They stopped me talking Indian. But still, I couldn't talk English.

They were forced to practice Christianity even if that was not their family's religion. Their hair was cut.

The cutting of hair of Indian children who went to the boarding schools may seem like a small change to most eyes. I think that for Indian people, Indian adults and Indian children, that what we see with the cutting of the hair is, essentially, a cutting of that child from the community fabric and many communities, if your family member dies, a close family member, you'll cut your own hair. It's a show of distress, it's a show of pain to cut the hair. It's a show that you are not part of the community day-to-day activities this week because you've suffered trauma. So in a way, to cut those children's hair as they entered the boarding school was to inflict the trauma upon them.

While the boarding schools focused on destroying the cultural ties of the children to their tribal nations, they ignored their promise to educate the children.

The early approved curricula actually prohibited teaching of reading and writing, not unlike the laws that dealt with slavery where they prohibited teaching slaves how to read and write.

There was not much education that went on. But what we do have are pictures of children the day they went in who still had their traditional clothes, who had their traditional hair, and within a week their hair was short. You can see the change in their face, the change in their eyes, and they're realizing that it's no longer safe to be an Indian.

But what those early photos almost uniformly show, if you look carefully, is that instead of the fear in the eyes there's nobody behind the eyes.

Their soul is wounded, you can see it in their faces, the solemn, sad looks.

You look at somebody like me who has had a mother and two aunts, all three of which were forced into a boarding school. Now that experience essentially colored their existence.

Oh, they had no respect for children. I'm sorry to talk about it. But they was mean.

Kids were not only removed from their homes and their territories, their Indian territories, but in the process not only was their culture destroyed, but their lives were destroyed, and in essence they were murdered. They were murdered physically, emotionally, and culturally. And I think that a lot of times folks call this genocide, genocide, the word genocide to me is too clinical. This is murder.

Eventually, the government's seemingly overt goal of the destruction of Native culture in North America came to an end. But so much damage had been done that moving forward there were still significant problems. Intense poverty reigned in the Indian reservations while families tried to preserve their cultural ways of life. When Native American families came in contact with the court system, social workers would see the conditions in which a family lived and often, based on stereotypes and misinformation, would determine that a child was not safe living in such an environment. Moreover, the social workers could use exactly the same standards for Native children as they used for non-Native children but come to completely different conclusions.

Native families, in turn, would see the social workers as inextricably connected to the system that for a century had tried to destroy their families. History had set the foundation for mistrust.

I think, really, a lot of Indian people see the system as some other group of non-Indians as trying to take their children.

After much advocacy on the part of Native people, the federal government recognized that the legacy of injury in the country required examination. The United State Congress called for a series of reviews and hearings regarding native tribes in the United States. There reviews culminated in a report issued in 1977.

They looked at about fourteen different areas in the relationship between the federal government and Indian tribes, and the American Indian Policy Review Commission looked specifically at the question of families and how that's affected by federal law and state law. One of the areas that they looked at specifically was comparing foster care and adoption rates for Indian children. For example, in Arizona Indian children were 420% more likely to be adopted than non-Indian children, 270% more likely to be in foster care. In California they were 840% more likely to be adopted and 270% more likely to be in foster care. In Michigan they were 370% more likely to be adopted, 710% more likely to be in foster care. In Minnesota almost 400% more likely to be adopted and 1650% more likely to be in foster care. Montana, almost 500% more likely to be adopted, almost 1300% more likely to be in foster care. North Dakota, almost 300% more likely to be adopted, over 2000% more likely to be in foster care. In Utah, 340% more likely to be adopted 1500% more likely to be in foster care. And Washing State, 1900% more likely to be adopted and almost 1000% more likely to be in foster care.

Ninety percent of the kids that were out of home for us in 1978 were placed in non-Indian homes. That isn't true for other people, but it was true for us, and it had a serious and ugly impact on our communities.

Twenty-five to thirty-five percent of all Indian children are being taken away from their families. That's a big problem. And that's where the tribal leaders were saying if this keeps up, within a generation we'll have no children, we'll have no children who can speak the language and continue the customs and traditions of the people, so it was referred to as cultural genocide and that's really what it was. It's one of the, if you look at the definition of genocide, it includes the forcible removal of children from their communities, to place with others, and it is a very effective way of destroying their culture.

The Indian parent is much more likely to have their child removed than a non-Indian person for the same offenses. It's not like we don't know that, because we do know that, because we know that when we see other non-Indians drinking at the same bar that we're drinking at they get arrested, their kids get picked up, but their kids get returned. Our kids aren't returned.

A mother had, you know, taken care of her children, not abandoning her children, but taking care of her children, had sent one of her children to live with an aunt in California and the mother came a week later, but by the time she arrived in California, her child had been removed from the aunt because the aunt had no formal guardianship over the child, and placed in a pre-adoptive

home, so already up for adoption after a week, and when in fact the mother was able to get a lawyer and the social worker was, I guess, questioned, and said that even though they didn't believe, even though they had no evidence that mother was unfit, that it was the social worker's view that Indian reservation was an unsuitable place to raise a child. So, you know, it is ironic that this is what they say that tribes were forced onto reservations at gunpoint and then several generations later told that reservations are no place to raise a child.

That irony was not lost on the native rights advocacy group, the Association of Indian Affairs, who then conducted a study about the children who were removed from Native homes.

Only one percent were removed for physical abuse and ninety-nine percent were taken on basis of such vague standards as deprivation or neglect or because their homes were thought to be too poverty stricken to support the children.

There are many ways that our contacts, our value systems differ in Indian country than they do outside of Indian country. The nuclear home isn't really present in Indian country. We have a network, we have a family network and oftentimes we have a cultural community network. We'll have people who aren't necessarily blood related or related by marriage who are very much part of that family because of cultural practices. So when we look at whether or not a home has the expected amount of resources, and that's what we are looking at, a hopeful amount of expected resources to supply this child with what it needs, we oftentimes have to look to the entire family and to the tribal programs that exist, and that's not always done, it's not always done.

To address this disconnect, the government constructed the Indian Child Welfare Act, or ICWA. ICWA was part of a new era of civil rights legislation and it was designed to maintain the connection between the native community and native children. The law was crafted with the recognition that there was a dangerous disparity between the social worker's perspectives and Native American cultural norms.

So that's really what ICWA was meant to address, saying that where social workers are making those value judgments about Native Americans' homes and child rearing that they are going to have to take into account the standards of the community that that child's living in.

The Indian Child Welfare Act was passed for the specific purpose of making sure that our American Indian children did not lose their heritage. As a result of that there are federal requirements that have to be followed in every state in order to make sure that as frequently as possible and as soon as possible a Native American Child is reunited with his or her tribe as well as our usual requirements for reconciliation with a parent.

It is an acknowledgement that were applicable those children are entitled to and shall have specific rights with respect to how they're dealt with in the system, how they are to be raised and what type of dispositional options are available for children and to parents and for tribes that are related to the children that appear in front of us.

It was passed in 1978 and that was a time when we were coming off of a huge effort in this country to right past wrongs, to look at civil rights legislation, to try to use the law as a tool to correct misadventures of the country, shall we say.

Children are best placed at home with their parents. After that, they are best placed at home or in a homelike environment with relatives, and then to that extent the closer the relationship, the closer the blood or connection with respect to a child's life you can make with respect to the person with whom you place the child, the better it is for the child, the better it is for rehabilitative purposes.

The idea that a child that has grown up perhaps with no identifying information only the usual of our children who has been molested, abused, or neglected, the idea that they come from something strong, the idea that they come from something important, the idea that there is a linkage to more people than perhaps the people who abused them is of the utmost importance. The main issue in dependency and delinquency is connection, connection, connection.

Most of us who work in this area believe that if ultimately placed under the Indian Child Welfare Act, that placement would better suit the needs of the child than a traditional private institutional group home foster care. Those folks have greater interest in the child, there is a greater degree of connectivity to that child, and so in the same way that you would rather place a functioning parent with a child and then a grandparent and work your way out that way to allow parents and children the ability to access tribal rights and care under the Indian Child Welfare Act makes more sense, frankly, than to put a child in a generic placement, folks that are in the placement business, but that have no connection to children, be they delinquent or dependent.

ICWA applies in juvenile dependency and juvenile delinquency, family law and probate and it may be used in other areas as well. Some of the most important components include noticing, sending proper notification to tribes and parents, and ensuring that children are properly enrolled as members of tribes. If ICWA is properly and consistently applied, it has great potential.

Unfortunately, a lot of potential of the act has not been met. What's been met and what needs to be met is not just the noticing because I think that most people are aware if you don't do the noticing right now you're going to get reversed. But it's important that the tribes know and it's very important that if we can that we have children that are out there that these children get enrolled. That, if I can give one single message is the most important thing for an Indian child is that enrollment be secured, and the courts and anybody that can help with that to insure that a child is enrolled before, as long as you have jurisdiction over that child, that's very, very important.

The challenge for the state is the universal application of the law and getting those counties, large or small, regardless of the percentage of Native American youth, to apply the best practices in the counties that have embraced the law and have found a way to overcome the concerns, clerical, legal, problems with probation, and notice and all of the things that are growing pains when you undertake a new procedure.

Some people will say that they send out notices and 99 times out of 100 the children turn out to be not eligible for membership in a tribe and they will say that it's a waste of resources, but in my view that one child that was connected with a tribe and a community that cares about them is worth doing it.

To add ICWA properly to any process in dependency or delinquency the first thing you need to do is not be afraid of it. It is not some horrible process that you are forced to do. It is simple, it is clear, is now, in the California code under 224 et seq. W&I Code section and all you do is file it. If you believe, if you know that this child is an American Indian child, you notice the tribe. The tribe has a right to come in and be involved with the child. If the tribe does not choose to intervene or have anything to do with the case because the child is safely with a relative that the tribe would have approved anyway, then that is their right. That doesn't alter the need to utilize the simple notice requirements for ICWA. There is very little to do that is different other than an act of efforts finding and proper notice. It's... Don't be afraid of ICWA. It doesn't create that much more work to ask a family if they have Native American heritage, and if the answer to that leads you to believe or to know under the new law that this requires notice what you are doing is you are linking this child who has already been through heck, already been through enough, you are linking this child to one more life connection, and this life connection couldn't be more important. Who am I? Where am I from? is a question that any child can answer without regard to Why am I here in this building? I have nothing to be ashamed of. I come from a strong background that can help me now. That's why.

I remember seeing grownups, basically, walk into dependency court when I was in dependency court here in San Francisco and looking up and seeing a child, well not a child, but a mother at this point saying where are you from which is the classic way to ask an Indian person what tribe are they from and them saying I don't know, because I was adopted, or I don't know who my mom was, or I don't know who my dad was and clearly, visually, they're Native, and so that complication on top of being adopted, having no idea, for a Native person that's about as...our version, sort of, of Dante's hell.

If a child is unidentified in another court and not sent to me, then of course we are the only ICWA court state-slash-state court in the United States, I don't think anybody else does it that way, where only one court does all of the Indian cases, if they are unidentified, wrongly identified and not sent to me and heard in the regular perspective and we find out at the very end of the case, when children have been placed in a non-Indian home at the very end of a case, they've been there a year, they've been there two years, and we find out those are Indian children, and they have a tribe that is ready, willing, and able to take that child or provide for that child, o concentric circles of horribleness is the only thing I can say. The connection with the foster parents, the lack of connection with the tribe, the tribal's right to the child and dependent of our system, the fact that the parents may have been able to get better assistance had we gotten ourselves involved a little sooner – concentric circles, rippling, rippling.

ICWA requires that certain technical procedures must be followed. The history of native peoples in the state creates and additional barrier. Best practices show that in order to be fair we must do much more. When interacting with Native court users we must be cognizant of the different ways that they may communicate.

A father had been involved in a child custody matter, and when he was on the stand and answering questions that the judge would put to him he took a long time to respond, and from his perspective, he was being very thoughtful and taking a lot of time and consideration because there was nothing more important to him than his children and he wanted to be sure that what he was saying completely captured it, but his way of responding, his careful, deliberate, unhurried way of responding was perceived by the judge as being evasive.

In other ethnic groups there is much more tolerance for gaps or overlaps. In a lot of Native American cultures gaps are fine. Tony Hillerman, who writes about Navajos and Navajo detectives, one of his comments in one of his novels, I can't think which, he mentions that, well, actually it's that his detective, his Navajo detective is in the same room as an Anglo woman and he notices with approval that she doesn't feel that she doesn't immediately have to start talking because he's in the room, that silence is perfectly okay with her where if, with most of us, we get very nervous the minute we are in a room with someone else we have to interact conversationally, make any kind of small talk, whatever it takes to have something happening.

I had an American Indian young woman who worked in my court for quite awhile until she went back to law school. I welcomed visiting tribal elders from tribes all over the United States. And they would come into my court and they would come back into chambers and we would talk and mostly I would talk. And I would talk. And I finally said to Karen "Am I doing something wrong? Is there some reason why these people come to see me but they don't say anything?" And she thought about it and I know she was trying to figure out whether or not she should actually tell me the truth. And what she said was this and being as you can tell I'm from the East Coast and so I just talk and talk and talk, she said "Native Americans are extremely respectful. They wait for the person to be completely finished before they answer. And I'm sorry to tell you this, Referee Sobel, you never finish." Since you never finish, they really never have a place to answer.

So if someone doesn't immediately reply to what you've said as might be if they are a Native American then you'll think they're uncooperative. They're hostile. They're holding something back. They're thinking too much over their responses. They're rehearsing. They're up to no good.

They are perceived as trying to come up with the answer that would please or the answer that would evade when in fact they're trying to come up with the answer that is absolutely truthful from their gut.

We have discussed a wide range of issues, but one thing we haven't touched upon is stereotypes. Not everyone in the court holds them but if we don't discuss them, then we allow them to thrive unanswered.

Most people who have a lot of problems want to leave them behind no matter what color they are. But it has stuck over the years as a stereotype with Indians. The drunken Indian. We all know that. Judges know that. Police officers know that. That's the American stereotype of Indians. And I think that young Indian people pay the price for that. How do we get rid of that

stereotype? Sure, we need to educate. We need to say judges to judges that we know you think this way. You need to stop thinking that way.

I think that one of the most pressing issues that we have facing us as Californians today is our perception of California Indian Country. Tribal communities have not had the resources to put their own stories to pen and paper to share those with the rest of the state, the rest of the country. What we are seeing, though, is a lot of media coverage of the gaming establishments, the kind of achievements that they have made, and the kind of failures that they're also being plagued with at this time. We're running into a new stereotype. We're running into a stereotype that there should be no problems with all of this money flowing in. And yet this money hasn't really resolved the worst of our issues. It has created government infrastructure. It is beginning to develop programs for Indian children. But it is not coming without its own price.

There is always a price to pay for the transgressions in our history. There is always a challenge to be faced as we put civil rights laws into practice. There is always a connection to be made between what we once were and what we want to become. It is often easy for people to disconnect themselves from history. But it is important to remember that not all the problems discussed in this program exist only in the past. Even today, we all struggle to avoid incorrect assumptions, failures, and misunderstandings that can lead to the loss of Native children from their tribes. None of the Native American people in this program purport to speak for other American Indians. It is a tradition in many American Indian nations to never speak for another person unless they have given you permission to do so. In alignment with that tradition the AOC does not purport to speak for American Indians either, for the many children and adults who have lost their homes, their families, and their lives. The laws which are used in our California courts are designed to allow the court users to speak for themselves and to ensure that they are heard in their own voice. We hope that you have heard what we have shared with you today in the spirit in which it was intended, not as an indictment of the people of California, but as a starting point to continue the dialogue in your own counties. We hope that you will see that there are connections. There are connections between all the ethnics groups in this state. There are connections between tribal governments and the California government. There are connections between the past, the present, and the future. One of the most important tools we have to help us move toward a better future is the Indian Child Welfare Act. What we must remember is that ICWA was created for a reason.

And that reason is to make sure that our Native American children never again feel like third or fourth or fifth class citizens, that there is some way that we recognize in the courts, we recognize that that history that you have is an important history and that the United State of America believes that that is an important history.

The Indian Child Welfare Act is not perfect, but it is an improvement. And while it may seem counterintuitive it really is best practice for getting those kids what they need to survive.

Okay, we're going to go forward together and, we live right next to each other and we have to work it out here, and it's not going to get any better if we just take an attitude with each other. And that's on both sides. But you have to have people willing and able to come and trust each other. If I sit in the system and go "Okay, every non-Indian social worker is blocked." That's not

going to help. And they go "Well, your system can't do anything right..." Unfortunately with systems, social services, whether it be tribal or whether it be the state, they're not money makers so they're not ever really going to be smiled upon by the people who give out the money. So both systems are always going to be scrambling for resources. Both systems are going to make terrible mistakes because whenever you're scrambling for resources the potential for mistakes are there. You have to forgive yourselves and you have to forgive each other.

This is where we are. And I think there is an acknowledgement that we do need to bridge both communities together and knowing we are all here together we need to learn how to exist with one another, and I think that we can. I think that there's definite hope.

If you want to know more about ICWA and how it applies we will be holding several conference calls to provide more information. There will be a separate conference call in difference areas where ICWA may apply. There will be conference call for judicial officers on ICWA's application in the juvenile context, in family law, and probate. There will also be a conference call for staff in all of these areas. Each call will begin with a presentation and will include a lengthy question and answer period. The dates and times for the calls are on your screen, and we hope you can join us. Thank you.