

TRIBAL COURT—STATE COURT FORUM

An Advisory Committee of the Judicial Council of California

Forum E-Update

August 2023

TRIBAL COURT—STATE
COURT FORUM

An Advisory Committee of the
Judicial Council of California

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IN THE NEWS

[Addressing the Overrepresentation of Native American Children in Foster Care](#) (Commentary)

Imprint - August 01, 2023

Given the recent Supreme Court ruling on the Indian Child Welfare Act (ICWA), it is crucial to emphasize the importance of protecting and strengthening ICWA in light of the disproportionate representation of Native American children in the foster care system. The existing data reveals a stark reality where Native American children have a high chance of entering the child welfare system. Native American children are up to four times more likely to be removed from their families and placed into foster care when compared to their non-Native counterparts. Two percent of Native children are in foster care, even though they only make up 1% of the U.S. population. As a result, upholding ICWA is more critical than ever.

[Keeping the Child at the Heart of the Circle: Supporting Native Child Welfare](#) (Commentary)

Nonprofit Quarterly - August 03, 2023

Indigenous children in the United States have endured removal from their families and communities. This is not new information. In 2023, Native American children continue to be removed from their families and extended families, their language, culture, and way of life. Such actions also remove children from their sovereign tribes. This is contrary to the intent behind the Indian Child Welfare Act of 1978 (ICWA). ICWA, was enacted to protect the best interests of Native American children and to promote the stability and security of Native tribes and families. That law was upheld in June by the US Supreme Court in the case of *Haaland v. Brackeen*. ICWA, in short, remains the law of the land. But the challenge of preserving Native families persists, despite the legal victory.

JUDICIAL COUNCIL OF CALIFORNIA

COURT OPERATIONS & PROGRAMS

DIVISION

CENTER FOR FAMILIES, CHILDREN & THE COURTS

455 Golden Gate Avenue

San Francisco, California 94102

[Justice for and by Native Americans](#)

Washington Post – August 4, 2023 (eight article down in the reader reactions column)

The July 25 front-page article “A defense of diversity fell to an office that lacks it” brought much-needed attention to the lack of diversity at the Office of the Solicitor General (OSG). The article failed to mention, however, the OSG’s lack of Native American lawyers. Both omissions of Native Americans — from the article and from the OSG — merit correction.

[Supreme Court rules against Tulsa in case over Native American man’s speeding ticket](#)

CNN – August 4, 2023

The [Supreme Court](#) on Friday denied a request from the city of Tulsa, Oklahoma, to freeze a lower court opinion that could prevent Tulsa from enforcing municipal laws – such as speeding tickets – against Native Americans.

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Tribal/State Programs Link:
<http://www.courts.ca.gov/programs-tribal>

[‘12 years of hell’: Indian boarding school survivors share their stories](#)

(Includes audio) (May require subscription)

Washington Post - August 07, 2023

Taken from their homes on reservations, Native American children - some as young as 5 - were forced to attend Indian boarding schools as part of an effort by the federal government to wipe out their languages and culture and assimilate them into White society. For nearly 100 years, from the late 1870s until 1969, the U.S. government, often in partnership with churches, religious orders and missionary groups, operated and supported more than 400 Indian boarding schools in 37 states, according to the first investigation into the schools by the U.S. Interior Department. Government officials and experts estimate that tens of thousands of Native children attended the schools over several generations, though no one knows the exact number. Thousands are believed to have died at the schools. Many others were sexually assaulted, physically abused or emotionally traumatized. Now a reckoning is underway as Interior Secretary Deb Haaland, a member of the Pueblo of Laguna tribe whose grandparents were stolen from their homes and sent to boarding schools, tours the country to expose the devastating legacy of the schools on families and tribes.

[Supreme Court Upheld ICWA, But Challenges Could Loom in State Courts](#)

Imprint - August 09, 2023

The nation's highest court recently upheld the Indian Child Welfare Act in a major case over the law's constitutionality, a decision hailed by many as a victory for Indigenous children and their families. But while the 7-2 majority decision in the Brackeen v. Haaland case firmly rejected key arguments against the law known as ICWA, state-level challenges have been moving through lower courts across the country, with varying degrees of success.

FORUM LEGISLATIVE PROPOSALS

Visit forum’s home page

<http://www.courts.ca.gov/3065.htm>

These programs are supported with funds from the Office on Violence Against Women, U.S. Department of Justice that are administered through the Governor’s Office of Emergency Services (CalOES), the U.S. Department of Health and Human Services, Court Improvement Program, and the California Department of Social Services.

[Native mental health providers seek to heal boarding school scars with informed and appropriate treatment](#)

High Country News – August 14, 2023

As more visibility is brought to the legacy of U.S. boarding schools, Indigenous mental health providers and social workers feel that therapy must address the unique trauma carried by survivors.

[Red Lake Nation Decolonizes Child and Family Services](#)

Native News Online - August 16, 2023

Red Lake Nation is taking a unique approach to the delivery of child and family services. Ombimindwaa Gidanawemaaganinaadog, formerly known as Red Lake Family and Children's Services, used their Ojibwe language to rename the division, which translates to "Uplifting All of Our Relatives." This uplifting of the community was felt last month when the department hosted an event called July Extravaganza. The event brought families together by reclaiming connection through natural resources, culture, and community. The event featured a ceremony, lots of food, cultural teachings, games and activities, a sweat lodge, and more. "We are reclaiming who we are, decolonizing our practices and going back to our Anishinaabe values," Cheri Goodwin, Executive Director of Ombimindwaa Gidanawemaaganinaadog told Native News Online.

[Biden administration, advocates ramp up efforts to address Indian boarding schools' painful legacy in Minnesota and other states](#)

MinnPost - August 17, 2023

The National Native American Boarding School Healing Coalition, a nonprofit headquartered in Minneapolis, is among the groups seeking to collect survivor stories and educate the public about how and why the federal government removed Indian children from their homes and communities - and the lasting impact the campaign had on Indigenous people across the U.S. The coalition has been trying to collect information about the boarding schools from the federal government and the religious organizations that also ran boarding schools.

[Tribal courts across the country are expanding holistic alternatives to the criminal justice system](#)

San Francisco Chronicle – August 19, 2023

The concept of treating people in the criminal justice system holistically is not new in Indian Country, but there are new programs coming on board as well as expanded approaches. About one-third of the roughly 320 tribal court systems across the country have aspects of this healing and wellness approach, according to the National American Indian Court Judges Association.

[Justices Uphold Indian Child Welfare Act](#) (Opinion)

Daily Record - August 21, 2023

The creation of Indian Child Welfare Act (ICWA) stemmed from the Devils Lake Sioux's concern about the treatment they received by the county welfare officers in 1968. Children were regularly removed from their homes and placed into foster homes or adopted by non-native households. All rehoming was done without consultation from either tribal leaders or the community. The Devils Lake Sioux reached out to the Association on American Indian Affairs (AAIA) for help. The AAIA was founded in 1923 to promote social, economic, and civic equality for American and Alaskan Natives. The events set in motion by the AAIA would culminate in the passing of the Indian Child Welfare Act of 1978. A study conducted in 1969 and presented in 1974 by the AAIA found that in most states with large Native American populations 25% to 35% Native youth had been separated from their families. They also found that Native children were more likely to experience more out-of-home placement than non-native children.

[Native American genocide: Crystal Echo Hawk sheds a light on Indian boarding schools](#)

Glamour – August 21, 2023

With the legacy of my grandfather's own experience weighing heavy on me, that was all it took for my team and I to set out to help Pine Ridge uncover the truth about what happened. And that work turned into the podcast American Genocide: The Crimes of Native American Boarding Schools.

['We keep dying': Indigenous Oklahomans fight state's missing, murdered crisis](#)

Tulsa World – August 21, 2023

people come to Oklahoma for many reasons. Olivia Gray, however, believes one thing about why Oklahoma attracts certain kinds of people. "Predators seek out Indian Country because they know they

are way more likely to get away with beating us, raping us, kidnapping us, trafficking us and killing us because everybody else is just too preoccupied and arguing over jurisdiction ... instead of all working together,” Gray said.

[Jurisdiction complicates cases of missing, murdered Indigenous people](#)

Tulsa World – August 22, 2023

PUBLICATIONS

[Double Jeopardy- Indians - Courts: Whether Successive Prosecutions Arising from a Single Act are Barred by the Constitution’s Double Jeopardy Clause](#)

98 N.D. L. Rev. 301
Sapir Sela

[The Trouble With the Tribal Law and Order Act](#)

Christina Rinnert

[Indian Law From Behind the Bench, Edition 2](#)

Alexander Mallory

[The Jurisdictional Landscape of Indian Country After the McGirt and Castro-Huerta Decisions](#)

Kirke Kickingbird, ABA Journal July 2023

[The Dark Matter of Federal Indian Law: The Duty of Protection](#)

Matthew L.M. Fletcher

[Tribal Crime Data Collection Activities, 2023](#)

This report highlights data collections that cover tribal populations, summarizes statistical findings on tribal justice agencies and the American Indian and Alaska Native population, and provides information on funding to tribes to enhance tribal participation in national records and information systems. The report fulfills the requirement of the Tribal Law and Order Act of 2010 (TLOA; P.L. 111-211, 124 Stat. 2258, § 251(b)) to report annually on BJS’s activities to establish and enhance a tribal crime data collection system. It is the 13th report in a series that began in 2011.

[The Aftermath of McGirt and Castro-Huerta: Problems and Possible Solutions relating to White Collar Crime in the City of Tulsa](#)

Nicholas Stamates

[Criminal Jurisdiction and Federalism in Indian Country](#)

Alexandra Fay

[Federal Statutory and Regulatory Definitions of 'Indian'](#), Aila Hoss, Available at SSRN: <https://ssrn.com/abstract=4520869> or <http://dx.doi.org/10.2139/ssrn.4520869>

[Tribal Sovereignty Preempted](#), Michael Doran, [Brooklyn Law Review](#) , Vol. 89, No. 2, 2023

In June of 2022, the U.S. Supreme Court held in *Oklahoma vs. Castro-Huerta* that a state may prosecute a non-Indian for a crime committed against an Indian within Indian country. That decision effectively overruled *Worcester vs. Georgia*, an 1832 landmark case in which Chief Justice Marshall said that state law “can have no force” in Indian country. Although the conventional wisdom sees *Castro-Huerta* as a radical departure from first principles of federal Indian law, I argue that it is the natural – although deeply deplorable – next step in a long line of Supreme Court decisions expanding state governmental authority within Indian country.

ANNOUNCEMENTS

[Indian Child Welfare Act \(ICWA\) Grants to Indian Organizations for Off-Reservation Indian Child and Family Service Programs](#) (Press release)

Office of Indian Services, Bureau of Indian Affairs - August 11, 2023

The Secretary of the Interior (Secretary), through the Bureau of Indian Affairs (BIA), is soliciting grants from Off-Reservation Indian Organizations to establish and operate off-reservation Indian child and family service programs, which provide services intended to stabilize Indian families and Tribes, prevent the breakup of Indian families, and ensure that the permanent removal of an Indian child from the custody of his/her Indian parent or Indian custodian is a last resort.

[ACL 23-64 \(July 31, 2023\)](#)

California Department of Social Services (CDSS)

Safety Assessment, Emergency Removal And Emergency Placement Of Indian Children

New funding available for tribal communities for projects related to the federal Indian boarding school initiative ([Native News Online](#)) 8/9/2023

[Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs](#)

This notice publishes the current list of 574 Tribal entities recognized by and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes.

ONLINE RESOURCES

[Working With Your Community to Address Trafficking](#)

Capacity Building Center for Tribes

Raise awareness of your community members, youth, and their caregivers about how they can help prevent sex trafficking. Find helpful examples that have been successful in other tribal communities in these brief resources, and more on the [Tribal Information Exchange Sex Trafficking Prevention page](#).

[ACEs and their impact on lifelong health in our resource guide](#)

Capacity Building Center for Tribes

Adverse Childhood Experiences (ACEs) can include physical or emotional abuse, neglect, witnessing violence, and other potentially traumatic events. Knowing more about ACEs and their impact on a child's lifelong health and opportunities can inform tribal child welfare professionals in their considerations of the supports needed for future healthy development. These resources focus primarily on ACEs – and their counterpart, Positive Childhood Experiences (PCEs) - and American Indian and Alaska Native communities.

UPCOMING CONFERENCES, WEBINARS AND TRAININGS

[2023 Tribal Healing to Wellness Court Enhancement Training](#)

September 12-14, 2023

Agua Caliente Band of Cahuilla Indians Reservation in Palm Springs, CA

The Tribal Law and Policy Institute (TLPI) looks forward to welcoming new and returning attendees in-person for the 13th Annual Tribal Healing to Wellness Court Enhancement Training (Wellness Court Training). This year's Wellness Court Training will be held September 12-14, 2023 on the Agua Caliente Band of Cahuilla Indians Reservation in Palm Springs, California. The Wellness Court Training this year will focus on the theme: Celebrating 25 Years of Tribal Healing to Wellness Courts.

[CSEC Action Team meeting \(Hybrid\)](#)

September 13, 2023—1:30pm-4:00pm

Sacramento, CA or Zoom platform

Attendees will receive a training on how to put harm reduction into practice and learn about the impact of utilizing this approach when working with youth impacted by and vulnerable to commercial sexual exploitation (CSE).

Virtual Registration:

<https://youthlaw.zoom.us/meeting/register/tZAsf-6qrTMiG9RIGDKTiKVnroJ8UN6a93I-#/registration>

In-person Registration:

<https://docs.google.com/forms/d/e/1FAIpQLSfnEPlqVMK7wVRwrWgzUv1pl8H0nRDxT5cSKzHo5GJeoivyAA/vie/wform>

[Perpetual Punishment: Understanding and Addressing Collateral Consequences in Indian Country \(Virtual\)](#)

National American Indian Court Judges Association (NAICJA)

September 26, 2023 –12:00pm

The National American Indian Court Judges Association (NAICJA) invites you to join a 90-minute interactive webinar. This webinar will educate on collateral consequences & explore how to incorporate the knowledge into court processes and policymaking. For more information, contact Johanna Farmer at johanna@naicja.org.

[23rd Annual California Indian Law Conference](#)

California Indian Law Association

October 1-3, 2023

Graton Resort and Casino

Join us for CILA's Annual Conference. This year's theme is "Protecting Tribal Resources."

[Child Welfare Training for Tribal Judges](#)

Casey Family Programs

National American Indian Court Judges Association (NAICJA)

December 4-5, 2023

Las Vegas, NV

The National American Indian Court Judges Association and Casey Family Programs will host a training on child welfare. The training is designed to be interactive. The training is specifically geared to tribal court judges. We will notify participants when they are selected to attend. The training is offered at no cost. Limited travel assistance is available based on need. For more information, contact Johanna Farmer atjohanna@naicja.org or (520)222-7196.

COVID-19 SPECIFIC GRANT OPPORTUNITIES

***New* [STTARS Indigenous Safe Housing Center \(STTARS\)](#)**

ARP Housing 90EV0537 25

Increase the availability of COVID-19 testing, vaccines, and other COVID-19 mitigation strategies for survivors. NIWRC will allocate pass through funds to tribal organizations addressing housing and domestic violence that we have previously connected with through our National Workgroup on Safe Housing for American Indian and Alaska Native Survivors of Gender-Based Violence. These funds will be utilized for COVID-19 mitigation activities (such as testing, PPE, staff related needs, health and wellness supplies for advocates and survivors, and additional resources to specifically address COVID-19 impacts and ongoing advocate pandemic fatigue). Applications will be reviewed in a timely fashion and on an on-going/rolling basis.

[NCAI Financial Relief for Tribal Nations Affected by COVID-19](#)

With the continued spread of the novel coronavirus (COVID-19), NCAI is committed to supporting Indian Country and lifting up our communities as we continue to combat this global pandemic. Keeping in mind the needs of our tribal nations. NCAI is awarding \$5,000 to various tribal nations that have been affected by this pandemic through NCAI's [COVID-19 Response Fund](#) for Indian Country.

Applications guidelines are located [here](#). NCAI Contact: Christian Weaver, *Vice President of Development*, cweaver@ncai.org

Coronavirus (COVID-19): FEMA Assistance for Tribal Nations

On March 13, 2020, the President announced a nationwide emergency declaration in response to coronavirus (COVID-19). As a result, tribal nations have two options to receive funding under the Presidential declaration.

- FEMA assistance for tribal nations related to COVID-19, click [here](#).
- What expenses qualify as Eligible Emergency Protective Measures, click [here](#).
- An example of a Tribal Public Assistance Administrative plan, click [here](#).
- FEMA regional tribal liaison and FEMA headquarters contact information, click [here](#).
- FEMA resources located on NCAI's COVID-19 microsite, click [here](#).

[GOLDEN STATE GRANT PROGRAM](#)

Attention CalWORKs families with an approved case status as of March 27 will receive a one-time Golden State Grant payment of \$600. The payment is to help families who may have been impacted by the COVID-19 pandemic. This payment is not a CalWORKs grant payment and not subject to hearing rights.

[FEMA COVID-19 FUNERAL ASSISTANCE](#)

If you've have lost someone to COVID-19, FEMA may be able to help with funeral expenses starting in April 2021.

NEW GRANT OPPORTUNITIES

[Grants to Support New Investigators in Conducting Research Related to Preventing Interpersonal Violence Impacting Children and Youth](#)

**Department of Health and Human Services
Centers for Disease Control and Prevention – ERA
RFA-CE-24-029**

Deadline: December 1, 2023

Applicants must propose a research project that addresses at least one of the research priorities in the interpersonal violence prevention section of the NCIPC Research Priorities (www.cdc.gov/injury/researchpriorities/index.html) as they relate to violence impacting children or youth (from birth through age 17). These research priorities include: Cross-cutting violence prevention, Adverse Childhood Experiences, Child abuse and neglect, Youth violence, Intimate partner violence (teen dating violence), and Sexual violence. Applicants are also encouraged to address the following: Multiple forms of violence impacting children or youth, Firearm-related behavior, crime, injuries, and deaths among children and youth, and the social or structural conditions that contribute to violence and health inequities across population groups.

[Research Grants for Preventing Violence and Violence Related Injury](#)

**Department of Health and Human Services
Centers for Disease Control and Prevention - ERA
RFA-CE-24-030**

Deadline: December 1, 2023

This initiative is intended to support effectiveness research to evaluate innovative programs, practices, or policies to address risk for violence and inequities in risk for violence among groups experiencing a high burden of community violence. Innovative approaches are those that have not been rigorously evaluated for effectiveness in reducing community violence.

[Fiscal Year \(FY\) 2024 AmeriCorps State and National Native Nation Grants](#)

**AmeriCorps
AC-08-19-23**

Deadline: April 5, 2024

AmeriCorps improves lives, strengthens communities, and fosters civic engagement through service and volunteering. AmeriCorps brings people together to tackle some of the country's most pressing challenges through national service and volunteerism. AmeriCorps members and AmeriCorps Seniors volunteers serve with organizations dedicated to the improvement of communities and those serving. AmeriCorps helps make service a cornerstone of our national culture.

[Engaging Survivors of Sexual Violence and Trafficking in HIV and Substance Use Disorder Services](#)

**Department of Health and Human Services
National Institutes of Health
RFA-DA-25-018**

Deadline: August 5, 2024

The goal of this concept is to support exploratory research and preliminary interventions to address the interrelated and compounding contextual factors that contribute to substance use and HIV risk among sexual trafficking survivors. This would be accomplished through research that builds new interventions and models of care that can effectively engage ST survivors in care for SUD, HIV, trauma, and other mental health outcomes and addresses key structural and social determinants of health that contribute to risk for ST as well as barriers to and facilitators of escaping continued exploitation.

PREVIOUSLY REPORTED GRANT OPPORTUNITIES

[Behavioral Health Bridge Housing \(BHBH\) Program-Tribal](#)

**California Department of Health Care Services (DHCS)
Behavioral Health Bridge Housing**

Deadline: September 15, 2023

BHBH Program funding will make available up to \$50,000,000 total to California Tribal entities for use in the planning and implementation of bridge housing services for individuals in Tribal communities experiencing homelessness who have serious behavioral health conditions (serious mental illness and/or substance use disorder).

[2023 Continuum of Care Competition and Renewal or Replacement of Youth Homeless](#)

Demonstration Program Grants

Department of Housing and Urban Development

FR-6700-N-25

Deadline: September 28, 2023

The Continuum of Care (CoC) Program [24 CFR part 578] is designed to promote a community-wide commitment to the goal of ending homelessness; to provide funding for efforts by nonprofit providers, States, Indian Tribes or Tribally Designated Housing Entities [as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) (TDHEs)], and local governments to quickly rehouse homeless individuals, families, persons fleeing domestic violence, dating violence, sexual assault, and stalking, and youth while minimizing the trauma and dislocation caused by homelessness; to promote access to and effective utilization of mainstream programs by homeless individuals and families, and to optimize self-sufficiency among those experiencing homelessness.

[Tribal Broadband Connectivity Program](#)

Department of Commerce

NTIA-ICG-TBCPO-2023-2008098

Deadline: January 23, 2024

The TBCP provides new federal funding for grants to Eligible Entities to expand access to and adoption of: (i) broadband service on Tribal Land ;or (ii) programs that promote the use of broadband to access remote learning, telework, or telehealth resources.

[Initiation of a Mental Health Family Navigator Model to Promote Early Access, Engagement and Coordination of Needed Mental Health Services for Children and Adolescents](#)

Department of Health and Human Services

National Institutes of Health

PAR-23-094

Applications accepted now

Deadline: July 5, 2024

Applicants are required to develop and test the navigator model's ability to promote early access, engagement, coordination and optimization of mental health treatment and services for children and adolescents as soon as symptoms are detected. Applicants are also required to identify and test components of navigator models that drive improvements in mental health care; detect and interrogate tailoring variables that optimize the 'personalized match' between the unique mental health needs of youth to the appropriate level of intensity and frequency of mental health services; and utilize emerging novel technologies to track and monitor the trajectory of clinical, functional and behavioral progress toward achieving intended services outcomes.

[NIDA Research Center of Excellence Grant Program](#)

Department of Health and Human Services

National Institutes of Health

PAR-23-076

Open Date (Earliest Submission Date): August 25, 2023

Deadline: November 18, 2025

This Funding Opportunity Announcement (FOA) is to provide support for research Centers that (1) conduct substance use and addiction research in any area of NIDA's mission, including the intersection of substance use/addiction and HIV, (2) foster outstanding innovative science, (3) are multidisciplinary, thematically integrated, and synergistic, and (4) serve as national resource(s) to provide educational and outreach activities to relevant research communities, educational organizations, the general public, and policy makers.