



2120 L Street, NW, Suite 700
Washington, DC 20037

T 202.822.8282
F 202.296.8834

HOBBSSTRAUS.COM

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GENERAL MEMORANDUM 14-093

Attorney General Holder Announces Indian Child Welfare Act Compliance Initiative

Attorney General Eric Holder announced at the December 3, 2014, White House Tribal Nations Conference that the Department of Justice (DOJ) is establishing an Initiative to promote compliance with the Indian Child Welfare Act (ICWA). Part of the effort will be aimed at identifying state-court cases where DOJ can file briefs opposing the unnecessary removal of Native children from their tribal communities. The National Indian Child Welfare Association and other Indian organizations¹ and individuals have long advocated for improved state compliance with ICWA, and the establishment of this Initiative is a very hopeful development.

The DOJ will partner with the Departments of Interior and Health and Human Services (HHS) in this endeavor. Neither Interior nor HHS has in the past taken the initiative to promote or monitor ICWA compliance or to collect data related to it. The requirement under the Social Security Act's Title IV-B (child welfare) program which requires states to include in their Title IV-B plans information on how they are complying with ICWA is not well tracked.

The ICWA Initiative will also involve working with tribes and Indian child welfare organizations regarding ICWA training for state judges and agencies; gathering information regarding systematic non-compliance with ICWA; and promoting tribal authority to make tribal child placement decisions.

The text of the Attorney General's speech may be found at:
<http://www.justice.gov/opa/speech/attorney-general-eric-holder-delivers-remarks-during-white-house-tribal-nations>

We anticipate more developments as the Indian Child Welfare Act Initiative is implemented.

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Inquiries may be directed to:
Karen Funk (kfunk@hobbsstrauss.com)

¹ It was the groundbreaking surveys of the Association on American Indian Affairs in the 1970s showing that 25-35 percent of Indian and Alaska Native children had been removed from their communities and placed in foster or adoptive homes or institutions (with much higher rates in some states) which led to the enactment of the Indian Child Welfare Act in 1978.