

Tribal leaders discuss future of ICWA

By Danielle Harrison

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In its Tuesday, Nov. 15, Facebook Live session, Tribal leaders and employees discussed the importance of keeping Tribal children connected to each other and their culture through the Indian Child Welfare Act.

Tribal Council Chairwoman Cheryle A. Kennedy shared her personal connection to ICWA.

“I was one of four people in the Northwest that helped prepare draft language for ICWA before the Tribe was restored,” she said. “There was research done at that time to gauge the level of demand for this law and the results of the research were appalling to see. ... I lived this experience and also tried to right this wrong for our Indian people.”

Kennedy was joined in the discus-

sion by fellow Tribal Council member Michael Cherry, Social Services Manager Dana Ainam, Children & Family Services Program Manager Kristi Petite and CFS Supervisor Amber Zimbrick.

Congress passed the federal Indian Child Welfare Act in 1978 to extend protection to Tribal families by keeping Tribal children connected to their culture and to help preserve Tribes. Before the act was passed, children were frequently removed from their families and communities, and typically placed with non-Native families, often permanently without reason or any connection to their roots.

The constitutionality of the federal act was argued before the U.S. Supreme Court on Wednesday, Nov. 9, during the Haaland v. Brackeen case, a lawsuit brought by Texas (and previously Indiana

and Louisiana) and several individual plaintiffs who say the ICWA is unconstitutional and racist. The government lawyers say it is not based on a racial classification, but a political relationship that is written into the Constitution. The Supreme Court generally issues its rulings on cases in May and June, according to [supremecourt.gov](https://www.supremecourt.gov).

“ICWA is a good law and it is not race-based. It is because of a legal remedy for the original people of this land,” Kennedy said.

As a child, Kennedy recalled hiding with five other siblings by a creek every time an unrecognizable vehicle came down the gravel road near her home.

“In the 1950s, my father was murdered and the state law in Oregon at the time was to save Indian children from their Native heritage,” she said. “When you were a single parent, a mother, you were looked at as not being able to provide for your children. The state would take you. A number of laws tried to erode Indian families.”

Thankfully, she and her siblings were adopted by her grandparents and continued to live in the same home.

“We would joke with our mother, ‘You’re our sister, right?’” Kennedy said.

When Kennedy worked in mental health services several years later, those memories never left and she and others worked hard to garner support for the federal passing of ICWA.

“There were a number of hearings across the United States to gather Tribes into supporting this,” she said.

ICWA remained an unfunded and often unfollowed federal law for several years, but Tribes rallied

around the idea of keeping children in their community and with their extended family, and eventually ICWA came to be seen as the “gold standard” of the foster care system.

“I hear a lot of times that ICWA was needed for a long time,” Zimbrick said. “It makes me feel really emotional to think of Native children being two to three times more likely to be removed from their homes than white children. Every day, I go and advocate for ICWA and our families in the system. I worry if the law is deemed unconstitutional, the impacts it could have on families and Tribal sovereignty.”

Cherry, who began her career with the Tribe working in child welfare, noted that Oregon is the sixth highest state in the country for children who are placed into foster care.

“By comparison, all other ethnic minority groups (in foster care) have stayed steady or decreased,” she said. “Native American children in foster care have increased. It’s alarming and shows how important it is to continue this work and education. ... It’s been very eye opening for me.”

Ainam added that Native American families are also more likely to be reported to the state, have an investigator assigned and the children stay in foster care longer.

“ICWA brings a sense of relief and connection for families and children,” she said. “It’s critical that we are able to be at the table.”

In 2020, the Legislature passed the Oregon Indian Child Welfare Act, which aligned with the federal law while also recognizing the needs of the nine federally recognized Tribes in the state. If ICWA is overturned by the Supreme Court, the state law will still be in place. ■



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