

# Starting A Tribal Court CASA Program

## What is CASA? What Does a CASA Do?

A CASA (Court Appointed Special Advocate) is a community member appointed by a judge to represent the best interests of a child in court. CASA volunteers generally are appointed by the court to advocate for children who are victims of abuse or neglect.

A CASA is an independent, objective advocate for the child who makes recommendations to the court regarding the child's best interests. The CASA gathers independent information by reviewing all records pertaining to the child and talking with the child and others involved in the case. The CASA then makes recommendations to the court and monitors the progress of the court approved plan for the family. A CASA volunteer usually handles only 1 or 2 cases at a time - so that they can concentrate solely on the needs of the child. CASA volunteers generally handle a case until it is permanently resolved.

## Do We Need CASA?

All Indian children have a right to a home with loving people to care for them. However, each year in the United States, millions of children are abused, neglected, or abandoned by their families. Eventually, many of these children end up in court with a judge deciding their future - should the child remain in foster care, be reunited with their parents, be placed with someone else in their extended family, or be adopted? The needs for children may be lost in an overburdened child welfare system that cannot pay close attention to each child.

In order to determine the need for a Tribal Court CASA Program, it is necessary to understand the historical backdrop of Native American child welfare policy. Beginning in the 1800s, the United States implemented an oppressive assimilationist policy towards Native Americans and Native American children in particular - forcibly taking Native American children from their homes and sending them to boarding schools where they were severely punished for speaking their Native languages and practicing Native customs and religious practices.





In more recent years, the removal of Native American children from their homes continued, but more often the children were placed in non-Indian foster care and adoptive homes at an alarming rate rather than boarding schools. For example, in 1974, 25% to 35% of all Native American children were in some type of out-of-home placement. In response to this extraordinarily high number of out-of-home placements of Native American children, Congress passed the Indian Child Welfare Act (ICWA) in 1978 (25 U.S.C. 1901-1963).

ICWA clearly recognizes that “there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children.” In order to protect the best interests of Native American children and to promote the stability and security of Native American tribes and families, Congress set forth two basic jurisdictional and procedural requirements.

- ⇒ First, ICWA provides that whenever possible Native American child dependency cases should be heard in tribal courts where it is presumed that the essential tribal relations and the prevailing cultural and social standards will be respected.
- ⇒ Second, for those cases which remain in state courts, ICWA provides a series of procedural safeguards to protect Native American children.

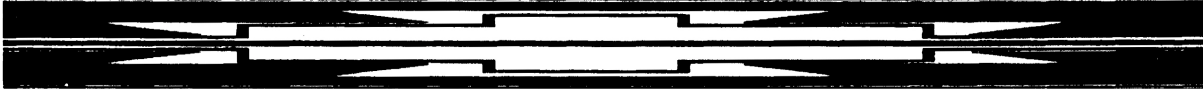
This Congressionally recognized need for Native American child dependency cases to be heard in tribal courts makes it imperative that tribal courts be provided with adequate information in order to be able to determine the best interests of the child. Tribal court CASA programs can provide the tribal court with independent, culturally knowledgeable advocates to speak for the best interest of children. If you have concerns about Indian children having a voice in court, then a tribal court CASA program may be one solution.

## **What Do We Do First?**

There are at least four key steps in the development of a tribal court CASA program.

**T**he first step is to become knowledgeable about the problems of child abuse and neglect in your community and how a tribal court CASA program might meet existing needs. You may already be knowledgeable about the problems of child abuse and neglect in your community or you may be able to obtain this information from the service providers in your community (such as the Indian Child Welfare Program, other child protective services programs, child protection team, or tribal court personnel). Information and assistance concerning how CASA operates and its benefits to the community can be obtained from the National CASA Association and other CASA programs. Information concerning the tribal court CASA programs can be obtained from the National CASA Association at 1-800-628-3233.

**T**he second critical step is to seek the support of the judge(s), the service providers, the child protection team, tribal leaders, and the community. How you approach this step will depend upon many factors, including your own role in the community. It is particularly important, however, to seek the support of the tribal court judge(s) responsible for handling child abuse and neglect cases early in your planning process. If the judge does not want the program and does not offer support, then the program will not succeed. Some initial reluctance on the judge’s part is not unusual and should not discourage you. Often, you can counter the judge’s objections by providing information about how CASA programs operate, how CASA can be adapted to



meet the needs of tribal courts, and how CASA can benefit the community. The opportunity to talk with other judges, especially other tribal court judges, who have CASA programs may also be persuasive. Ultimately, however, you will need the support of the judge(s) - and the service providers, the child protection team, tribal leaders, and the community - in order to implement a tribal court CASA program.

**T**he third key planning step involves determining the factors which will facilitate the development of a tribal court CASA program and the barriers which will have to be overcome before the program can succeed. Knowledge and good planning will assist you in foreseeing problems and obstacles, and will help you be ready to meet them head on.

**T**he fourth key planning step is to determine the administrative location for the tribal court CASA program. Many CASA programs are established as non-profit corporations. While this may be feasible for some tribal court CASA programs, most tribal court CASA programs have been established as tribal programs under the general authority of the tribal government. There are potential conflicts of interest (or perceptions of conflicts of interest) if the tribal court CASA program is administratively located under an office which is already directly involved in child protection cases - such as the prosecutors office, defenders office, Indian Child Welfare program, child protective services program, or directly under the judge. Consequently, you should consider other possible options, if feasible, including the following: locating the program under the court administrator, having the program operate as its own separate tribal department, operating in association with a domestic violence program, operating through the child protection team, or establishing a tribally chartered non-profit corporation.

Developing a tribal court CASA program is a formidable job and requires the involvement of many people in the community. Getting support from the necessary individuals and spending time in planning the program is an investment in its long term success.

### **What Do We Need To Know Before We Get Started?**

How many child abuse and neglect reports were made to Indian Child Welfare/child protective services last year?

Of these reports, how many were substantiated?

Does your tribal court assert jurisdiction over both civil and criminal child abuse and neglect cases? Are there jurisdiction problems with the state courts concerning child abuse and neglect cases (for example, how well does the state court comply with the Indian Child Welfare Act)?

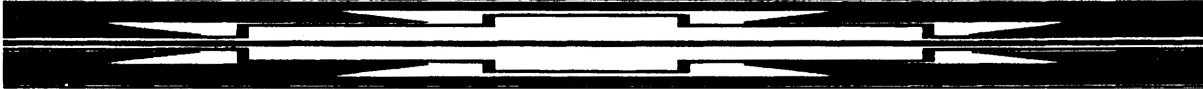
What does your tribal code provide with regard to the jurisdiction and handling of child abuse and neglect cases?

How many new child abuse and neglect cases were filed in tribal court last year?

How many new child abuse and neglect cases involving tribal children were filed in state court last year?

How many children in your community are currently in foster care placements?

What is the average length of time children remain in foster care placement before a permanent plan is achieved?



How many children were terminated from court involvement last year? Of that number, how many were returned home? How many were placed with the extended family? How many were placed for guardianship? How many were placed for adoption?

How many children in your community are currently placed with non-Indian families?

How many children in your community are currently waiting for adoption?

Are guardians ad litem currently provided in tribal court? If so, is every child involved in an abuse or neglect proceeding appointed a guardian ad litem? If not, which cases do receive appointment? How many children were represented by a guardian ad litem last year?

How do the judge(s) responsible for child dependency cases rate the current system?

Are the judge(s) satisfied with the information being provided to assist their decision making?

Does the tribal code define the role of guardian ad litem? If yes, what is it?

Does the tribal code specify who can serve as guardian ad litem? If yes, who can serve?

What is the average number of cases carried by the Indian Child Welfare or child protective services workers?

What is the average number of foster care placements for each child in foster care?

What services are currently available for abused or neglected children in your community?

How many of the service providers are tribal members or familiar with the tribal culture?

## **How Can CASA be Adapted to Meet the Needs of Tribal Courts and Native American People?**

The CASA concept is a flexible approach to providing advocates for children in child dependency proceedings which can be adapted to meet the needs of individual Native American communities. The following is a listing of some of the CASA adaptations and innovative policies and procedures which are being developed by the current Tribal Court CASA Programs:

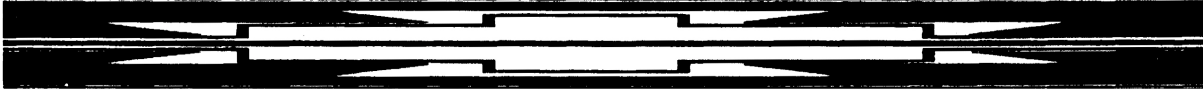
***Recruiting Native American Volunteers:*** Many different innovations are being utilized, including community education, brochures/posters, tribal newsletters, tribal resolutions, adding CASA provisions to the tribal code, and utilizing students from tribal community colleges as CASA volunteers.

***Tribal Resolutions on CASA:*** On many Indian reservations, the largest employer is the tribe itself. The tribe may hire employees to perform various tribal governmental functions and also to work for tribal business enterprises. Your tribal government may enact a tribal resolution endorsing the CASA program and give tribal employees time off from their jobs to perform CASA duties.

***Obtaining Credit at Tribal Colleges for CASA Volunteers:*** Work with your tribal college to recruit and train students as CASA volunteers and provide the students with college credit for performing their CASA duties.

***Incorporating Tribal Custom and Tradition:*** Some of the innovations have included providing CASA training on tribal custom and tradition and traditional child rearing methods, use of tribal language whenever appropriate, use of tribal elders as trainers, use of peacemaking/traditional dispute resolution methods, and use of other traditional methods such as family group conferences.

***Involvement of Tribal Elders:*** Tribal elders in the tribal court CASA program can serve as trainers, CASA



volunteers, board members, and program promoters. Tribal elders may be partnered with a younger CASA to create a CASA team where oral history and written duties are shared.

**Small Tribal Community Issues:** The programs have also developed policies and procedures concerning small tribal community issues. Some of these issues are related to the nature of a small rural community where everyone knows each other, but other issues are related to the specific nature of Native American communities. For example: the nature of most tribal communities make it impossible to only assign CASA volunteers to cases in which they do not know the parties. Programs are developing alternative methods for screening CASA assignments with a different focus on the definition of “conflict of interest.”

**Establishing an Image**

One of the most important steps you’ll be taking in starting a CASA program involves establishing an image. Some of the tribal court CASA programs have decided to use traditional concepts and/or word(s) from their tribal language for their program name. Other programs have developed traditional program logos (see illustration from the Grand Traverse Band CASA Program). The traditional program name and/or logo can be used along with the CASA name and logo. Although other names can be used, we encourage you to use the “CASA” name, the CASA logo, and the CASA slogan “Speak Up For a Child” because it links your identity with the identity of the entire CASA movement. Remember that the logo and the slogan are authorized for use by member programs only. The decisions you make in the early stages about who you are and what you are called will impact the future of your program. The effectiveness that CASA can have nationally is strengthened by a network of programs that are recognized as part of that movement.

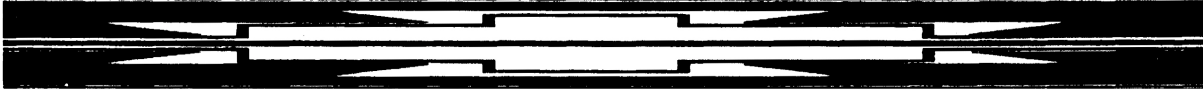


The Grand Traverse Program has developed which utilizes tribal tradition to illustrate the program. The Grand includes a bear which medicine stepping in to children - like the tribal steps in to protect

Moreover, the logo represents that the CASA has to have the same qualities as the bear in order to perform their role - the CASA volunteers have to be brave and strong and they can draw upon the strength of the bear to fulfill their role.

Band CASA a program logo custom and C A S A Traverse logo represents good protect justice system children.

For more information about the National CASA Tribal Project, please contact The National CASA



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