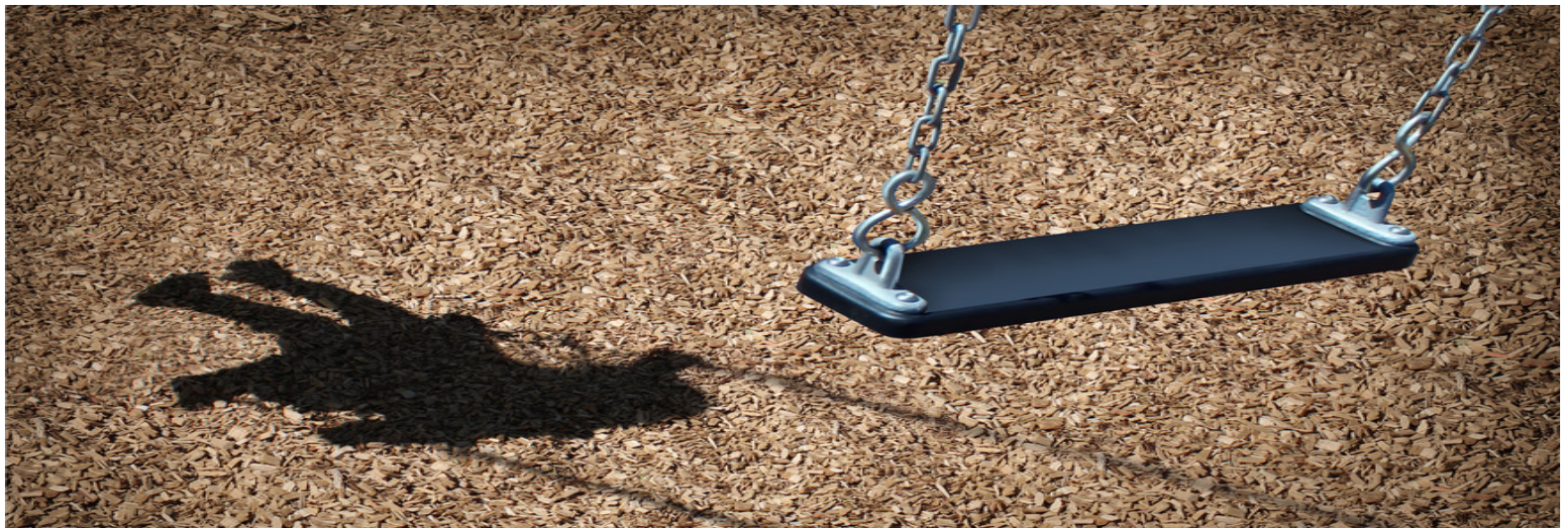




Child Abduction T.I.P.S. (Training, Information, Practices & Strategy)

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Child Abduction Units and Tribal Nations

By Lisa Loyola, DDA, Riverside County District Attorney's Office, Child Abduction Unit

Today, there are 573 tribes recognized by the U.S. government of which 109 tribes are in California. This status provides for a government-to-government relationship between tribal nations and the U.S. government, and acknowledges their right and ability to create their own laws and manage their lands and resources. Each Native American tribe across the country is unique, and that level of diversity is also seen throughout California. There are over 100 reservations or Rancherias in California, spread out all over the state near cities and in rural areas, from the high desert to the coast. California tribes also have a wide range of populations – anywhere from less than 10 to over 6,000 members. Some California tribes have a separate judicial system with elected or appointed Tribal Court judges, while other tribes may elect to do all official business, including judicial matters, through a Tribal Council. For many tribes, the highest legislative priority is the protection of their children.

As a team member of your child abduction unit, you may find yourself handling a case where California custody orders need to be executed on an Indian reservation or where tribal court orders are sought to be enforced in California counties. In matters where tribal court orders need recognition and enforcement in your county, a party must seek to register and domesticate those orders in your family law court given that tribes are treated as they “were a state of the United States.” See, California Family Code Sections 3404(b) and 3443. Moreover, a “child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this part must be recognized and enforced.” See, California Family Code Section 3404(c).

Counties should be careful not to dismiss the validity of tribal judgments because they look unfamiliar or are not issued by a court. While there are some California tribes which have separate judicial branches of government or a separate court house building, not all tribes do. Tribal judgments can be issued through a tribal council, which may be reflected by a formal tribal resolution, but may not. As sovereigns, each tribe decides the process for making its own rules, including how their final judgments are delivered. Additionally, California tribes have varying degrees of cooperative agreements with local counties.

If you are seeking enforcement of a California custody order on an Indian reservation in California or anywhere else, you should be aware of the correct exercise of tribal jurisdiction in addition to applicable state and federal laws. If a case involves an Indian child, the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”) may apply if that particular tribe has chosen to abide by it, be it completely or discretionally, or not at all. If there is a related child custody proceeding in state court, the federal Indian Child Welfare Act (“ICWA”) may also apply if the child is an “Indian child.” It is also important to remember that tribal court jurisdiction over Indian children may exist concurrently with other state court orders in a different area of law. For example, a state family law order may exist alongside a subsequent protective custody order from Tribal Court. It is important to communicate early and often with a tribe that has jurisdiction, noting also that many tribes do not require formal legal training for their attorneys or judges.

Continue reading this article on our website at <https://cirinc.org/abduction/child-abduction-units-and-tribal-nations.html>.

Commercial Exploitation of Children (CSEC)

*By Xiomara Flores-Holguin, MSW, Children Services Administrator, LA County
Department of Children and Family Services*

The California Abduction Taskforce joins child-serving agencies to protect and serve child victims of commercial sexual exploitation (CSEC). The taskforce is committed to protecting “recovered” abducted CSEC throughout the state and country. CSEC is a rampant and fast-growing problem: Three of the nation’s 13 high-intensity child sexual exploitation areas as identified by the FBI are located in California: Los Angeles, San Francisco and San Diego metropolitan areas.

The commercially sexually exploitation of children (CSEC) is a form of human trafficking that involves the exchange of money, goods, or services to a third person or persons for the sexual use of a child. Children are recruited by force, fraud or coercion for the purpose of sexual exploitation.

The child is treated as a commercial and sexual object. This is a form of child sexual abuse that is experienced primarily by girls and increasingly by boys. Commercial Sexual Exploitation can occur through:

- Pornography
- Stripping
- Gang-based exploitation
- Sports events, private parties
- Trafficking of girls and boys and adolescents for the sex trade
- Interfamilial exploitation

Children and youth in the child welfare system are particularly vulnerable to CSEC. Abuse and neglect, multiple placements and lack of healthy relationships create vulnerabilities that exploiters target. A recovered “out-of-county” foster youth reported to her child welfare worker that she and her adult boyfriend came to Los Angeles because he told her she could become a dancer in Hollywood. She admitted that he had lied to her because he wanted her to only work the track. This youth was returned to her county of origin and her exploiter was not identified.

We must rethink the perception of victims. An important part of taking action against CSEC is reframing perceptions about its victims and fighting the stigma that surrounds this issue. We must be better than their exploiters/traffickers.

Here are some facts:

- Many victims of sex trafficking have been molested, raped and/or sexually assaulted by a family member or a close family friend. 95% of CSEC were victims of earlier childhood sexual abuse.
- Given the few choices some youth have, when he/she sells sex at the hands of an exploited adult, it is largely a means of survival.

In closing there is a shift in the legislation. California has unequivocally declared that there is No Such Thing as a Child Prostitute:

SB 855 (2014):

- Makes the commercial sexual exploitation of a minor a mandatory child abuse report.
- Clarified that a child who is sexually trafficked and whose parent or guardian has failed or is unable to protect him or her can be served through child welfare as a victim of abuse and neglect

SB 1322 (2017):

- Decrim law: Decriminalization that crimes of prostitution and loitering with intent to commit prostitution (crimes listed in 647 and 653.22 of the Penal Code) for minors.
- Peace officer who encounters a child involved in a commercial sex act pursuant shall report suspected child abuse or neglect of the minor to the county child welfare agency.

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