

PASCUA YAQUI TRIBE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

2019 / 2020 ICWA ANNUAL REPORT

# Utteaka Nau Naawak

Togetherness, Strong Roots





### TRIBAL COUNCIL 2020-2024

- |  |   |
|--|---|
| <b>Peter Yucupicio, Chairman</b>         | <b>Antonia Campoy, Councilmember</b>      |
| <b>Robert Valencia, Vice Chairman</b>    | <b>Herminia Frias, Councilmember</b>      |
| <b>Sergio Varela, Treasurer</b>          | <b>Andrea Gonzales, Councilmember</b>     |
| <b>Francisco R. Valencia, Secretary</b>  | <b>Angelina Matus, Councilmember</b>      |
| <b>Catalina Alvarez, Councilmember</b>   | <b>Francisco Munoz Jr., Councilmember</b> |
| <b>Mary Jane Buenamea, Councilmember</b> |   |

The Pascua Yaqui Tribal Council is an elected body that serves a four year term. The current Council took Office in June 2020. The Council selects four of its members to serve in Executive roles that include a Chairman, Vice Chairman, Secretary and Treasurer. Councilmembers also serve on various government operations through face-to-face, regularly scheduled meetings with Division/Department Directors and key staff.



# HISTORY OF THE PASCUA YAQUI TRIBE

## BACKGROUND

The Yaqui people have inhabited many parts of North America, from northern Mexico and the southern United States from Arizona, west to California and north to Colorado since 500 AD. The Yaquis' main territorial base is located along the Rio Yaqui in Sonora, Mexico and consists of eight original pueblos: Benem, Huiviris, Rahum, Potam, Vicam, Torim, Bacum, and Cocorit. The name Yaqui was given to the "Yoeme" (the Yaqui word for "People"), by the Spanish who called the Yoeme Haiki (Yaqui), which is the Yoeme word for "speech."

Historically, the Yoeme resided in six main Yaqui communities: (1) Guadalupe, near Phoenix; (2) old Pascua Village, in downtown Tucson; (3) Pascua Yaqui Pueblo, which is the Yaqui Reservation outside of Tucson; (4) Barrio Libre, in the City of South Tucson; (5) Yoeme Pueblo, in Marana; and (6) Penjamo in Scottsdale. These six communities, in addition to others in Coolidge, Scottsdale, and elsewhere, continue today.

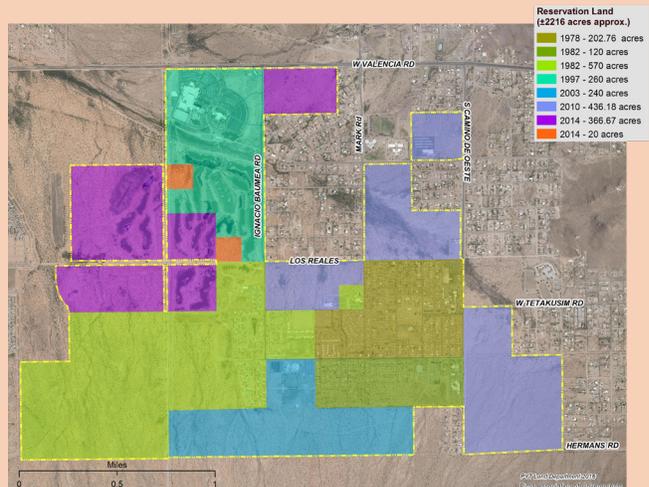
In 1964, a bill was passed for the transfer of two hundred and two acres of desert land to the Yoeme where they could maintain their tribal identity. Many Yoeme moved to this new land, now the Pascua Yaqui Reservation, located seven miles west of I-19, south of Valencia Road. The Pascua Yaqui Tribe gained federal recognition as an Indian Tribe on September 18, 1978 and passed its first Constitution in 1988. On October 14, 1994, Congress adopted Public Law 103-357, recognizing the Pascua Yaqui Tribe as a "Historic Indian Tribe," possessing all sovereign rights of an Indian Tribe.

The tribal and federal governments provide health, education, social services, vocational training, and housing services to tribal members. Additionally, the reservation community is provided public safety services. Annual celebrations include Tribal Recognition Day on September 18 and the Easter ceremonies, which start each year on Ash Wednesday and continue through the Lenten Season.



## PASCUA YAQUI RESERVATION

Approximately 2,216 acres  
Last updated June 2016



## ICWA MISSION STATEMENT

The Pascua Yaqui Tribe recognizes that our Yaqui children are our future. Together in genuine partnership with families, our community, and other governmental agencies we strive to provide support for children and families in reaching their full potential. Our vision is to strengthen families and promote the well-being of our children through prevention, intervention, education and advocacy.

Hiak Pahkua Motchaala Nau Ho'arakame, Itom yoemia taa hu'uneiya. Ito vetchi'ivo am haptia nokitune'epo into nau nana'anapo siimem nau welisia, Itom vatoraata. Yaura vetana hoara'apo itom utte'amak hunaman yeu toha'u waka hiapsamta tu'l vatoita itom yoemiam vetana. Navuhti vicha au suawamta into waka vem emo mahtatevone'epo waa hinamiamake.

La Tribu Pascua Yaqui reconoce que nuestros niños son nuestro futuro. Existe una colaboración única entre familias, nuestra comunidad y entre otras agencias gubernamentales, y juntos hacemos el esfuerzo de proveer el apoyo para los niños y familias en realizar su potencial. Nuestra visión es de fortalecer las familias y promover el bien estar de nuestros niños a través de prevención, intervención, educación, y abogacía.



Purpose of the children's book was to bring awareness to our ICWA children on their Yaqui Culture and Lifestyle. We wrote this children book in hopes every child in care can learn and share their culture.



### PIMA COUNTY

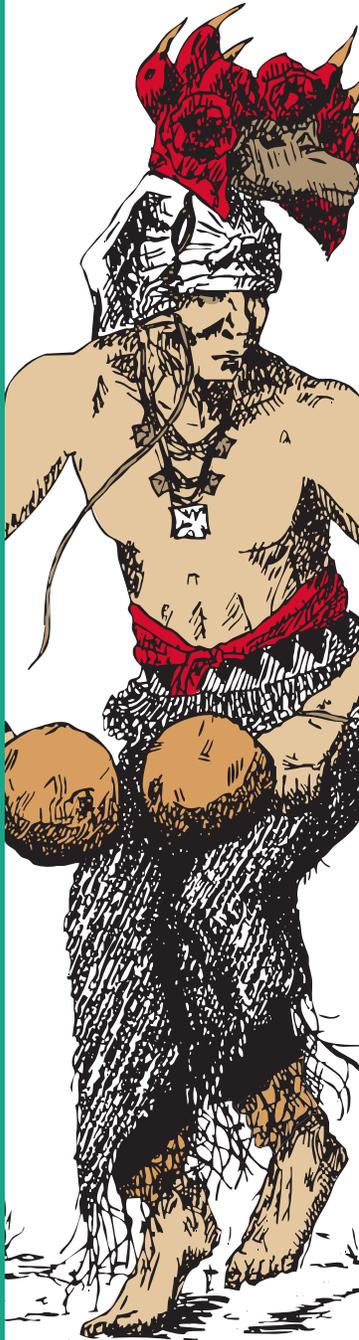


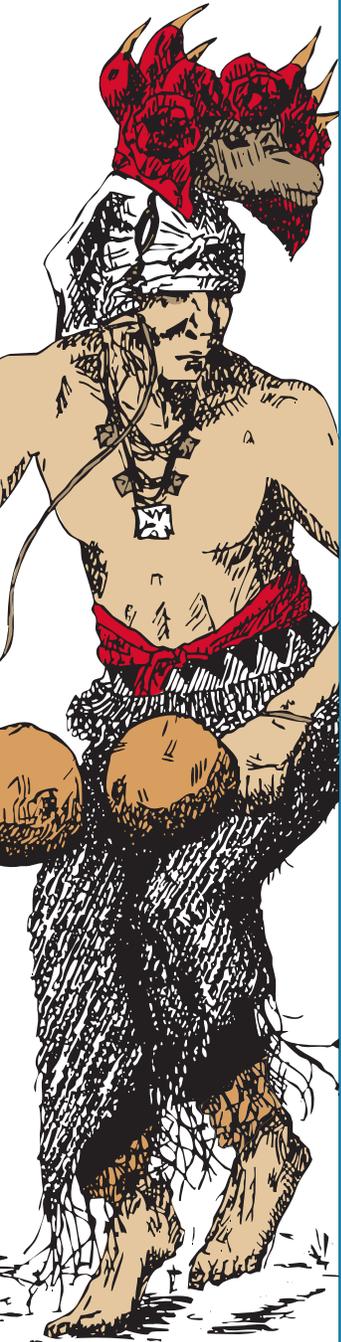
Bottom Row; Left to Right: Christopher Molina Jr., Tamara Walters  
Top Row; Left to Right: Norena Valencia, Tony Sanchez, Marissa Quiroz

### MARICOPA COUNTY



Left to Right: Tara Hubbard, Selena Gortariz





## My Reflection On 20 Years of Representing the Pascua Yaqui Tribe in ICWA Cases

My journey into the realm of ICWA began twenty years ago when Chairman Robert Valencia decided to have in-house representation and intervention in all ICWA cases and asked me to begin the process. The story he shared of loss, boarding school tragedy, and the cultural value of family and community connection as he passed the torch to me has never been forgotten and I have worked diligently to ensure that the many hundreds of Yaqui children and families that I have encountered are protected by the ICWA mandates and have a cheerleader by their side.

At the beginning, there were about 20 cases in Pima County and 5 in Maricopa County. When I would show up to court hearings, the response was usually that I did not need to be there, and I could call in and that tribes just didn't get that involved. I kept showing up and filing motions to intervene, motions to place children with relatives, and motions to set aside orders made in violation of the mandates of ICWA. As word got out among the Tribal Members and the State, the Tribe received more and more notices and the case load grew to an average of 65 open cases. In the good old days, ICWA was interpreted to defer to the Tribe to decide which relative would be placement and whether the permanency plan would be reunification or guardianship. Then came changes in leadership and policy in the Department of Economic Security (now Department of Child Safety), changes in the law (for example ASFA and Arizona Statutes decreasing time in care to six months for a child under 3), and cases and case law challenging ICWA (for example the Baby Veronica Supreme Court Case, and good cause to deviate because of bonding with the foster family), and litigation increased significantly. The shift was then the Tribe having to convince the Court why ICWA should be followed to place Yaqui children with their relatives, to make further and active efforts for the parents to reunify, and to consider guardianship as a resolution. Positive changes then came with the new Regulations and Amended BIA Guidelines, the Department of Child Safety's new child safety policies, and even the shock from the Brackeen decision, and there was a shift back to the State and Courts emphasizing compliance with ICWA and working closely with the Tribe (for example specialized ICWA Courts are being set up and there have been discussions to propose a State ICWA.) The Tribe has steadily increased the number of children returning to their parents or remaining with their relatives, and I must commend the wonderful work of the Tribal ICWA case workers, Tony, Juanita and Selena, who are so dedicated and go beyond the call of duty.

This position has taught me to be extremely organized and flexible. I was a single mother of two children and managed to get them to school and summer programs, drive through Phoenix traffic (past accidents, through dust and rain storms) several days a week for court hearings in the morning and drive back to Tucson for court hearings in the afternoon (sometimes having to call- in roadside in the heat), return home to prepare dinner and review homework, work until 1:00 a.m. (sometimes at the office) and keep up with it all thanks to my mother, paralegals Norena and Marissa, and the enjoyment I received from doing this work. As much fun as I had in Maricopa County, I am relieved that Tara has taken over. This position has also given me the opportunity to experience the Pascua Yaqui family values, culture and community, and to truly understand the importance and necessity of the Indian Child Welfare Act.

# Tamara Walters 20 Years of Service



Tamara Walters, ICWA Attorney

## editorials

### American Yaqui Indians Facing Dilemma

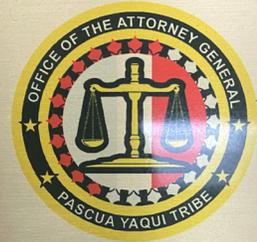
The Pascua-Yaqui Assn., formed in 1964 to build a new village for the community's Yaqui Indians here, is asking Congress for status as an American Indian tribe.

The Yaqui presence in Southern Arizona is a confused history. The Yaqui is considered to be a Mexican tribe, but so, at one time, was the Papago Indian tribe. Under the Treaty of Guadalupe-Hidalgo of 1848 and the terms of the 1853 Gadsden Purchase in which a portion of Mexico was ceded to the United States, Indians living in the ceded territory were given status as American Indians.

ditions and well-intentioned philanthropists who helped, fought over and with the Yaqui people.

The Pascua-Yaqui Assn., amidst much internal turmoil, pulled many of those resources together in concerted effort to build the new village, a modern community of homemade adobe and machine-made trappings. But most of that volunteer effort has faded now. The Office of Economic Opportunity, a major contributor in the initial effort, is no more.

Now there are major problems. The village needs a sewer system, but because



Presented to

**Tamara Walters**

In recognition of your  
20 years of service  
to the Pascua Yaqui Tribe  
Office of the  
Attorney General

### Yaquis ask federal help in battling county code

By DAN M. HUFF  
Citrus Staff Writer

The poverty stricken Yaqui Indians are pleading with the United States government to open the fort gates and shelter them from county raiders threatening their community and culture.

"Although desperately in need of low-cost housing in their settlement of New Pascua Village southwest of Tucson, the once nomadic Yaquis refuse to bow to county building code requirements, a refusal that has stalled construction for more than a year on more than 200 homes.

They fear a possible tribal status would mean a federal government. That status, they say, is a mist if they are to salvage their cultural heritage from the onslaughts of modern life in Arizona. And tribal status would immunize them against the building code.

Commission on Indian Reservations is subject to federal codes, not local ones. Yaquis consider themselves a tribe and they fear that if they accept a local code it could be construed as an admission that they are not a tribe. Furthermore, yielding to the code would add \$50 to the cost of their homes, they say.

County officials are sympathetic with the Yaquis' dilemma, but they insist that the Indians secure building permits, adhere to the code and allow inspectors to check the work. Otherwise, the county might be vulnerable to lawsuits if per-

thouses of the early 1960s, they were classified simply as citizens.

They have lived in poverty since. Nearly 3,000 of them in the Tucson area today. Unlike officially recognized Indians they have no reservation. Until 1964 they lived in Old Pascua, a shanty town settlement south of West Grant near Interstate 10. Then the federal government decided 202 acres located eight miles from Tucson on Valencia off Camino del Oeste.

#### Land of their own

It wasn't a reservation, but it was land they could call their own — a cultural and social oasis in the searing sp desert of the Angles.

"The government gave us the land for New Pascua to save and enhance our culture," says a discouraged Ray Ybarra, executive director of the Pascua Yaqui Assoc. "Now all this mess comes up and New Pascua may be the way of Old Pascua."

Old Pascua is dying today, Ybarra says, because of overly high taxes. "When the Model Cities program was begun in 1964 I several years ago they put in paved streets, sewage lines and streetlights. Now all those people are being as by the city for those improvements and they can't all pay. Many have been moved into public housing projects.

# ICWA HISTORY AND PURPOSE

The Indian Child Welfare Act (ICWA) is a federal law that seeks to keep Indian children with Indian families. It was passed in 1978 in response to compelling evidence of the high number of Indian children that were being removed from their families by public and private agencies and placed in non-Indian families. Prior to the passage of ICWA, approximately 75-80 % of Indian families living on reservations lost at least one child to the foster care system. Child Welfare agencies were often ignorant, indifferent or insensitive to cultural differences in child rearing and parenting practices and, as a result, many unnecessary, and unwarranted, foster and adoptive placements were made. As stated by Choctaw tribal chief, Calvin Isaac, during US Senate testimony prior to the passage of ICWA, "One of the most serious failings of the present system is that Indian children are removed from the custody of their natural parents by non-tribal governmental authorities who have no basis for intelligently evaluating the cultural and social premises underlying Indian home life and child rearing. Many of the individuals who decide the fate of our children are, at best, ignorant of our cultural values and, at worst, have contempt for the Indian way and convinced that removal, usually to a non-Indian household or institution can only benefit an Indian child." In response to this testimony and other overwhelming evidence from Indian communities that the loss of their children meant the eventual destruction of Indian culture Congress passed the Indian Child Welfare Act in 1978.

ICWA was enacted to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families. It established minimum Federal standards for the removal of Indian children and provides guidelines for the placement of Indian children in foster or adoptive homes which reflect the unique values of Indian culture. ICWA protects the interests of both Indian children and tribes. In the context of child welfare law, protecting the interests of a tribe in its children is unique. An underlying premise of ICWA is that Indian tribes have sovereign rights and legal powers with respect to Indian children and have a vital legal role to play in determining whether Indian children should be separated from their families and culture. The Act recognizes the authority of both tribal and state courts to make decisions regarding the welfare, care, custody and control of Indian children. The Act also provides assistance to Indian tribes in the operation of tribal child and family service programs.

#### CITATION:

Montana DPHHS. "ICWA History and Purpose." <https://dphhs.mt.gov/CFSD/ICWA/icwahistory>

# ICWA TIMELINE

**1978** Indian Child Welfare Act is adopted, establishing requirements for child welfare agencies when serving Native children and families.

**1980** Enactment of the Adoption Assistance and Child Welfare Amendments of 1980 establishes a new Title IV-E Foster Care and Adoption Assistance entitlement program.

**1981** Congress ultimately rejects Senate legislation to create a child welfare block grant that eliminates the Title IV-E entitlement.

**1985** Title IV-E is amended to include a new Independent Living program to assist youth that age-out of the foster care system.

**1993** Title IV-B is amended to create a new Family Preservation and Family Support program.

**1995** Congress ultimately rejects House-approved legislation to eliminate the Title IV-E Foster Care and Adoption Assistance entitlements and combine over 20 children's programs into a capped child welfare block grant.

**1997** Adoption and Safe Families Act is enacted. It creates timelines for moving children to permanency, provides adoption bonuses for states, and continues the child welfare waiver demonstrations. The law also renames the Family Preservation and Family Support program to Promoting Safe and Stable Families (PSSF) and expands the use of funds to two additional categories of service: timelimited reunification services and adoption promotion and support services.

**1990** Resolution passed of the Pascua Yaqui Tribe of Arizona, to establish a foster care and home review committee.

**2002** Pascua Yaqui Tribe adopted the Child Welfare Policy Act.

**2004** Resolution of the Pascua Yaqui Tribe Expanding the Definition of Eligibility for Membership solely for Indian Child Welfare Act Purposes.

**2007** Pascua Yaqui Tribe approved the Tribe's membership in the National Indian Child Welfare Act Association.

**2011** The Child and Family Services Improvement and Innovation Act is passed to reauthorize IV-B of the Social Security Act. Programmatic updates address health and development provisions of the state plan, caseworker visits, the Court Improvement Program, and data standardization among others. Some education and older youth provisions of IV-E are also updated, in addition to the reinstatement of waiver authority for HHS approved demonstration projects to flexibly use IV-E funds.

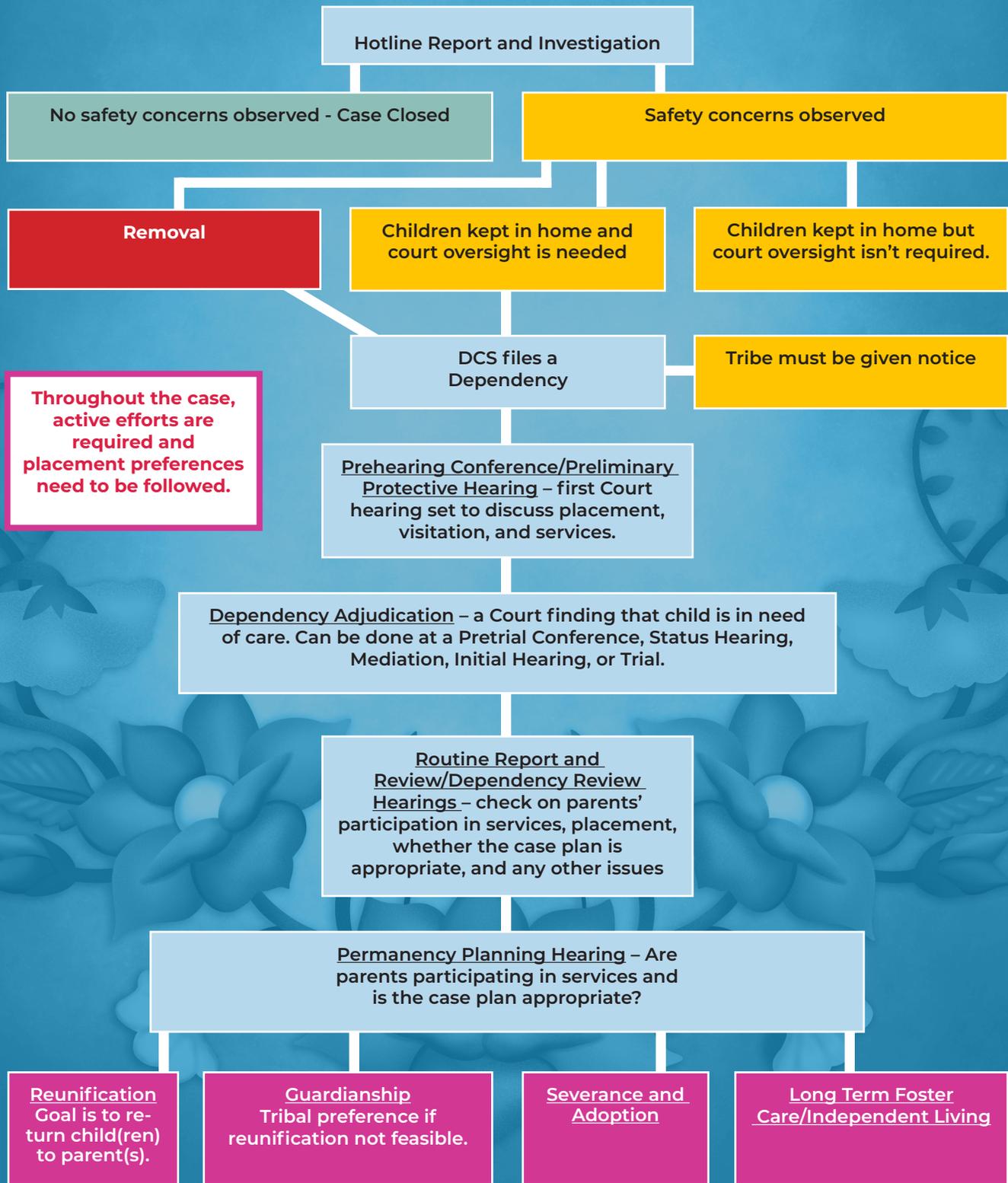
**2013** Pascua Yaqui Tribe Approved the Grant Acceptance of the 2013 Tribal Title IV-E Plan Development Grant Funding and Authorizing the Expenditure of Funds.

**2013** Resolution of the Pascua Yaqui Tribe approving acceptance of a grant from the National Congress of American Indians to implement a pilot program for legal representation in the Child Welfare System.

**2016** Resolution to authorize submission of Pascua Yaqui Plan for Title IV-E of the Social Security Act Federal payments for foster care and adoption assistance.

**2019** Resolution of the Pascua Yaqui Tribe authorizing the Pascua Yaqui Tribe's participation in an amicus curiae brief in *Brackeen v. Zinke* to the United States Court of Appeals for the Fifth Circuit along with the National Congress of American Indians, Association on American Indian Affairs, National Indian Child Welfare Association, Native American Rights Fund, other Indian Organizations, and other Federally Recognized Indian Tribes in support of appellant tribes' position of upholding the Indian Child Welfare Act of 1978.

# DEPENDENCY PROCESS IN ARIZONA STATE COURTS



# Collaborative ICWA Departments

## 1st Quarter FY18-19

Month	Non Member Request	Enrolled Member Request	Total
October	61	10	71
November	44	2	46
December	40	1	41
<b>1st Quarter Totals</b>	<b>145</b>	<b>13</b>	<b>158</b>
<b>YTD</b>	<b>145</b>	<b>13</b>	<b>158</b>

## 2nd Quarter FY18-19

Month	Non Member Request	Enrolled Member Request	Total
January	46	1	47
February	60	3	63
March	44	3	47
<b>2nd Quarter Totals</b>	<b>150</b>	<b>7</b>	<b>157</b>
<b>YTD</b>	<b>295</b>	<b>20</b>	<b>315</b>

### Office of the Attorney General

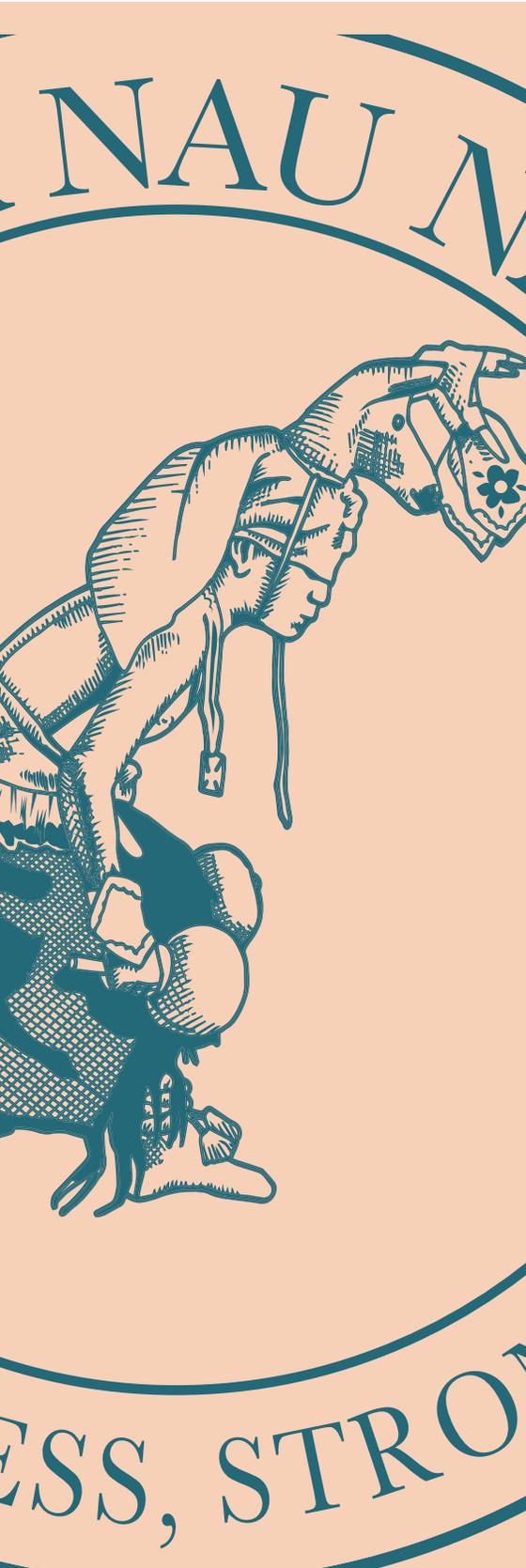
The Office of the Attorney General (“OAG”) represents the Tribe in all Indian Child Welfare Act matters in state courts. The OAG receives about 390 notices from various states a year. For every notice that is received we create and submit an ICWA enrollment verification to determine the child(ren’s) and/or parent(s) eligibility status. Once eligibility confirmation is received from the Tribe’s Enrollment Department on eligibility status, our Assistant Attorney Generals will intervene in the case. If eligibility is not confirmed, a Non-Intervention Letter will be mailed. Every month the Assistant Attorney Generals, Ms. Tamara Walters and Mrs. Tara Hubbard, and their legal assistants compile a report on the status of all ICWA cases.

### Social Services – Children Services

The Children’s Services Program-Indian Child Welfare Act (ICWA) Unit under the Social Services Department strives to achieve this mission by providing support and guidance to families in any state child welfare system through case management services; consultation, collaboration and coordination with state child welfare agencies and courts; education on cultural teachings and ICWA; and advocating for Yaqui children and their families in and out of court. The ICWA unit works in conjunction with the Office of the Attorney General to prevent the breakup of Tribal families during state investigations and team decision making meetings, to place children with family or in Yaqui homes when removals occurs and to advocate for reunification services.

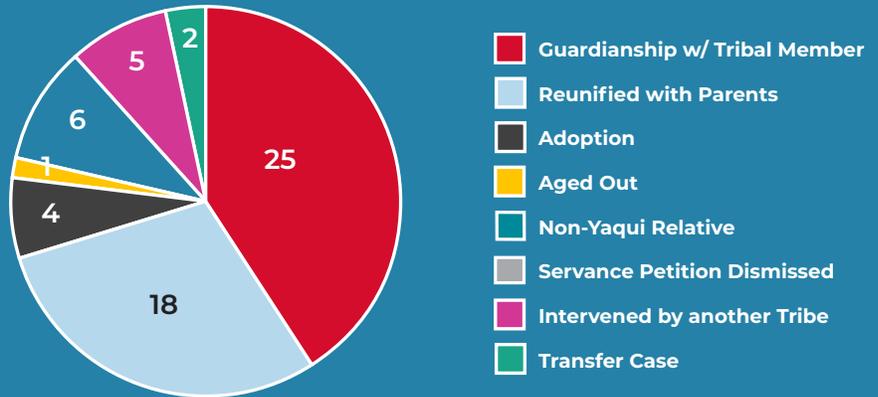
### Enrollment

In collaboration with Senior Enrollment Research Specialist ICWA, in order to serve as a liaison between the Office the Attorney General and Tribal Social services. The Senior Enrollment Research Specialist ICWA concentrates on providing Enrollment verification and vital tribal information for child welfare cases. The Specialist conducts a thorough review of all enrollment databases in order to not only verify whether the child is enrollment but also to link that child to family members which information is then reported on a Kinship report. The Kinship Report is vital in the placement of children in the child welfare system. When the child is an enrolled tribal member, the specialist will also issue a Certificate of Indian Blood for the child to show tribal affiliation. The Specialist initiate the Application for Membership as well as request the Birth Certificate from Arizona’s Department of Vital Records for eligible children. In doing so, we are looking to enroll eligible children more quickly so that they can remain connected with their culture and maintain a sense of identity.

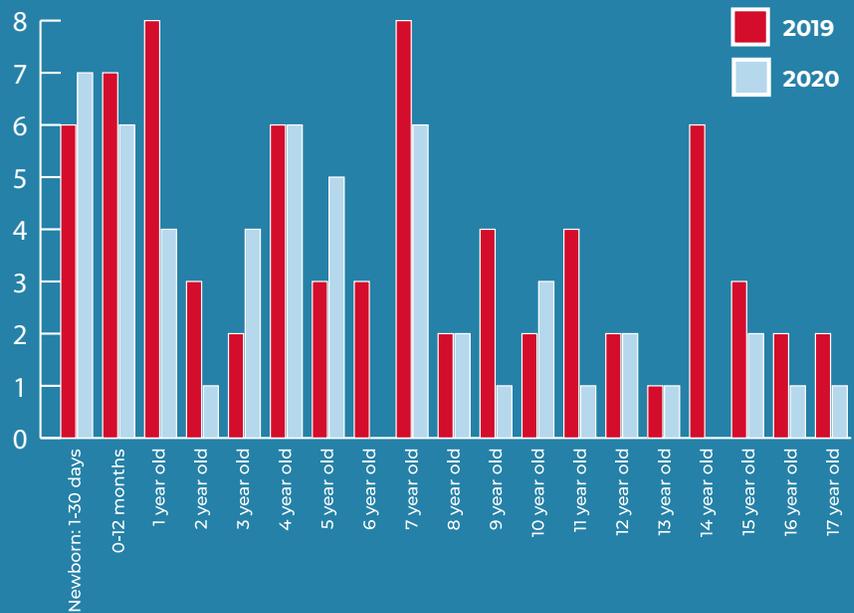


# OFFICE OF THE ATTORNEY GENERAL ICWA STATUS REPORT DATA

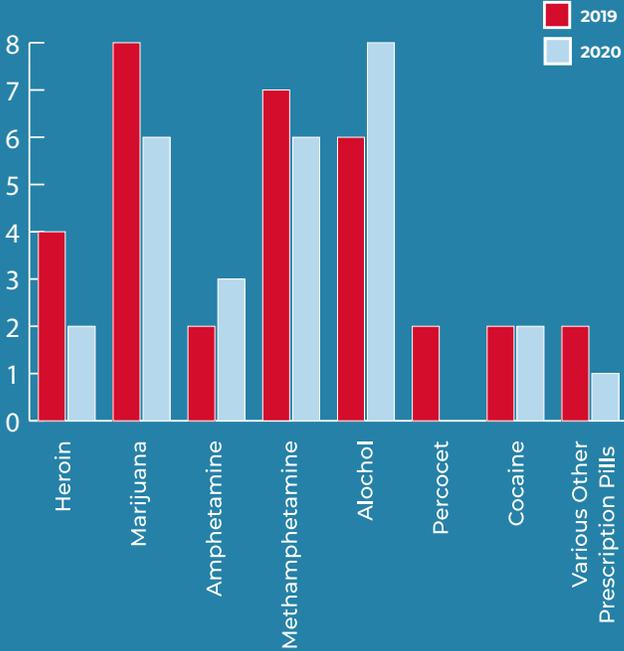
Outcomes 2019-2020



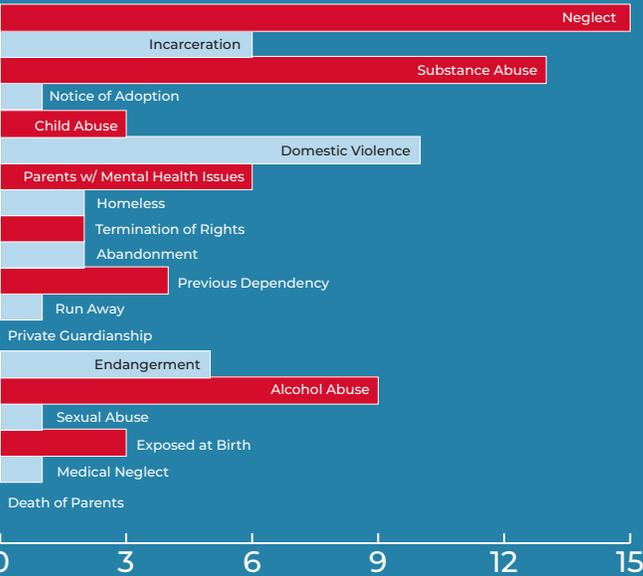
Age at Removal 2019-2020



### Substance at Removal



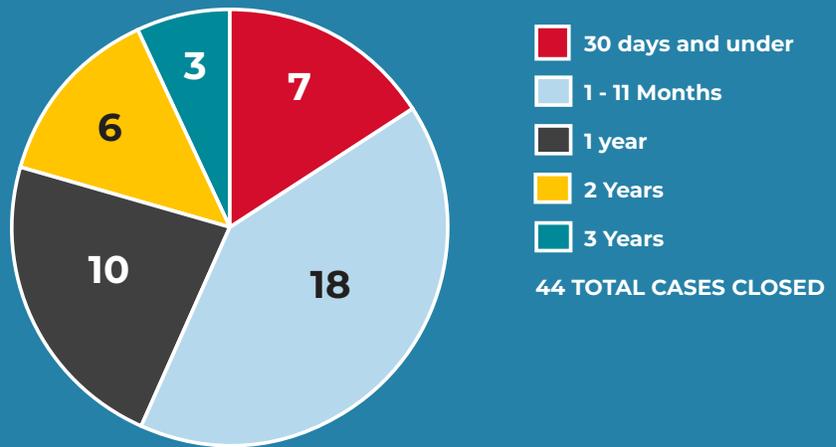
### Cause of Removal



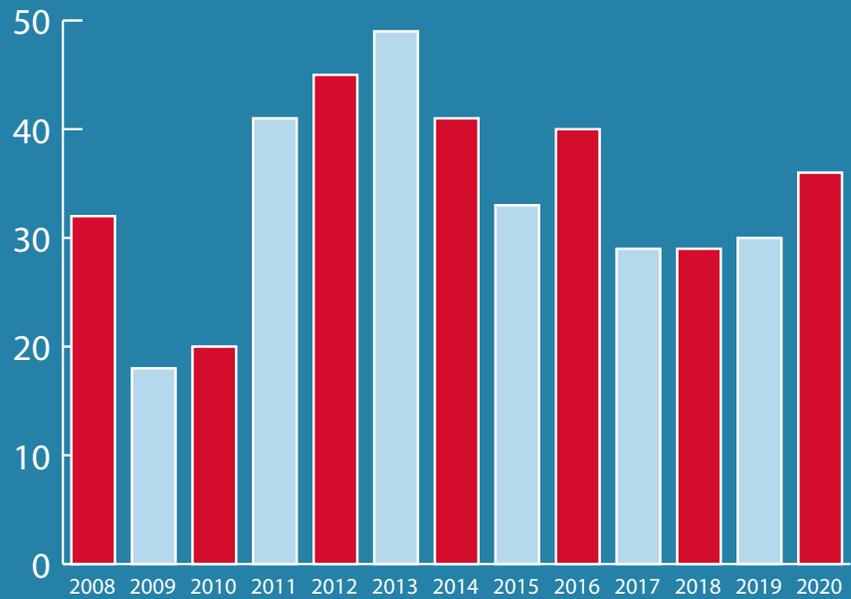


## OFFICE OF THE ATTORNEY GENERAL ICWA STATUS REPORT DATA

Duration of Cases



Reunification Statistics





# ICWA TRIBAL DIRECTORY

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Christopher Molina Jr.  
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