

Judge William A. Thorne: *Advocate for the youth*



By David Simmons, Director Affairs and Advocacy, and Kristy Alberty, Executive Communications Manager of the National Indian Child Welfare Association (NICWA)

Special to Well Nations

During this time of the year when the media cast a spotlight on the subjects of child abuse and neglect, there comes a moment when dedicated professionals, spending their lives on improving child welfare, are given the acknowledgement they so richly deserve.

One such leader is Judge William A. Thorne, currently serving on the Utah Court of Appeals. A Pomo/Coast Miwok Indian originally from northern California, Bill Thorne completed his undergraduate studies from the University of Santa Clara in 1974, and later from Stanford Law School. In 1977, he started a law firm with Larry EchoHawk, creating an Indian law firm representing primarily Indian clients in business, civil, and criminal law, plus tribal clients.

Judge Thorne has since then served as a tribal court judge in Utah, Idaho, Montana, New Mexico, Colorado, Arizona, Wisconsin, South Dakota, Nebraska, Nevada, California, and Michigan. He is the former president of the National Indian Justice Center (a nonprofit that trains tribal court person-



nel around the country) and a former member of the board of directors for National CASA (Court Appointed Special Advocates).

It is possible that the most fiercely dedicated and industrious advocates are

The Pew Commission on Foster Care focused their work in two areas:

Improving existing federal financing mechanisms to facilitate faster movement of children from foster care into safe, permanent families and to reduce the need to place children in foster care.

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Executive Director of the National Indian Child Welfare Association (NICWA)

most often found in the field of child welfare. And, despite the full roster of leadership that Judge Thorne already fills, he found time recently to make sure American Indian issues were heard during an in-depth examination of the American foster care systems.

In 2003, the Pew Charitable Trusts funded the establishment of a commission of experts to examine federal child welfare financing and court oversight.

Improving court oversight of child welfare cases to facilitate better and more timely decisions related to children's safety, permanence, and well-being.

The Pew Commission completed their work and produced a report with recommendations in May of 2004 (<http://pewfostercare.org>). Among the recommendations made by the Pew Commission was making tribal govern-

ments among those eligible to receive direct funding from Title IV-E Foster Care and Adoption Assistance Program and a proposed block grant, as well as any technical assistance resources that might be developed. Title IV-E is the federal government's largest source of child welfare funding, which reimburses states' costs for providing foster care and adoption assistance services.

Terry Cross, executive director of the National Indian Child Welfare Association (NICWA), stated, "The Pew Commission's recommendations regarding the funding of tribal governments affirms tribes' legal authority to provide services and the critical role they play in helping American Indian and Alaska Native children achieve permanency."

In their full report, the Pew Commission clearly states that tribes should be eligible for federal child welfare funds (equal access) and that tribes' restricted access limits their ability to protect abused and neglected children under their jurisdiction.

Judge Thorne was a member of the Pew Commission, and it was an experience he considers one of the most memorable in his child advocacy career. Much of the reform recommendations for tribes can be attributed to his leadership and participation on the Commission.

"The commission clearly took the position indicating that the tribes should have direct access to IV-E funds, which would certainly enhance their abilities to provide services for children and their families," Judge Thorne said.

"The commission understood that family has to be the first considered option when children cannot remain in their parents' home. They recognized that the well-being of the child has to be the primary objective. In order to assure that you have to look for, if you're going to remove the child from their home, the best match in terms of what the child is used to, including culture, family, location, and so forth. All those things I think are in recognition that children are better able to have a sense of who they are if they are connected with where they come from," he said.

Text from "Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care"

Recommendations of the Pew Commission on Children in Foster Care

All children must have safe, permanent families in which their physical, emotional, and social needs are met. Together, the Pew Commission's recommendations focus on what states and courts need to help children get safe and permanent homes. Our recommendations would give states a flexible and reliable source of federal funding as well as new options and incentives to seek safe permanence for children in foster care. They would help dependence courts secure the management tools, information, and training necessary to fulfill their responsibilities to children, and they would help children and parents have a strong and informed voice in court proceedings. Finally, they call for greater accountability by both child welfare agencies and courts.

Financing Child Welfare

1. Because every child needs a safe, permanent family, the Commission recommends:

- Providing federal adoption assistance to all children adopted from foster care;
- Providing federal guardianship assistance to all children who leave foster care to live with a permanent, legal guardian.

2. Because every child needs to be protected from abuse and neglect, the Commission recommends that the federal government join states in paying for foster care for every child who needs this protection:

- Regardless of family income
- Including children who are members of Indian tribes; and
- Including children who live in the U.S. territories.

Supporting Indian cultural strengths in parenting roles and "kinship care," it is important that extended family and community take an active role in parenting; this is a concept that challenges the current norm in a number of ways. He identified what can be best termed a conundrum of interest for state governments, whose largest source of federal monies are linked to removal of children and don't place enough emphasis on strengthening families.

Kinship care is considered by most to be a cultural norm of Indian Country. When a family has problems, extended family members step in to help, and often that means assuming the caretaking responsibilities for children. But compared to the likelihood that a child removed from a home due to physical abuse will be placed in a licensed foster home with strangers in a new community, it appears most Indians will choose informal kinship care arrangements or never apply to become a licensed foster/adoptive parent. Again, mainstream society sets a standard for who should be licensed that often excludes caring American Indians seeking to care for family.

"The emphasis in the system has been backward. What we need to do first is try and do what is called "front-loading services." As soon as a problem is identified with a family, then provide that family services to try and fix the problem, hopefully without ever having to remove that child.

"Right now, IV-E will reimburse much of the cost to states after removal of a child, but it creates problems then with divided loyalties. And our recommendations were targeted at giving local programs the flexibility to take some of that IV-E money that's available only after the child's removed and allow them to place that in up-front, front-loaded services so that we can keep the child with the family while solving the problem," he said.

"Places that have gotten waivers to do that, like Chicago, have reduced their children in foster care by thousands; I think Chicago's case reduction is around ten or fifteen thousand, just in the course of a few years, by front-loading that service. But the child welfare system

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was designed, I think, by people who wanted to do well, but they didn't understand that it's sort of like fighting a fire. You wait until the fire is so big that everybody can see it, and then call the whole town to fight it or you try and fight it while its very small and just getting started.

"So the commission clearly preferred giving local jurisdictions the flexibility to take some of that money usually only available after the child has been removed and to front-load it," Judge Thorne said.

"Kids are in foster care that shouldn't be there, so we need to take a two-track system for getting them out. First, prevent them from coming in by front-loading those services and solving the problems early while the kids are still at home. And for the few that must be in foster care, we should focus our efforts

and figure out how to solve the problems so we can get them to a permanent home, preferably with kin; if not, somebody in their own community, and then as a last resort, someplace else.

"The Indian Child Welfare Act says that you're supposed to use the social and cultural standards of the Indian community. I've been advocating that for 20-some years; every time I talk to a group of social workers I remind them that they ought to be using the standards of the Indian community. They shouldn't be worried about 'Are there enough fire extinguishers? Are there enough bedrooms per square footage?'

After removal from a home due to child abuse, there are still many issues and consequences that unfold for the child: removal, healing, and possibly foster care placement and/or adoption.

Judge Thorne reflected on the overall toll child abuse has for Indian communities. "The consequences of abusing children are more than just broken bones, more than just bruises. What we're doing is, we're battering the spirit that child is going to need. The world throws enough at you when you come from a good place; when you're coming from a place where your spirit is battered, it's that much harder to survive. So I hope communities can get to a point where they recognize it's not just about injury; that's bad enough, but it's the long term impact of that injury on a child that comes back when people end up self-medicating with alcohol or with other substances because they feel bad about who they are inside. And that often relates back to how they were treated as they were growing up."

NICWA can provide information on these issues and assistance in educating key policymakers and advocates. To receive this help, please contact David at 503-222-4044 or e-mail desimmons@nicwa.org.



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