

## California Department of Social Services State ICWA Workgroup

### ACCOMPLISHMENTS 2002 – 2009

As part of the California Department of Social Services' (CDSS) long-standing commitment to making improvements on Indian Child Welfare Act (ICWA) compliance, the following list chronicles the accomplishments of the partnership between California Indian tribes and the CDSS via the ICWA Workgroup since the re-establishment of the ICWA Workgroup in 2002.

#### **Children and Family Services Division (CFSD) ICWA Workgroup**

Because of the complex nature of ICWA issues and the strategies being considered by the CDSS, the CFSD established an ICWA Workgroup to focus on ICWA issues. CDSS staff consults with the workgroup to identify problems that exist and develop recommendations and solutions for tribes, counties and the State in order to achieve greater understanding and compliance of the ICWA.

Today, the ICWA Workgroup continues to expand its membership and now consists of over 86 tribal ICWA workers/advocates, 43 county child welfare and probation representatives, 20 CDSS staff and 25 state/university representatives and other interested parties. The ICWA Workgroup continues to meet bi-monthly. The agenda for ICWA workgroup meetings is set in accordance to issues and topics that have emerged from discussions in the workgroup or in discussions as CDSS staff consults with tribal and county representatives throughout the state.

A summary of accomplishments of the Workgroup include:

- Assisted in the development of the Scope of Work for CDSS' ICWA Specialists;
- Assisted in defining the role of the Workgroup as it relates to consulting with CDSS on ICWA-related issues;
- Assisted in the development of CDSS' basic ICWA (101) training curriculum, and advanced ICWA training curriculum;
- Made recommendations for revisions to CDSS' child welfare services regulations (California Code of Regulations, Division 31) regarding ICWA;
- Made recommendations for the development of an All County Frequently Asked Questions Information Notice regarding ICWA;
- Participated with the General Accounting Office in the recent (2004-2005) national study regarding the implementation of ICWA;
- Working with CDSS and the Judicial Council of California in the establishment and continuation of the ICWA Initiative Project through CDSS funding and interagency agreement; in January 2009 the CDSS released an ACIN informing counties, tribes and other interested parties regarding the resources available via the ICWA Initiative Project; see [http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2009/I-06\\_09.pdf](http://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2009/I-06_09.pdf);
- Assisted with the development of new CDSS form (SOC 820) to improve the ICWA noticing process; subsequently the Judicial Council of California - ICWA Initiative Project, revised all

forms pursuant to Senate Bill (SB) 678 (Ducheny) Chapter 838, Statutes of 2006. These forms are now the JV 010(A); 020(A) and 030. Other forms and information such as “Why Is Notice Under The Indian Child Welfare Act (ICWA) So Hard To Get Right?” on page <http://www.courtinfo.ca.gov/programs/cfcc/pdffiles/ICWANoticingIssues.pdf> and “Indian Child Welfare Act Inquiry Interview” form, etc. on <http://www.courtinfo.ca.gov/programs/cfcc/programs/description/jrta-ICWA-JobAids.htm>;

- Provided input regarding the development and release of an All County Letter regarding SB 678, see: <http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl08/08-02.pdf>;
- Establishing a sub-workgroup to consider the issue of Permanency for Indian Children and Youth including discussion regarding Customary Adoption; and the release of an All County Letter regarding Adoptions Policy and ICWA, see <http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2009/09-28.pdf>;
- Establishing a sub-workgroup to consider the issue of Tribally Approved Foster Homes. Guidelines were released in the early Fall 2008 regarding this issue via an All County Information Notice, see [http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin08/l-86\\_08.pdf](http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin08/l-86_08.pdf);
- Establishing an ICWA Training Committee, made up to tribal and county representatives including the State Training and Education Committee of the California Social Work Education Center, to review and update ICWA training curriculums for county workers and to help develop a curriculum for Tribal ICWA Workers.

### **State ICWA Positions**

CDSS sought and received approval to establish an ICWA Specialist position in Fiscal Year (FY) 2001-2002. In FY 2006-2007, the CDSS received approval to establish and fill a half-time analyst position for the purpose of assisting the ICWA Specialist. CDSS also supports the ICWA work through the oversight of Indian Child Welfare issues by the management of the Office of Child Abuse Prevention.

The ICWA Specialist is viewed as CDSS’ main point of contact for addressing ICWA concerns and a primary resource for county child welfare and probation agencies, Indian tribes and tribal organizations. Feedback from numerous tribes and tribal representatives indicates that the assistance provided by the ICWA Specialist has made a difference for Indian children and their families.

### **Tribal/State Agreements**

The CDSS is continuing to facilitate the consideration of tribal/state, which will allow for the pass-through of Title IV-E funds to tribes. These funds will provide tribes with foster care funding for Indian children.

On March 14, 2007, the CDSS and the Karuk Tribe of California signed the first ever Tribal/State agreement in California. State staff is continuing to provide training and technical assistance to staff of the Karuk Tribe to prepare them for the implementation of the agreement. CDSS and the Karuk Tribe secured technical assistance through Region IX and the National Resource Center for Organizational Improvement (NRCOI) to provide assistance to the Karuk Tribe in the development of the tribe’s Child Welfare Services Plan. The tribe’s CWS Plan has been finalized, approved by

the Karuk Tribal Council and is pending review and approval by Region IX. While there has been a hiatus in the negotiations of a Tribal/State agreement with the Washoe Tribe of Nevada and California, recent communications with the Washoe Tribe indicate a renewed interest in pursuing an agreement. The most recent version of the agreement has been presented to the tribe for their review, and the CDSS is still awaiting a formal response as they have recently indicated a renewed interest.

The Yurok Tribe has been in negotiations with CDSS for a Title IV-E Agreement which is anticipated to be executed by the end of Summer 2009. The Yurok Tribe will then begin the development of their CWS Plan.

With the signing of the Karuk agreement, CDSS has experienced an increased interest from other tribes in pursuing such agreements. CDSS has developed a standardized presentation it utilizes to inform interested tribes regarding the benefits and costs of Title IV-E agreements. CDSS has conducted orientation meetings with the Hopland Band of Pomo Indians, the Lone Band of Miwok Indians, and the Soboba Band of Luiseño Indians. In addition, there are others interested including the Morongo Band of Mission Indians, the Dry Creek Rancheria, the Tule River Rancheria and the Smith River Rancheria.

With the historic passage of Public Law 110-351 (HR 6893) which allows for direct Title IV-E funding from the Administration for Children and Families, any tribes have expressed an interest in pursuing this avenue to serving Tribal children in foster care. The ACF is the process of providing guidance to Tribes regarding the negotiations process for achieving direct funding.

### **California Department of Social Services' Regulations**

With the assistance of the ICWA Workgroup, CDSS is pursuing the integration of recent statutory changes (SB 678) and the requirements of ICWA throughout CDSS' child welfare services regulations (Manual of Policies and Procedures, Division 31). This is intended to help county workers understand ICWA and focus on ICWA throughout the entire child welfare process.

### **ICWA Training Projects/Conferences**

#### ICWA Training Curriculum

With the assistance of the ICWA workgroup and Sonoma State University, CDSS completed development of the ICWA training curriculum in FFY 2003-2004. This curriculum focuses on the historical basis and purpose of ICWA, the essential elements of compliance with the Act, and the role of tribes and tribal representatives in dependency proceeding. [A Handbook on ICWA](#), which includes sources of information and support to aid in the implementation of ICWA, was developed as a resource guide that is provided to all training participants.

In FFY 2005-2006, the CDSS contracted with the Resource Center for Family-Focused Practice (RCFFP), a part of the University of California, Davis Extension Center for Human Services, to deliver the training to increase coordination, knowledge and skills in implementing ICWA. The focus of this project was to modify CDSS' existing ICWA training curriculum to focus on tribal culture and

better meet the day-to-day application processes of ICWA for county child welfare workers and juvenile probation placement officers. The curriculum was developed with extensive input from tribal representatives, advocates and county child welfare and probation agency staff. Many of these representatives have served as co-trainers. The CDSS is working with the ICWA Training Committee to further develop these curriculums to ensure the most effective plan for training social workers and probation officers regarding the practice implications of ICWA.

### Annual ICWA Conference

The CDSS continues to support the Annual Statewide ICWA Conference hosted by a volunteer tribe or group of tribes, and provides \$25,000 from the State General Fund each year to assist in funding this event. This is an activity the ICWA Workgroup continues to see as a priority to promote improved ICWA compliance. In an effort to support the independence of tribes in determining the conference agenda and planning the annual event, the CDSS turned over the conference leadership to the tribal community several years ago. The CDSS participates on the planning committee and provides many workshops and keynote addresses at the conference, as requested. For nearly a decade, the mission of the annual conference is to promote positive partnerships between tribes and federal, state and local governments for the benefit of all Indian children. The purpose of the conference has been to educate and expose service providers, judges, attorneys, tribal leaders, and social service and probation agency personnel to the provisions of the ICWA.

### **Indian Child Welfare Act Initiative**

Effective December 2005, CDSS entered into an interagency agreement with the Administrative Office of the Courts (AOC), Center for Children and Families, to create the Indian Child Welfare Act (ICWA) Initiative. The Initiative is currently funded from 2007 through 2010. The initiative was created because Indian children continue to be removed from their families and tribal communities and placed with non-Indian caregivers. While juvenile court judges and placing agency staff have received some training on ICWA, this initiative presents an opportunity to provide targeted training and technical assistance in order to increase knowledge of ICWA by making available a range of facilitation and training services through cross-disciplinary regional and locally targeted trainings for judicial officers, clerks, attorneys, social workers and probation officers. Services are tailored to the needs of the local court system or region. As part of this initiative, educational materials addressing the federal requirements under the ICWA have been developed. These materials include charts, agency checklists on notice procedures and case planning, a judicial handbook, descriptions of available services to Indian children and families, and an ICWA expert witness list (not certified by the AOC or the CDSS).

With the passage of SB 678, the ICWA Initiative staff has developed training materials to educate court personnel in the juvenile, family, and probate court systems about the impact of the new law. Also, in light of SB 678, the ICWA Initiative staff worked with the AOC Center for Judicial Education and Research (CJER) Division to update the ICWA Bench Handbook with citations to the new statutory provisions. The Revised ICWA Handbook is available to judicial officers online in Serranus and it is posted on their website.

Educational workshops have been provided by a broad-based group of subject matter experts on a statewide, regional and local basis. The ICWA Initiative continues to impact, not only the preservation of connections for Indian children, but also achieving permanency, as defined by the Indian community.

A series of regional trainings were held across the state and were attended by tribal representatives, judicial officers, child welfare and probation staff, and attorneys. The evaluations received were very positive.

As with each of the regional trainings, a resource binder was created for participants and has been made available on CD and posted on the AOC's web site located at:

<http://www.courtinfo.ca.gov/programs/cfcc/programs/description/jrta-ICWAResourceBinder.htm>.

The ICWA Initiative staff organized and developed the content for an ICWA broadcast for court clerks and court personnel. They also conducted a live broadcast on "ICWA 101" in April 2008; trainings for LA County and Santa Clara County probation officers; an ICWA collaborative training in Mendocino County; and an ICWA session for rural judges at the Cow County Institute in May 2008.

The ICWA Initiative staff developed and distributed guides for:

- ICWA Requirements for Social Work Departments;
- ICWA Requirements for Probation Departments;
- Findings and Orders for Probate Guardianship cases involving Indian Children; and
- Findings and Orders for Juvenile cases involving Indian Children.

The ICWA Initiative staff is in the process of developing a toolkit, for statewide distribution, to encourage and assist those wishing to establish a local court-tribal-county collaboration by sharing the promising practices developed by local collaborations in California.

On December 12, 2007, as part of the Beyond the Bench Conference, ICWA Initiative staff conducted an ICWA pre-conference session that was part of the all-day workshop for judicial officers called "Juvenile Law Issues for Judicial Officers". Additionally, two other ICWA workshops were offered: "Avoiding Reversals in Delinquency and Dependency Cases under the Indian Child Welfare Act"; and "Courts, Tribes, and Child Welfare: Improving the System".

### **Coordination with Tribes Regarding Section 422 Protections for Children**

In 1953, Congress enacted Public Law (PL) 280, which required several states, including California, to assume criminal and some civil jurisdiction over all or part of Indian country within these states. PL 280 did not eliminate tribal jurisdiction. Although states were delegated criminal and civil jurisdiction, that jurisdiction remained concurrent with some aspects of inherent tribal jurisdiction. However, not all tribes have developed courts and so not all tribes exercise their jurisdiction.

There continue to be very few Indian children in California under tribal jurisdiction, as only a small number of tribes have tribal courts and social services departments that could provide necessary

services, partly due to the size of the tribes and the lack of adequate funding to the tribes for these services. For those tribes that do take jurisdiction, most often the initial contact regarding a family is made to the local child welfare agency who then contacts the tribe to allow them to take jurisdiction.

Many tribes and county child welfare agencies have developed protocols whereby they work together to provide child welfare services. A number of counties and tribes have convened ICWA roundtables/working groups, which meet on a regular basis to discuss issues relative to the provision of child welfare services and how to better protect children. Some counties contact the tribal social services worker when an emergency response call is received allowing for both parties to respond to the family. Some tribes have services that can be provided early in the case to allow for the children and families to remain together. Counties are responsible for applying Section 422 protections including the care and supervision of tribal children that remain under the state/county's jurisdiction. For tribes that enter into a Title IV-E agreement with the state, and assume responsibility for the care and supervision of tribal children, the tribe is responsible for applying Section 422(b)(8) protections for those children, including six month periodic review, 12-month permanency hearings, reunification services, services to achieve other permanency goals, pre-placement preventative services, etc. The CDSS continues to collaborate with tribes and the state Attorney General's Department of Justice (DOJ) in conducting training sessions regarding the application of PL 280 in California on an as needed basis.

### **California's Outcomes and Accountability System**

CDSS, in collaboration with tribal representatives has incorporated new outcomes data regarding ICWA compliance. Specific ICWA indicators have been incorporated into the SB 636 Outcomes and Accountability System. While the specific ICWA efforts documentation is still difficult to cull from CWS/CMS, CDSS is continuing to explore ways of improving such reporting.

### **ICWA Contact Information:**

*For technical assistance or ICWA program policy-related questions:*

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*For questions regarding the distribution of communications, ICWA meeting notices, contracts, CWS/CMS tribe listing or CDSS ICWA website:*

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