FILED

JAN 31 2013

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

IN THE SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

In the Matter of: ACCESS TO JUVENILE CASE FILES BY INDIAN TRIBES IN HUMBOLDT COUNTY	**STANDING PROTECTIVE ORDER**

This Standing Protective Order is to facilitate the exchange of information between federally-recognized Indian tribes in Humboldt County and the Humboldt County Department of Health and Human Services-Child Welfare Services in potential and active dependency matters involving an "Indian child" as defined by the Indian Child Welfare Act (ICWA) at 25 U.S.C. § 1904. Collaboration between local tribes and Child Welfare Services will be in the best interest of Indian children, families, and tribes as set forth in the ICWA and Welfare and Institutions Code (WIC) §§ 202 and 224. The Court also recognizes that such collaboration will facilitate "active efforts" to provide remedial/rehabilitative services as required by 25 U.S.C. §1912(d) and WIC § 361.7(a), and further that WIC § 361.7(b) requires, *inter alia*, that "active efforts" include making use of all available resources of an Indian child's tribe and tribal agencies.

The Humboldt County Department of Human Services/Tribal Protocol for Collaboration is attached to this Standing Protective Order as Exhibit A and is hereby incorporated into this Order by reference.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED PURSUANT TO WIC § 827:

In potential and active dependency cases, the Humboldt County Department of Health and Human Services-Child Welfare Services may exchange information with the tribal governments of federally-recognized Indian tribes in Humboldt County (as well as their duly authorized representatives) regarding Indian children associated with their tribe.

IT IS FURTHER ORDERED THAT:

In potential and active dependency cases, the tribal governments of federally-recognized Indian tribes in Humboldt County (as well as their duly authorized representatives) may inspect and make copies of the juvenile case files of the Humboldt County Department of Health and Human Services-Child Welfare Services involving Indian Children associated with their tribe.

A copy of this Standing Protective Order has the same force and effect in all respects as the original Standing Protective Order.

This order shall be in effect until January 31, 2014, and shall be subject to renewal on an annual basis.

01/31/2013
Date

Presiding Judge of the Juvenile Court

Exhibit A

Purpose

WHEREAS, the Indian Child Welfare Act (ICWA) was passed by the United States Congress in recognition of the fact that "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children" (25 U.S.C. §1901(3)); and

WHEREAS, the main purposes of the ICWA are "to protect the best interests of Indian children" and "to promote the stability and security of Indian tribes and families" (25 U.S.C. §1902); and

WHEREAS, the Humboldt County Department of Health and Human Services fully endorses the spirit and implementation of the ICWA; and

WHEREAS, Congress enacted the ICWA because it determined that "the States . . . have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families" (25 U.S.C. §1901(5)); and

WHEREAS, California Senate Bill 678, effective January 1, 2007, codified many requirements of the ICWA into the Welfare and Institutions Code, the Family Code, and the Probate Code that govern Indian Child Custody Proceedings in California (Stats 2006 ch. 838, §§1-55); and

THEREFORE, in recognition and support of the purposes of ICWA, the Humboldt County Department of Health and Human Services (DHHS) is committed to partnering with Tribes to prevent the breakup of Indian families. DHHS and Tribes will work together in a coordinated and collaborative manner to better serve Indian children and families in our community by enhancing families' capacities to provide for their children's needs and improve their overall well-being.

To better meet the needs of Indian children, this protocol provides for information sharing regarding reports of suspected child abuse and/or neglect. DHHS, Child Welfare Services (CWS) collaborates with local tribes by providing case/referral file information in the manner prescribed by law and by the terms of the Standing Protective Order first signed by the Presiding Judge of the Juvenile Court of Humboldt County on June 7, 2012.

Recognizing: (1) that Tribes and CWS are concurrently investigating suspected child abuse, and (2) that collaboration between local tribes and CWS is in the best interest of Indian children, families, and Tribes as set forth in sections 202 and 224 of the California Welfare and Institutions Code, and SB 678, CWS will follow a standardized procedure for sharing information and collaborating with tribal representatives.

Definitions

- **Case/Referral File Information** – Any public agency document pertaining to a child who is or was the subject of an investigation, or any information, records, reports by social workers, CASA or probation, documents filed in a juvenile court, case photographs, transcripts tapes or electronic data obtained during the course of any investigation.

- **Confidentiality Contact Person (CCP)** - CWS staff person (or designee) who receives and responds to records requests. The CWS staff person will review the request and applicable law, prepare the records for review, and arrange for the review of records and/or preparation of copies.

- **Eligible Federally Recognized Tribe** -- Federally recognized Indian Tribe that is located within Humboldt County.

Procedure

To determine whether the Standing Order applies:

1. The CWS screener asks the reporting party whether there is reason to believe the child may be Native American and if so, with which Tribe(s) they may be affiliated. CWS screener will ask for parent and grandparent names.

2. If the reporting party believes the child is affiliated with a Tribe, the screener identifies whether the Tribe is one of the Federally Recognized Tribes located in Humboldt County.

   A. If the Tribe is located in Humboldt County, designate the case for Tribal Information Sharing.

   B. Contact the Tribe to verify enrollment/enrollment eligibility prior to referring the family to the Tribe.

3. If the reporting party believes that the child is affiliated with a tribe located within Humboldt County, but cannot name a tribe,

   A. Check Department records for information whether the child is affiliated with a local tribe.

   B. If there are records that establish that the child may be enrolled in/or eligible for enrollment in a local tribe, designate the case for Tribal Information Sharing.

SERVICE PROVISION

Social workers who are interacting with the family should collaborate with the child's Tribe(s). CWS must share information with County Tribes.

1. If the Child has an affiliation with a local tribe(s), share information relevant to the prevention, assessment or treatment of child abuse/neglect with the child's tribe(s).

2. The Tribe will make every effort to determine whether the child is eligible for membership at the earliest possible time, and will destroy CWS records if the child is not eligible.

3. CWS will share information with each tribe with which the child is affiliated until a Tribe makes a determination of membership.

4. The information may be shared telephonically, in writing, or in-person.

5. Once membership is determined, CWS must obtain a Release of Information (ROI) to share information with any Tribe of which the child is not a member or eligible for membership.

6. Information Contents:

   Information shared with tribal social workers may include, if already known:
   - Names of household members
   - Names of child's extended family/ancestry, as known
   - Tribal membership or eligibility for Tribal membership
   - Ages of family members
   - Address and phone number of family
   - Name and location of child(ren)'s/youths' school(s)
   - Name and phone number of the CWS social worker making the report
   - CWS referral number
   - CWS referral/case history
   - Service providers currently working with family
   - Date of referral
   - Redacted Screener Narrative
   - Family's primary language
   - Any known potential safety concerns regarding the home (i.e., unchained dogs)
   - CWS workers will **verbally** share all relevant criminal history
   - CWS workers may **verbally** share summaries of contents of police reports with tribal social workers.

NOTIFICATION EFFORTS

CWS will comply with Division 31 response mandates. Tribal social workers will make every effort to contact CWS social workers within the time mandated by Division 31.

- **Reports that do not meet criteria for in-person CWS response**

  1. If the child is affiliated with a Tribe the report will be shared by the screener with the appropriate Tribe(s) within one business day of the report. The notice to the Tribe should include the available information listed above.

  2. The Tribe will report back to CWS with additional information, if known, within one business day. Tribal concerns will be included in the screener narrative.

- **Reports that are assigned for an Immediate, 3-Day or 5-Day CWS response:**

  1. To initiate collaboration, the CWS assigned social worker or other designated CWS staff will notify the Tribe within one business day of being assigned the referral in the mode specified by each Tribe.

  2. If the assigned social worker does not receive a response from the Tribal Social Services representative within one business day, the assigned social worker will continue to make efforts to contact the Tribal Social Services representative throughout the investigation and will document those efforts in CWS/CMS.

- **Reports requiring a 10-day response by a CWS social worker**

  1. Within one business day of the assigned social worker receiving the investigation, the assigned Social Worker will make a report to a Tribal Social Services representative in the mode specified by each Tribe.

  2. The assigned social worker will collaborate with the Tribal social worker during the investigation process to determine interventions and services available through the Tribe, agency, and community to promote family preservation.

COLLABORATIVE PROCESS

CWS and Tribal Social Services will work with the family within each agency's scope of services and in accordance with any negotiated protocols.

Requests to Inspect/Receive Copies of Confidential Case Information

When the Tribe wishes to have access to information that is not part of an ongoing investigation, the Tribe may request to inspect or obtain copies of information in CWS files.

Upon receipt of a request for inspection or copies of CWS files, CWS shall determine if there are any documents or information contained in the record that the requesting party is not entitled to inspect.

- CWS will remove from the record any documents that the requesting Tribe is not entitled to inspect before the record is presented to the Tribal representative. CWS will redact any information that the Tribe is not entitled to inspect.
- After all documents and information contained in documents that the requesting Tribe is not entitled to inspect have been removed or redacted from the record, the requesting party may inspect the record. CWS may determine time, place and manner of inspection of confidential juvenile records.

If a Tribe requests copies of CWS file information, CWS shall inform the requesting party that he/she cannot disseminate the information being disclosed.

Tracking

- CWS shall maintain a log of information requests.