

**California State Department of Social Services
ICWA WORKGROUP**

March 12, 2013 • 1:00pm to 3:30pm

*Hosted by the Intertribal Friendship House
523 International Blvd.
Oakland, CA 94606*

Meeting Notes

SUMMARY OF ACTION ITEMS

1. CDSS agreed to prepare an All County Letter (ACL) to provide clarification to counties and also specify which parts of the SOC 815 form must be completed with regard to tribally approved homes. *[In process]*
2. With regard to the “Baby Veronica” case, CDSS will provide a response regarding the state’s decision as to their position concerning the U.S. Supreme Court case of Adoptive Couple v. Baby Girl. *[Done]*
3. Karen will send the web links for the federal bill and program instruction to Diana Orcino for distribution to the workgroup regarding a new law that requires that each child age 16 or older in foster care receive a copy of any consumer credit report annually until discharged from foster care. *[Done]*
4. Ann will send Diana Orcino the web link to the proposal regarding the rules of court governing psychotropic meds and noticing once the proposal is posted for public comment. *[Done]*
5. CDSS’ Child Safety Unit will invite Jennifer White to the May ICWA Workgroup meeting to discuss the APSR deadlines and requirements. *[Done]*
6. CDSS will investigate the issue of over-noticing of tribes when tribes are cross-referenced to other affiliations, and whether or not CDSS’ list of tribes is being used in place of the Federal Register published by the BIA. *[In process]*

Welcome/Introductions

Participants were introduced, and the previous meeting’s minutes and current meeting’s agenda were reviewed.

20th Annual Statewide Indian Child Welfare Act (ICWA) Conference

James Cohen, Esq., Deputy General Counsel for the Pechanga Indian Reservation gave this report. This year’s State ICWA Conference will be hosted by the Pechanga Band of Luiseño Indians of the Pechanga Indian Reservation and is scheduled for June 25 – 27, 2013 at the Pechanga Resort and Casino in Temecula, California. Conference information and registration materials will be forwarded when they become available. Please email any questions to Diana Orcino at CDSS to be forwarded to James for response.

Tribally Approved Homes - SOC 815 Form

Some tribes have been asked to sign or complete the SOC 815 form by county workers when selecting a tribally approved home. Carole Minchew (CDSS - Relative Approvals) clarified that counties are to fill out and sign the form...not tribes. Counties only need to perform background checks on adults living in the household. However, counties are not required to approve the home/facility after it has been approved by the tribe. CDSS agreed to prepare an All County Letter (ACL) on this issue to provide clarification to counties and also specify which parts of the form must be completed.

ACTION 1: CDSS agreed to prepare an All County Letter (ACL) to provide clarification to counties and also specify which parts of the SOC 815 form must be completed with regard to tribally approved homes. *[In process]*

CDSS Updates

Division 31 Regulations: CDSS held a conference call on Wednesday, February 27, 2013 regarding edits made to the draft regulations. A summary of the proposed changes as a result of the comments were typed and made available at the workgroup meeting. CDSS anticipates having the draft regulations package to CWDA for review by summertime and will also share again with the ICWA Workgroup at that time. The regulations should be finalized by the end of the year.

CDSS' Response Regarding "Baby Veronica": CDSS received many letters from tribes asking for support of the Native American father. CDSS reported that no decision had been made; however, discussions were still underway. Maureen Geary raised a concern that CDSS still had not responded and the deadline for filing an Amicus brief or signing on to Arizona's brief was a couple of weeks away. Tribes received a letter from CDSS stating they were considering their options and would let the tribes know as soon as a decision was made. Stephanie Weldon requested it be noted in the minutes that the tribes were dissatisfied with CDSS' response to date. Nancy Currie mentioned there are letters going out to tribes for them to sign in support of the birth father. *[Done. A letter announcing that California has formally joined Arizona in an amicus curiae brief supporting the birth father and Cherokee Nation in the U.S. Supreme Court case of Adoptive Couple v. Baby Girl was emailed to the workgroup on March 28, 2013.]*

ACTION 2: With regard to the "Baby Veronica" case, CDSS will provide a response regarding the state's decision as to their position concerning the U.S. Supreme Court case of Adoptive Couple v. Baby Girl. *[Done]*

CDSS' NRC TA Request: CDSS transmitted on March 11, 2013 to the ACF's Region IX their technical assistance request for the National Resource Center (NRC) to provide assistance in restructuring the ICWA Workgroup and broaden CDSS' outreach and engagement with tribes. Region IX should be reviewing the TA request soon. Connie Reitman (ITCC) asked if and how policy regarding tribal consultation is being developed. Cindy explained that assistance in developing a tribal consultation policy was also included in CDSS' NRC TA request.

AB 12: CDSS is working on an ACL about the AB 12 Extended Foster Care (After 18) Program and Indian Non-Minor Dependents (NMDs). The ACL provides information on both case management and eligibility issues related to foster Indian youth as NMDs. It clarifies policies and procedures for the placement of NMDs that are deemed an “Indian Child” per the ICWA, and provides guidance to Indian youth who seek to participate in the After 18 Program. Liz Sandoval (CDSS Staff Counsel) explained that funding issues are being examined so that an NMD does not inadvertently become ineligible for extended foster care. Nancy Currie raised the issue of providing services even when an Indian youth is not eligible for funding. The Indian youth may not need funding, but still needs services. *[A draft ACL was sent out on April 17, 2013 to the ICWA Workgroup as well as counties for their review.]*

Foster Care Youth Identity Theft: Karen Gunderson gave this report. The President signed Public Law (P.L.) 112-34 into law on September 30, 2011. Among other provisions, P.L. 112-34 amends the case review system definition to require that each child age 16 or older in foster care receive a copy of any consumer credit report annually until discharged from foster care, per the federal Child and Family Services Improvement and Innovation Act of 2011. It also requires that assistance be provided to the youth in interpreting the credit report and resolving any inaccuracies. Karen will send the web links for the federal bill and program instruction to Diana Orcino for distributing to the workgroup. *[Done. Diana sent an email to the workgroup on April 23, 2013, which contained the web links for the federal bill, program instruction, and a related California bill.]*

ACTION 3: Karen will send the web links for the federal bill and program instruction to Diana Orcino for distribution to the workgroup regarding a new law that requires that each child age 16 or older in foster care receive a copy of any consumer credit report annually until discharged from foster care. *[Done]*

California Partnership for Permanency (CAPP)

Aprille Flint announced the next partnership cross-site meeting is scheduled for April in Fresno County. Updates from local CAPP representatives were provided as follows:

- John Dufresne (Fresno County)
 - a) Expressed concern that ICWA advocates have not been allowed to cross-examine during court hearings.

- Jeri Scardina (Humboldt County)
 - a) Indicated that the CAPP Advisory Group has been the main avenue for connecting with tribes.
 - b) System and case reviews have been completed by each CAPP pilot county in order to address both system change and practice change, while acknowledging that true change cannot happen without being examined and improved. A request for proposal (RFP) will be put out regarding the system review. The case review will occur before system review.

- Stephanie Weldon (Yurok Tribe)
 - a) Acknowledged there has been much progress and mutual learning happening between the tribes and Humboldt County. However, it was expressed that leadership

attendance has been lacking at CAPP trainings, which could send the wrong message to line workers.

Administrative Office of the Courts Update

Ann Gilmour gave this update. Ann will send Diana Orcino the web link to the proposal regarding the rules of court governing psychotropic meds and noticing once the proposal is posted for public comment. The proposal is to amend Rule of Court 5.640 and related forms JV-219, JV-221 and JV-222, which deal with the application for psychotropic meds. *[Done. On April 23, 2013, Diana emailed information to the workgroup provided by the AOC on the proposed rules of court.]*

Other invitations to comment on proposed legislation and rules and forms will also soon be posted to the website. Ann encouraged comments can be submitted and that questions about these be addressed to the Tribal Court/State Court Forum and/or the Family and Juvenile Law Advisory Committee.

The AOC will be preparing a series of fact sheets to be posted on their website. The first fact sheet they are developing is with regard to the ICWA advocate's role in court hearings. In addition to the ICWA informational resources on the AOC's Tribal Project's web page, other sorts of resources might be appropriate for development on other related web pages. For more information, please refer to the AOC's Online Self-Help Center on their website and the California Dependency Online Guide (CalDOG) website.

Ann announced that the Tribal Customary Adoption (TCA) Symposium is scheduled for Wednesday, March 13, 2013, from 9:00am to 12:30pm at the Intertribal Friendship House (IFH) in Oakland. About 45 participants have been pre-registered for the event so far. Webinar and teleconferencing will be available.

ACTION 4: Ann will send Diana Orcino the web link to the proposal regarding the rules of court governing psychotropic meds and noticing once the proposal is posted for public comment. *[Done]*

Annual Progress and Services Report (APSR)

Paulie Boynton (Smith River Rancheria) mentioned the Annual Progress and Services Report (APSR) and asked that tribes receive 60 days to review this time. Karen Gunderson said that probably won't happen this year, but we can try to work towards that goal in the future. The Tribal Caucus would like the APSR to be a standing item on the workgroup agenda. *(Note: The APSR is generally included for discussion on the May workgroup meeting agenda).*

ACTION 5: CDSS' Child Safety Unit will invite Jennifer White to the May ICWA Workgroup meeting to discuss the APSR deadlines and requirements. *[Done]*

Other Issues

Nancy Currie revealed an issue that has been occurring with regard to noticing the tribes. Soboba has been receiving Navaho notices, and it is suspected that some county workers may be using CDSS' List of Federally-Recognized Tribes – ICWA Contacts for Noticing Purposes instead of the Federal Register published by the federal Bureau of Indian Affairs (BIA). It could be a CWS/CMS system issue, but it seems like it may be related to the list that CDSS keeps. Maureen Geary expressed her concern that the CDSS list is confusing and perhaps needs to be eliminated. It was agreed that the Federal Register that lists all of the designated tribal agents for service of ICWA notice, published by the BIA, is the legal document to be used for noticing purposes. CDSS agreed to check into this issue.

<p>ACTION 6: CDSS will investigate the issue of over-noticing of tribes when tribes are cross-referenced to other affiliations, and whether or not CDSS' list of tribes is being used in place of the Federal Register published by the BIA. <i>[In process]</i></p>

Next ICWA Workgroup Meeting Discussion

The next ICWA Workgroup meeting is scheduled for Tuesday, May 14, 2013, and will be held at CDSS Headquarters in Sacramento.

Meeting adjourned at 3:31pm.