

**California State Department of Social Services (CDSS)
ICWA WORKGROUP**

May 14, 2013 • 1:00pm to 3:30pm

CDSS, 744 P Street, Conference Room 1031 (OB 8)
Sacramento, CA 95814

Meeting Notes

SUMMARY OF ACTION ITEMS

1. CDSS will send out another draft of the Division 31 regulations proposal by the end of May to the workgroup and counties for additional feedback to be due by June 28. *[Done 5/23/2013]*
2. CDSS extended the deadline for comments on the draft ACL regarding AB 12 and the After 18 Program to May 31 and will send an email notifying the workgroup of the extension before close of business today. *[Done 5/14/2013]*
3. Mary Sheppard of CDSS will provide contact information on ACO taskforce to the workgroup. *[Done 6/5/13 via meeting minutes]* Contact Information: mary.sheppard@dss.ca.gov or 916-651-6024
4. CDSS will send a draft of the APSR to the workgroup by the end of May for comments due back by the end of July. *[Done 5/30/2013]*
5. CDSS is developing an ACIN/ACL to address what portion of the SOC 815 form counties must complete when placing an Indian child in a TAH. The draft ACIN/ACL is to be completed by mid-July 2013.
6. Ann Gilmour will provide web link to CDSS on the California Uniform Law Revision Commission materials on amendments to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act to forward to the workgroup. *[Done 5/29/2013]*

Welcome/Introductions

Participants were introduced, and the previous meeting's minutes and current meeting's agenda were reviewed. Charles Henry (Yurok Tribe) expressed that he was very pleased with the measures CDSS took to respond to the 'Adoptive Couple vs. Baby Girl' amicus brief. The web link to the case transcript was provided at the meeting and is inserted below:

http://www.supremecourt.gov/oral_arguments/argument_transcripts/12-399-a4fc.pdf.

The Tribal Caucus recommended that the following topics be added to this and future agendas: 1) CalSWEC representation, 2) consultation and information on IV-E requirements, and 3) staffing and improvement in hiring ICWA program staff.

Only two of the March Action Items are still in progress:

- Item #1 regarding Tribally Approved Homes (TAHs) is addressed below under the "Tribally Approved Homes" subheading.
- Item #6 is still in progress. CDSS' CWS/CMS staff will need to look further into this issue. It was recommended that tribes inform CDSS ICWA staff if they receive notices

that do not apply to their tribe or children, and CDSS will investigate the issue. CDSS would need specific information about the case (e.g., case #, child's date of birth, full name of child and parent(s)) in order to research the issue. Maureen Geary asserted that the erroneous noticing issue is caused by CDSS' list of tribal addresses that is posted on the CDSS ICWA web page. She maintained that the CDSS list is confusing and is causing multiple noticing to occur and unaffiliated tribes to be noticed. CDSS indicated that this list has a bolded notation at the top of page 1 that informs users that the Bureau of Indian Affairs' (BIA) Federal Register is the only "legal" list for noticing, and that the CDSS list is only to be used as a backup in the event that tribal addresses on the Federal Register are not as current as the CDSS list. Some workgroup members believe the CDSS list should stay as a resource when needed. Kevin Gaines suggested that CDSS communicate with some counties that have large tribal populations. The CDSS needs to clarify whether or not there are data entry issues occurring at the county level before it can take appropriate action. Once there is more clarity, CDSS can send out an All County Information Notice (ACIN) with instructions for counties, if necessary, on handling this noticing issue. Aggie Jenkins offered to assist with providing CDSS information on what's happening at Riverside County. Delia Parr suggested that perhaps the CDSS list only include the tribe's name and affiliation and not the address and contact information.

CDSS Updates

Division 31 Regulations: CDSS last submitted a draft set of regulations to the workgroup in October 2012 and requested feedback from workgroup by November 12. CDSS reviewed the comments and incorporated changes where appropriate. CDSS plans to send out another draft to the workgroup and counties for additional feedback by the end of May. Comments will be due to CDSS by the end of June. After comments are received and necessary changes are made, CDSS will prepare the regulations for submission to its Office of Regulations Development and the approximate year-long process for regulations approval and publication will begin.

AB 12 (Extended Foster Care): An All County Letter (ACL) was requested that would inform counties on how to handle tribal youth. A draft ACL was completed and sent out for review on April 17 to stakeholders and the workgroup. Comments were due by May 2. CDSS received two comments—one each from two separate counties. Maureen Geary commented on the tight turnaround that CDSS imposes on receiving feedback. Tribes requested 30 days for review in the future on these types of requests. This ACL does not address all concerns, but another ACL in the future will address other concerns. Kevin extended the deadline for comments to May 31. CDSS will send an email notifying the workgroup of the deadline extension before close of business today.

Katie A. Implementation: Mary Sheppard (CDSS) and Troy Konarski (Department of Health Care Services) presented this update and distributed a one-page handout that covers background and key points to share with stakeholders regarding the Katie A. et al v. Bonta class action lawsuit, which was filed in 2002 against the CDSS, the California Department of Health Care Services (DHCS), and the County of Los Angeles (LA). Plaintiffs alleged that foster children do not receive adequate assessment and referral for mental health services and, as a result, suffer multiple unnecessarily restrictive foster care placements. LA settled its portion of the lawsuit in 2003, and CDSS and DHCS settled in 2011. Terms of the state

settlement are described in the Katie A. Settlement Agreement and can be found on the following websites: www.childsworld.ca.gov/PG1320.htm
www.dhcs.ca.gov/Documents/KatieASettlementAgreement.pdf

The Katie A. class includes children with an open case in child welfare services who have or may have mental health needs. The settlement also identifies a subclass of children and youth who will receive more intensive services if they are Medi-Cal eligible, meet medical necessity, have an open child welfare services case and, due to behavioral health needs are either (1) currently in or being considered for certain intensive services, or (2) in or being considered for a specific placement type such as a group home (RCL 10 or above) a psychiatric hospital, or have experienced their third or more placement within 24 months.

The CDSS and DHCS have worked with a federal Court-appointed Special Master and a workgroup comprised of county child welfare, mental health, parent and youth partners, and other stakeholders to develop an implementation plan that will facilitate various provisions, as mentioned in the one-page handout that was provided at this workgroup meeting. The intent is to construct and sustain a system of individualized services embedded in the core practice model (CPM) and delivered statewide through a partnership between child welfare services and mental health.

CalSWEC will coordinate cross-training between child welfare and mental health staff at the local level. Timelines are often very strict, as they are usually determined by court timelines. There are elements of the plan and settlement agreement that require additional work product by certain taskforces and advisory groups. Stephanie Weldon asked that Mary provide contact information on the Accountability, Communication and Oversight (ACO) Taskforce to ICWA Workgroup members. Mary expressed that tribal representatives should be included as stakeholders for the Readiness Assessment. It was mentioned that services are nearly non-existent in southern California. A question was raised about whether or not Katie A. will be very expensive for counties. How will they do it? Mary indicated that when counties initially implemented Wraparound services, they had the same concerns. The state has found that in many counties, Wraparound actually saved money due to less children in high levels of care. This may also be true when the CPM and the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services are implemented statewide. Courts have also been flexible with some timelines, but they are still tight. If a child is in tribal court, they are not mandated to adhere to the Katie A. agreement. Children on reservations are eligible for Medi-Cal.

The question was asked whether or not Katie A. applies to tribes with their own child welfare services program. Mary encouraged tribal members to engage with counties. Stephanie Weldon asked if counties will increase mental health services in rural areas. Mary said that they are looking to develop rural resource centers as part of the Learning Collaboratives for implementation. Stephanie also requested contact information on the ACO Task Force. Mary will provide this to Diana Orcino for dissemination to the workgroup.

<p>ACTION 1: CDSS will send out another draft of the Division 31 regulations proposal by the end of May to the workgroup and counties for additional feedback to be due by June 28. <i>[Done 5/23/2013]</i></p>
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ACTION 2: CDSS extended the deadline for comments on the draft ACL regarding AB 12 and the After 18 Program to May 31 and will send an email notifying the workgroup of the extension before close of business today. *[Done 5/14/2013]*

ACTION 3: Mary Sheppard of CDSS will provide contact information on ACO taskforce to the workgroup. *[Done 6/5/13 via meeting minutes]* Contact Information: mary.sheppard@dss.ca.gov or 916-651-6024

Annual Progress and Services Report (APSR)

Jennifer White presented this item. The APSR is CDSS' annual report to the federal government on what has been happening in child welfare services during the past year. It is a very involved process in terms of reporting all activities. CDSS is currently reporting on their 4th year of the 5-year plan and will send a draft out to the workgroup by the end of May. CDSS will honor the workgroup's request for a 60-day turnaround on comments, which will be due back by the end of July. The report is due to the federal Administration for Children and Families (ACF) by June 30, but they are aware of the workgroup's 60-day review request. The revision and review period for CDSS will continue until the end of September. Stephanie Weldon recommended that we include APSR issues in workgroup discussions so that reporting time is easier. Karen Gunderson reminded everyone that next year we need to discuss our goals for the next 5 years.

ACTION 4: CDSS will send a draft of the APSR to the workgroup by the end of May for comments due back by the end of July. *[Done 5/30/2013]*

California Partnership for Permanency (CAPP)

Updates from local CAPP representatives were provided as follows:

- John Dufresne (Fresno County): Indicated that Fresno County has been working on relationships with tribes for years. Recently had meeting with tribal members to look at CAPP grant, and they critiqued county social services. Jaiya John (author, poet and professional speaker; founder and executive director of Soul Water Rising) did a speaking presentation for cross-site members and also county social workers. Fresno County is also working with Madera County on tribal linkages, where they are linking Tribal TANF and CalWorks to bridge some of the same systems to support families from both sides. They are sending 14 people to conference, including their deputy director. Cindy Alexander has been very active in this process. Challenges for new unit in working with tribal families: Haven't identified all problems, but lots of training happening (Tribal STAR, local agencies), and working closely with tribes. Big challenge is they have lots of children that are not with local tribes. Fresno was the first county to move forward in training their workers on the CAPP model. Working on fidelity assessment; using community and tribal partners along with county staff to observe meetings. Theresa Sam asked Judges' brown bag dates. John explained that invitations to brown bag lunches with judges are based on the topics scheduled for discussion.

Tribally Approved Homes (TAHs)

Carole Minchew was asked to present on the issue regarding the process for relative approvals for TAHs. Some counties have asked to see the tribe's home study or are not recognizing the tribe's approval process. Counties need more clarification on their role in this area. Some counties do not follow the previous ACIN regarding this. A follow-up ACIN or ACL that clarifies these issues, such as background checks, etc., was requested to be done for counties. Carole will develop such an ACIN/ACL and asked that counties contact her at (916) 651-7393 to provide information or assistance as it is developed. The approximate timeline for the ACIN/ACL is about 2 months. Carole reiterated to the workgroup that counties fill out portions of the SOC 815 form that pertain to caregivers and adults living in the home, but not regarding approval of the home or facility itself. The tribe sets the standards for their home approvals and the counties conduct the criminal background checks. Nancy Currie stated that county social workers want to ensure that a home is safe, but need to trust that tribes have done their part to ensure the home has been inspected and is safe. Stephanie Weldon mentioned that TAHs are often passed over by counties for emergency placements because the fingerprinting has not already been done and counties won't do it for tribes. Counties want tribes to inspect the home before running CLETS, but it should be the other way around.

Stephanie mentioned another issue regarding Tuolumne County no longer providing training for therapeutic homes or TAHs; this needs clarification. State adoptions will also sometimes not clear a home merely because they feel there are too many people living in the home, and they are basing their decision on a different set of standards than when a tribe does the home study. Karen confirmed that there is no requirement for tribes regarding the number of people in a tribal home.

There needs to be clarification on transition from a TAH to a tribal customary adoption (TCA) in that home because adoption cases are being impacted; state adoptions tend to overturn in court. State adoptions staff may need to be invited to a future workgroup meeting to discuss. Karen asked what role private adoption agencies can play in doing the home studies. Nancy said that the private agencies often do not know how to address Native American families. Tribal home studies are time consuming and tribes would like to designate the homes studies to private agencies, but it costs the tribes money to use a private agency and the agency often won't know how to handle. One of the workgroup tribal chairs asked to have this item placed on an upcoming agenda since more discussion on this needs to take place. Karen acknowledged that there needs to be further discussion. If workgroup members are interested, Karen will initiate a conference call about TCA and TAH issues.

<p>ACTION 5: CDSS is developing an ACIN/ACL to address what portion of the SOC 815 form counties must complete when placing an Indian child in a TAH. The draft ACIN/ACL is to be completed by mid-July 2013.</p>
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Administrative Office of the Courts Update

Ann Gilmore provided this update. She asked the workgroup to review and provide comments on legislative proposals and proposed amendments to rules of court and forms. One proposed amendment is concerning the notice to tribes of applications to administer psychotropic medications in juvenile cases. This proposal would ensure *inter alia* notice to an Indian child's tribe of such applications. Also, a legislative proposal to amend Welfare and Institutions Code section 827 is being proposed regarding which entities are entitled to access state court

records when transferring to tribal court. Ann encouraged workgroup members to read these proposals as they are currently being circulated for public comment. Comments received will determine what happens with these proposals, which can be found at:

www.courts.ca.gov/documents/SPR13-18.pdf

<http://www.courts.ca.gov/documents/LEG13-03.pdf>

Other proposals are discussed in the AOC's bi-monthly update provided at the workgroup meeting.

Also, the workgroup had previously requested that tools be developed to assist with certain issues. The AOC is working on fact sheets to help provide information on various recurring topics. The first draft fact sheet developed is regarding tribal participation in state court proceedings governed by ICWA involving an Indian child. There will be several more fact sheets to come. It was requested by a workgroup member that a fact sheet be done on guardianship.

Ann also wanted to make the workgroup aware that the California Law Revision Commission is amending the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. The AOC is looking at adopting some recommendations. The next meeting of the California Law Revision Commission will be June 13 in Sacramento. Ann will provide the web link to Diana Orcino on the California Law Revision Commission materials on this Act to forward to the workgroup.

Theresa Sam recently discovered that ICWA training is not provided at the AOC's 8-hour attorney training on Indian trials, but that ICWA training is a completely separate training. It was recommended by tribal representatives that ICWA not be treated as a separate category, but rather that trainings for attorneys include information about compliance with ICWA.

<p>ACTION 6: Ann Gilmour will provide web link to CDSS on the California Uniform Law Revision Commission materials on amendments to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act to forward to the workgroup. <i>[Done 5/29/2013]</i></p>
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20th Annual Statewide Indian Child Welfare Act (ICWA) Conference

Kevin announced that CDSS is in the early planning stages of developing a formal tribal consultation policy. CDSS has been in contact with the state's tribal advisor and has done research on other tribal consultation policies, and will discuss with federal partners in the near future. Meanwhile, CDSS would like to have an open discussion at the conference on this matter during one of the workshop sessions.

Liz Sandoval mentioned that federal legislation which addressed Title IV-E requirements was passed last year regarding tribal children being transferred from state court to tribal court. This legislation specified minimum requirements for transfer of tribal children. Federal regulations require tribal consultation. CDSS may be issuing an ACL in the future that describes those minimum requirements. CDSS welcomes feedback and recommendations from the workgroup on developing a meaningful tribal consultation policy that fits in with our needs. CDSS encourages feedback at our conference workshop. For example, what information should be transferred when a non-IV-E child is being transferred to tribal court?

Stephanie Weldon expressed that consultation should not only apply to IV-E tribes, but to all tribes. For example, all tribal governments should be informed as to what rules, regulations, laws, etc. are being proposed that will impact their tribal children. Co-managing our children will result in better service to the children. The Tribal Council, or Chairman at the very least, would want to be present at tribal consultations; however, it depends on the issue and the tribe. The first step is that CDSS would need to reach out and create relationships with tribes and send notices on upcoming consultations. Stephanie recommended that letters should be sent to tribal chairs inviting them to attend CDSS' listening session on tribal consultation at the conference, and that teleconferencing for this workshop be provided as well. The letter should also remind the tribal chairs that workshops fill up early and that early registration is recommended.

Nancy Currie mentioned that the final conference agenda should be available soon. It is currently still in draft form.

Other Issues

Karen Gunderson spoke about the Continuum of Care Reform (CCR) and about reforming group homes and foster care agencies so that children spend less time in foster care. This is an ongoing effort. Recommendations are due to the legislature in the fall of 2014. CDSS will provide an update on this effort at the September workgroup meeting.

The Yurok Tribe would like to meet at the conference to discuss IV-E issues.

Next ICWA Workgroup Meeting Discussion

The next ICWA Workgroup meeting is scheduled for Tuesday, September 10, 2013, and will be held at CDSS Headquarters in Sacramento.

Discussion included whether or not September meeting should be hosted by a tribe if there is a need. Kimberly Cluff offered the Colusa Indian Community (aka Cachil Dehe Band of Wintun Indians). Otherwise, the September meeting will be hosted by CDSS and the November meeting is to be hosted by a Central region tribe this year.

Meeting adjourned at 3:37.