



CHILD WELFARE SERVICES

Tribal Collaboration

Policy and Procedure: CWS 18-11 Tribal Collaboration
Effective Date: 11/9/18

OVERVIEW

Congress passed the Indian Child Welfare Act (ICWA) in 1978 to address the following problems:

- State courts and county social services agencies removed large numbers of Indian children from their families;
- Most of those children ended up in non-Indian homes and institutions;
- Indian children who were cut off from their Tribal communities and culture often later experienced behavioral and emotional problems;
- State and county officials did not understand, ignored, or rejected the cultural or social customs of the child's Tribal community.

The express purpose of ICWA is “. . . to protect the best interest of Indian Children and to promote the stability and security of Indian Tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture . . .” (25 U.S.C. §1902.) ICWA provides guidance to the States regarding the handling of child abuse and neglect and adoption cases involving Native children and sets minimum standards for the handling of these cases.

California has adopted ICWA and California State courts must follow the minimum Federal standards. (See California Welfare and Institutions Code [WIC] §224 et seq.)

To facilitate collaboration, state and federal law provide for the exchange of information between Tribal social workers and county social workers investigating allegations of abuse and neglect. Specifically, pursuant to section 19 U.S.C. 3205 (and 552a of title 5, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g, agencies of any Indian Tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of may exchange information in performance of their duties. For purposes of this section, Indian Tribal governments are treated the same as other Federal Government entities. In addition, subd. (f) of Welfare and Institutions Code 827, expressly provides Tribal social workers access to all the information contained in CWS case files.

Revision Date: 11/9/18

In 2015, American Indian (AI) and Alaska Native (AN) children comprised seven percent (7%) of the child population in Humboldt County, but these children represent approximately thirty-eight percent (38%) of the foster care population¹. To remedy this disparity, and in keeping with both the spirit and the letter of ICWA, Humboldt County is dedicated to greater engagement with Tribal governments. The agency makes a fundamental commitment to (1) increase access for AI/AN families to Tribal and Indian organization culturally based services; and (2) to ensure Tribal participation in agency case planning and court proceedings. (See 25 U.S.C. §1901 et seq.; WIC §224 et seq.)

Humboldt County has executed² Memoranda of Understandings with local Tribes (Tribal protocols) that call for collaboration between Tribal and county social workers during the response, investigation, and remediation of referrals and cases of child abuse and neglect involving Indian children. In addition, CWS has adopted policies and procedures that require collaboration between Humboldt County Tribes and CWS social workers at every stage of a referral and/or case.

CWS believes, commits to, and expects collaboration with the identified Tribe to begin at time of Intake and/or first contact. The agency's key objective for Native American families is to maintain and foster the child's connection with the Tribe while keeping children safe from abuse and/or neglect.

POLICY

CWS policy regarding Tribal collaboration follows from the Indian Child Welfare Act (25 U.S.C. Sec 1901 et seq.), the California Welfare and Institutions Code, Division 31 regulations, and any applicable government-to-government protocols. It is as follows:

CWS acknowledges and respects the political status of Indian Tribes as Sovereign Nations.

CWS determines a child's Indian status as soon as possible to serve the best interests of the **Indian Child** and to protect the interests of the child's Tribe. When CWS receives a referral regarding allegations of child abuse and/or neglect, the screening social worker must make inquiry to determine whether there is reason to know that the child is or may be a member, or the biological child of a member and eligible for membership, in a federally recognized Tribe.

CWS verifies whether a child is an **Indian Child** by following all applicable intake, investigation, and case management procedures as well as any applicable Tribal protocols, and by promptly noticing federally recognized Tribes as required by ICWA.

¹ National Indian Child Welfare Association. (2016). Humboldt County Child Welfare System Review Report. Portland, OR.

² The County expects to have these MOUs in place by March of 2019.

If the child is affiliated with a Humboldt County Tribe:

- The screening social worker must follow all applicable Tribal protocols in addition to the Intake procedures for collaboration with local Tribes, and makes all decisions whether cases should be “screened in” jointly with Tribal social workers.
- Investigating social workers follow all applicable Tribal protocols in addition to the ER investigation procedures for collaboration with local Tribes.
- CWS social workers exchange information with Humboldt County Tribal social workers and collaborate with Humboldt County Tribal social workers at all key decision points.

CWS social workers have an ongoing duty to make inquiry to determine whether there is a reason to know that the child is or may be (1) a member, or (2) the biological child of a member and eligible for membership, in a federally recognized Tribe.

CWS complies with ICWA’s mandatory placement preferences for all Indian children. Tribal placement preferences supersede all other considerations, regardless what reunification services CWS offers the parents.

CWS makes active efforts to prevent to the breakup of all Indian families receiving ongoing services (court and non-court) and documents those active efforts in the case file.

PROCEDURE

Collaboration at Intake

1. An Indian Child is any unmarried and unemancipated person who is under age eighteen and is either (1) a member or citizen of an Indian Tribe or (2) is eligible for membership or citizenship in an Indian Tribe and is the biological child of a member/citizen of an Indian Tribe.
2. The screening social worker is responsible for identifying Indian Children by asking the reporting party whether they have any information that the child(ren) and family may have one (or more) Tribal affiliation.
 - a. If the screening social worker learns that the child is (or might be) affiliated with a Humboldt County federally recognized Tribe:
 - i. Screening social workers follow ALL procedures for Tribal Collaboration pursuant to the CWS [Intake Procedure](#) and any applicable [Tribal protocol](#).
 - b. If the screening social worker learns that the child is (or might be) affiliated with a federally recognized Tribe outside Humboldt County:
 - i. The screening social worker documents the inquiry regarding Tribal affiliation (as well as the information provided) in the screener narrative.

Revision Date: 11/9/18

3. Intake Collaboration Checklist

- Asked the reporting party whether they have any information that the children may have one (or more) Tribal affiliation.
- Followed the Cross-reporting procedure and any applicable Tribal protocols to notice any Humboldt County Tribe(s) identified by the reporting party.
- Followed Intake procedure and any applicable Tribal protocols to complete SDM tools jointly with Humboldt County Tribal social workers.
- Documented all efforts to determine Indian status in case notes.

Collaboration During the Investigation

4. Inquiry and Notice

- a. Investigating social workers must use due diligence to identify and work with all Tribes of which there is reason to know the child may be a member (or eligible for membership), and to verify whether the child is in fact a member (or a biological parent is a member and the child is eligible for membership).
- b. CWS treats the child as an Indian child, unless and until it is determined that the child does not meet the definition of an Indian child.
- c. Document all efforts to determine a child's Indian status in CWS/CMS.
- d. In no case shall the unavailability of a Tribal social worker excuse an investigator from the responsibility to properly investigate allegations of child abuse or neglect according to the timelines established by policy and state law.
- e. As applicable, refer to the Tribe's [government-to-government protocol](#) and the [CWS ER Investigation Procedure](#) for more specific guidance.
- f. **Humboldt County Tribes**

If the investigating social worker learns that the child is a member of, or eligible for membership in a Humboldt County federally recognized Tribe:

- i. The social worker follows the ER Investigation procedures for [Collaboration with Tribes](#) as well as any applicable [Tribal Protocols](#).
 - 1. Within 24-hours of being assigned to the investigation, the CWS social worker contacts the Tribal social services program or the Tribe's ICWA representative using the Tribe's preferred method of communication (follow the Tribe's government-to-government protocol if applicable).
 - 2. Provide the identified Tribe a copy of the intake report.

Revision Date: 11/9/18

3. Investigating social workers complete the [ICWA 020](#) at the initial visit with the parent(s)/Indian custodian on all screened-in cases for each child, including those who have not been identified as victims.
4. Obtain the child's birth certificate.

g. Tribes located outside Humboldt County

If the investigating social worker learns that the child is a member of, or eligible for membership outside Humboldt County:

- i. Investigating social workers complete the [ICWA 020](#) at the initial visit with the parent(s)/Indian custodian on all screened-in cases for each child, including those who have not been identified as victims.
- ii. Document all efforts to determine the child(ren)'s Indian status in CWS/CMS.
- iii. When a child may have Indian ancestry and be affiliated with a federally recognized Tribe outside Humboldt County, investigating social workers:
 1. Obtain the child's birth certificate.
 2. Complete a Family Ancestry History Chart and include:
 - Full names of child's birth parents, grandparents, and great grandparents (as far back as possible).
 - Mother's maiden name.
 - Mother's married name(s).
 - Identify any aliases used by individual(s) on the form.
 3. Review CWS/CMS to ensure the ICWA tab is complete and includes all current information for family members.

d. Identification Checklist

- Contacted the Tribal social services program or the Indian Child Welfare Act (ICWA) representative within 24 hours of being assigned to the investigation, using the Tribes preferred way of communication (follow the Tribe's government to government/ agreement if applicable).
- Offered to send the identified Tribe a copy of the intake report.
- If requested, sent the identified Tribe a copy of the intake report.

Revision Date: 11/9/18

- Noted Indian ethnicity in CWS/CMS.
- Worked with parents and relatives to obtain completed ICWA Form 020.
- Documented all efforts to determine Indian status in case notes.
- Reviewed CWS/CMS to ensure the ICWA tab is complete and includes all current information for family members.

5. Emergency Placement

- a. If it is necessary to remove a child, the investigating social worker:
 - i. Coordinates emergent and non-emergent placements of an Indian child with the Tribal child welfare agency prior to or within one business day of placement.
 - ii. Conducts a diligent search for a suitable placement, to include contact with the Tribe(s) if known, within the order of preference before considering a non-preferred placement.
 - iii. Completes the relative search process when an Indian child is placed in out-of-home care.
 - iv. Follows federal and state ICWA placement preferences or any applicable Tribal protocol unless the child's Tribe identifies a different order of preference.

6. Active Efforts

- a. The requirement to engage in “active efforts” to prevent removal begins from the moment the possibility arises that an agency case or investigation may result in the need for the Indian child to be placed outside the custody of either parent or Indian custodian.
- b. Investigating social workers must engage in active efforts to prevent removal of a child while investigating whether the child is a member of the Tribe, is eligible for membership in the Tribe, or whether a biological parent of the child is or is not a member of a Tribe.
 - i. Humboldt County Tribes**
 - 1. Coordinate a joint visit with the Tribal Social Worker (TSW), ensuring that the visit occurs within the appropriate response time. (Follow the Tribe’s government-to-government protocol if applicable.)

2. Regardless of the family's Tribal affiliation, if the family resides on Tribal land, consult the Tribe before entering Tribal land to conduct an investigation.
3. Include the TSW in every face-to-face contact with the child and caregivers, unless the TSW requests a different plan. (Follow the Tribe's government-to-government protocol for contacts as applicable.)
4. During the face-to-face contact with the children, the social worker and TSW complete the SDM[®] safety assessment together to assure there is agreement that the child is safe remaining in the home.
 - a. If the TSW is not available to complete the safety assessment, the CWS social worker completes the tool and provides the TSW with the overall safety decision and the rationale.
5. During the course of the investigation, the social worker and TSW complete the SDM[®] risk assessment together to determine the risk level to help inform the case promotion decision. See the [SDM Case Promotion Matrix](#) for further guidance.
6. During the course of the entire investigation, the TSW is a part of the team and decision making process. If the CWS social worker receives new information, he/she will consult with the TSW.
 - b. Invite the TSW or a designee to attend any Child and Family Team (CFT) meetings.
 - c. Collaborate with the TSW to complete the Mental Health Screening Tool (MHST) and any other applicable Mental Health tools.
7. Review CWS/CMS to ensure the ICWA tab is complete and includes all current information for family members.
8. The CWS social worker and the TSW discuss the allegation conclusion and the reason for the conclusion as well as the referral disposition (what will be done with the referral, e.g., close the referral with no further intervention, or remove the child and open a family reunification case).
 - Develop a case plan that includes services and/or any activities that support behavior change provided by Indian programs;

- Collaborate with the TSW to identify culturally-appropriate referrals and include those services and/or activities in the case plan;
- Discuss with the TSW what extended family members, Indian services or Tribal resources are available to assist the family;
- Make specific referrals to Indian resources for both the parents and child (even if some members of family are not Indian or connected to a specific Tribe).

1. Tribes located outside Humboldt County

1. Review CWS/CMS to ensure the ICWA tab is complete and includes all current information for family members.
2. The CWS social worker and the TSW discuss the allegation conclusion and the reason for the conclusion as well as the referral disposition (what will be done with the referral, e.g.: close the referral with no further intervention, or remove the child and open a family reunification case).
 - Develop a case plan that includes services and/or any activities that support behavior change provided by Indian programs;
 - Collaborate with the TSW to identify culturally-appropriate referrals and include those services and/or activities in the case plan;
 - Discuss with the TSW what extended family members, Indian services or Tribal resources are available to assist the family;
 - Make specific referrals to Indian resources for both the parents and child (even if some members of family are not Indian or connected to a specific Tribe).

Collaboration with the Court Unit

- a. Use the Family Ancestry History Chart and the ICWA 020 to complete an ICWA 030.
 - ii. If there is not enough information on the Family History Chart to complete the ICWA 030, the court unit contacts all known relatives to gather information and document the inquiry in CWS/CMS.
- b. Within thirty (30) days of Indian ancestry identification, CWS sends the ICWA 030 to the identified Tribe(s) and the Bureau of Indian Affairs (BIA) via registered mail, return receipt requested.

- c. Attach the ICWA 020, Family History Chart, and birth certificate to the Initial/Detention and Jurisdiction reports.
- d. Attach the ICWA 030 to the Disposition report.
- e. If the child is **removed** from BOTH parents:
 - iii. Contact the Tribe to identify the ICWA expert who will testify and prepare the report at the disposition hearing.
 - When the Tribe identifies the expert, notify County Counsel who will testify.
 - Obtain all documents requested by the expert for preparation of the report.
 - Provide the expert with contact information for all parties to the case.
 - iv. When CWS receives the report, submit the document to the Juvenile court with an addendum to the Disposition report.
- f. If the child is NOT removed from **BOTH** parents:
 - v. Document notice and inquiry in CWS/CMS.
- g. Coordinate with the investigating social worker to ensure the following:
 - vi. The TSW is a part of the team and decision making process. If the CWS social worker receives new information, he/she will consult with the TSW.
 - vii. Invite the TSW to attend any Child and Family Team (CFT) meetings.
 - viii. Collaborate with the TSW to complete the MIST tool and any other applicable Mental Health tools.
 - iv. Ensure the ICWA tab is complete and includes all current information for family members.
 - v. CWS and the TSW discussed the allegation conclusion and the reason for the conclusion as well as the referral disposition (what will be done with the referral, e.g., close the referral with no further intervention, or remove the child and open a family reunification case).
 - Developed a case plan that includes services and/or any activities that support behavior change provided by Indian programs;
 - Collaborated with the TSW to identify culturally-appropriate referrals and include those services and/or activities in the case plan;

- ❑ Discussed with the TSW what extended family members, Indian services or Tribal resources are available to assist the family;
- ❑ Made specific referrals to Indian resources for both the parents and child (even if some members of family are not Indian).

Case Management

- a. CWS make active efforts to prevent to the breakup of Tribal families receiving ongoing services (court and non-court) and documents those active efforts in the case file.
 - i. CWS and TSWs jointly conduct monthly contacts with children in their placement.
 - 1. CWS and TSWs jointly interview the child independent from the caregiver.
 - 2. CWS and TSWs jointly make recommendations to the Superior Court regarding the appropriateness of the placement.
 - 3. In the event the TSW is unavailable for a joint contact, CWS shall immediately contact the TSW and convey the results of that interview.
 - ii. CWS and the TSW work collaboratively with the family to deliver services.
 - iii. CWS and the TSW share records and progress reports from service providers.
 - iv. CWS and the TSW collaborate to make recommendations to the Superior Court as applicable.
 - v. CWS provides adequate advance notice to the family and the TSW when conducting announced contacts on the Tribal land.
 - vi. CWS collaborates with the TSW to make recommendations to the Superior Court regarding visitation and shall document that collaboration in the file.
 - 1. CWS considers all background information provided by the TSW in making visitation recommendations.
 - 2. CWS prioritizes parental behavior change and any assessment tools utilized in making recommendations to

transition a Tribal child from supervised to unsupervised visitation as well as unsupervised to supervised visitation.

- vii. CWS and the TSW collaborate to recommend a long term living plan to the Superior Court, whether that plan be guardianship, Tribal customary adoption and/or adoption.
 1. CWS and the TSW jointly complete all applicable assessment tools to determine the best recommendation for the child's plan.
- viii. CWS and the TSW jointly complete all applicable assessment tools to determine the best recommendation for case closure.

Sharing Information with Tribal Social Services and/or the Tribe's ICWA representative

- a. Investigating social workers collaborating with Humboldt County Tribal social workers pursuant to CWS policies and procedures may share the following information with the Tribal social worker:
 - Verbally describe the content of all investigative documents (including the content of police reports) and California Law Enforcement Telecommunication System (CLETS) reports.
 - Provide copies of all CWS records contained in the case files.
- b. Investigating social workers collaborating with Humboldt County Tribal social workers pursuant to a government-to-government agreement (Tribal protocol) may verbally exchange AND provide copies of the records in the case file (excepting CLETS reports) including police reports and other records or information used by the social worker to assess the family and make recommendations for services.
- c. It is unlawful for CWS to disseminate copies of CLETS reports.