

## Annual Progress and Services Review 2009-2010

### ▪ *Our Tribal Partners*

There are twenty-nine federally recognized tribes in Washington.

- Colville Confederated Tribes
- Confederated Tribes Of Chehalis
- Cowlitz Indian Tribe
- Hoh Tribe
- Jamestown S’Klallam Tribe
- Kalispel Tribe
- Lower Elwha Klallam Tribe
- Lummi Nation
- Makah Tribe
- Muckleshoot Tribe
- Nisqually Tribe
- Nooksack Tribe
- Port Gamble S’Klallam Tribe
- Puyallup Tribe
- Quileute Tribe
- Quinault Nation
- Samish Nation
- Sauk-Suiattle Tribe
- Shoalwater Bay Tribe
- Skokomish Tribe
- Snoqualmie Tribe
- Spokane Indian Tribe
- Squaxin Island Tribe
- Stillaguamish Tribe
- Suquamish Tribe
- Swinomish Tribe
- Tulalip Tribe
- Upper Skagit Tribe
- Yakama Nation

Washington State’s primary Indian Child Welfare goals have been to recognize a Government-to-Government relationship between the State and Indian Tribes/Nations through the maintenance and support of the:

- Indian Child Welfare Act
- Washington State Centennial Accord
- Washington State Basic Tribal State Agreement
- Washington State Localized Tribal State Agreements
- DSHS Administrative Policy 7.01

In addition to Federally Recognized Tribes/Nations, CA also recognizes, through policy, American Indian Organizations, and American Indian participants.

DSHS staff support for these goals is provided through the Office of Indian Policy (OIP) staff and their director who serve all the administrations of DSHS in each of the 6 regions. The OIP promotes communications between DSHS programs and all Indian people while recognizing the unique government-to-government relationships. The Director of OIP is on the DSHS Secretary's Leadership Team.

Children's Administration (CA) has an Indian Child Welfare (ICW) Manager located at Headquarters and supervises an Associate Manager whose official station is in the Lynwood Office in Region 3. The Associate occupies a work desk in Head Quarters one day per week. The ICW Associate's major responsibilities are contract management and internal policy collaboration with CA and tribal staff for ICW matters throughout the state. This position also coordinates the monthly DSHS Indian Policy Advisory Committee Children's Administration sub-committee meetings and manages the ICW list serve. The ICW Manager reports to the Assistant Secretary and is able to convey ICW issues that arise from the Tribes/Nations or Regional CA staff. CA also has ICW liaisons located through the six identified CA's regions and several ICW units located in the larger urban offices of the State.

The ICW Manager assists in assuring communication, consultations, and relationships between CA and the Tribes/Nation are honored. The ICW Manager also assists in facilitating legislative initiatives with tribes to ensure issues impacting ICW and government-to-government relations are honored.

CA ICW Manager and Associate also work closely with the Indian Policy Advisory Committee (IPAC) Children's sub-committee with on-going issues and policies that affect ICW. This body meets on a monthly basis to collaborate and coordinate program issues, legislative issues, and issues specific to tribal communities and state relations. These issues are tracked and managed through a matrix format by an OIP manager assigned to the CA sub-committee. The matrix is reviewed and updated quarterly and reported to the general IPAC body semi-annually.

IPAC membership is comprised of delegates appointed by resolution from the 29 Federally Recognized Tribes, and letters of appointment from the Recognized Indian Organizations Board of Directors. IPAC meets on a quarterly basis and also appoints representatives to CA workgroups, advisory committees, and ad hoc committees for the purposes of tribal representation and input to CA.

Additionally, quarterly ICW meetings are held in each of the six DSHS regions to address the 7.01 Policy. The 7.01 Policy is a DSHS policy that outlines the implementation of the government-to-government relationship as directed in the Washington State Centennial Accord. The outcomes of these meetings are regional plans and the development of matrixes to measure and track local accomplishments and

identify challenges. CA utilizes these regional plans to develop and address the highest priorities identified on a statewide wide basis.

A summary of these meetings are listed. This listing does not include all of the local and regional meetings that are also held.

- Quarterly IPAC meetings with DSHS and Tribal Delegates
- Monthly IPAC Children's sub committee meetings
- Regional quarterly 7.01 policy ICW meetings (program implementation staff)
- Monthly work group meetings addressing legislative initiatives; updating policies; functions as a Citizen's Review Panel concentrating on Disproportionality of Indian Children in the Child Welfare system and as a focus group for the Child and Family Systems Review (CFSR); ICW Case Review oversight including Tribal/Nations notification processes, identification of Indian Children, child safety, permanence, and well being; training needs in addition to issues and needs that arise

In addition to the quarterly IPAC meetings, which serve as on-going consultations through Tribal delegated authority, the Assistant Secretary meets bi-annually with the IPAC delegates to hear Tribal concerns and issues relating to policy and practice and the impacts on Tribal children and families, and to provide updates and progress on improved service to Indian families and children.

#### Highlights of Accomplishments:

- 2SHB 2106 Improving Outcomes for Children and Families served by DSHS Children's Administration through Savings and Reinvestment of Services including Performance Based Contracting, established a legislatively appointed committee to implement the intents of the legislation. Four seats were identified for tribal representation. These are filled by: Liz Mueller, Vice-Chair of Jamestown S'Klallam Tribe; Henry Cagey, Chair of Lummi Nation; Carleen Anderson, Council member; Colville Confederated Tribes; and Jerry Meninick, Council member Yakama Nation.
- A consultation was held on May 12, 2010 to discuss and consult on Phase I of 2SHB 2106 to develop and implement Performance Based Contracts, to be implemented July 2011, and the impact on Tribal services. Currently the tribal Indian Child Welfare and Independent Living Contracts will not be affected. Phase II, identifying and developing two demonstration pilot sites to contract case management services will be implemented in 2012. Discussion and consultation will continue throughout the process.
- The second ICW case review was conducted in the Fall of 2009 in each region. Through this review, Children's Administration (CA) has a quantitative and qualitative view of regional and statewide compliance with the Act. A state wide

meeting with tribes and Recognized American Indian Organizations will be held in late June 2010 to develop remediation plans to improve compliance and maintain improvements from the 2009 review.

- As a result of the initial ICW Case Review, the curriculum for the Children's Administration Social Worker Post Academy ICW Training was rewritten to address training needs identified in the ICW Case Review and to incorporate Solution Based Casework as it applies to Indian Child Welfare. This three day training is mandatory for all Children's Administration's Social Workers.
- Tribes will have view access to FAMLINK, the State Automated Case Worker Information System (SACWIS) by June 2010. This fulfills a commitment from Children's Administration to provide tribal access to the new data system.
- Curriculum and training was developed for all Children's Administration's supervisors based on the ICW Case Review and lessons learned from Indian children's fatality reviews to identify the role of supervisors in implementing the Indian Child Welfare Act. Mandatory training for all supervisors is scheduled to be completed in the Spring of 2010.
- A DVD, All My Relations, was produced and is available on-line to enhance Foster Parent and caregivers training. This DVD focuses on the development of the Indian Child Welfare Act, importance of cultural sensitivity, and identifying resources for non-Indian caregivers of Indian children. This DVD has also been widely viewed and used nationally to support the work of Indian Child Welfare.

Continuing Work includes:

- A committee established by the 2007 legislature to study and present remediation plans re eliminate racial Disproportionality in the state's child welfare system. SHB 1472, Racial Disproportionality in the Washington State Child Welfare System established that racial Disproportionality does exist in the child welfare system and that Indian children are the most disproportionately represented in referrals, entering the system, and length of stay.

Among other initiatives, the Secretary's recommendations to eliminate racial disproportionality call for full compliance with the ICWA and continuation of the ICW quality assurance case review.

- Continue to work with Tribal Governments to update or develop local agreements using the template agreed to at the 2007 Tribal/State consultation. Outreach continues to Tribes to provide technical assistance to review and develop agreements.
- Monitoring progress on a State Indian Child Welfare Act lead by Tribal and RAIO representatives continues.
- In 2008 Congress passed S. 1956 and H.R. 4688: Amendments to Provide Direct Title IV-E Funding to Tribes for Foster Care and Adoption Assistance Services.

CA and IPAC children's sub-committee convened a tribal meeting and invited HHS Region X and the National Indian Child Welfare Association in December

2008 to present and discuss Tribal direct access for IVE. This meeting was attended by 25 tribes and Indian Organizations. Work continues with tribes interested in accessing IV-E directly from HHS. Work includes providing technical assistance and negotiating full access to FamLink (SACWIS) for tribes applying for direct IV-E agreements.

Plans for the next five years are to continue with the areas identified above and build on them to impact system changes, achieve full compliance with the ICWA, and improve outcomes for Indian children served through the state.

**Section B. Instructions for States; 4. Tribal Consultation: Specific measures taken by the State in the past year to improve or maintain compliance with each of the five major requirements of the Indian Child Welfare Act:**

- 1) Notification of Indian parents and Tribes of State proceedings involving Indian children and their right to intervene;**
  - As part of the on-going ICW Manual revision work, notification is also of prime interest. CA is in the process of a systems review and intensive redesign of operational protocol and procedures.
  
- 2) Placement preferences of Indian children in foster care, pre-adoptive, and adoptive homes**
  - CA continues to work with Tribes and Recognized Indian Organizations to identify appropriate family placements and, in the absence of such, actively recruit Indian Foster homes to serve the needs of Indian dependent children either in State or Tribal jurisdiction.
  
- 3) Active efforts to prevent the breakup of the Indian family;**
  - An active efforts work group was established in 2005 to address these efforts. Efforts continue to revitalize this work topic and develop a plan that will incorporate active efforts for ICW cases in the broad arena of systems change based on the results of the Indian Child Welfare case Review.
  
- 4) Use of Tribal courts in child welfare matters, Tribal right to intervene in State proceedings, or transfer proceedings to the jurisdiction of the Tribe.**
  - CA ICW Manual has an extensive section related to Tribal notification and the subsequent rights of Tribal governments to intervene in matters that involve an enrolled, enrollable, or descendent of (Washington State ICW policy) Indian child.

Through the Quality Assurance Case Review process, the Team tracks compliance for inquiry of Indian status on a large sample of cases regardless of identified race or ethnicity. When a case has been identified as an ICW case a second detailed ICW review is conducted randomly by Tribal and State reviewers to measure full compliance with the Act and develop a remediation plan to address areas of non-compliance.

For a complete review of the prior section, see the following Executive Summary of the ICW 2009 case review:

## **Executive Summary**

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2009 Indian Child Welfare Case Review  
Conducted September through November 2009

### **Background and Purpose:**

Washington State began a collaborative effort to develop an Indian Child Welfare (ICW) case review in 2005. This effort was led by Washington State Tribes, the Indian Policy Advisory Committee (IPAC), and the Children's Administration. The first statewide ICW case review occurred in 2007 and the second statewide ICW case review was held in the fall of 2009. The purpose of the ICW Case Review is to:

- Increase understanding of ICW requirements for CA staff
- Improve the quality of services to Indian children and families
- Facilitate quality improvement activities based on reliable ICW practice trends.

### **Process:**

A total of 217 ICW cases were reviewed in 2009. The review occurred at the regional level and utilized the same methodology, questions and decision rules from 2007 with some changes. The 2007 review included some cases that were under tribal care and authority. The 2009 review modified this for overall regional consistency reviewing only cases under state care and authority. The case review tool is comprised of 29 questions, divided into nine sections. All ICW compliance questions reference the CA ICW Manual and/or the Washington Tribal/State Agreement.

The review was led by the CA Central Case Review Team. There were a total of 34 participants on the regional review teams comprised of:

- 15 Tribal and Recognized American Indian Organization (RAIO) representatives
- 2 Office of Indian Policy program managers
- 17 CA regional ICW staff.

### **Key Practice Findings:**

There were two areas of progress (overall increase of 6% or higher from 2007 review).

1. **Inquiry of Native American Status:**  
Asking both the mother and the father about possible Native American heritage, sending inquiry letters to all Tribes, and staffing the case at LICWAC if there was no response from the Tribe.
2. **Adequate Response to Safety:**  
Adequately addressing all risk and safety concerns for children remaining in the home, or if placed, in the child's out of home placement.

There were five areas that remained the same (within 5% of the 2007 review).

1. **Engagement of Family and Tribes:**

Providing ongoing "active efforts" to engage the mother, the father, the child and the Tribe in major decision and the development of the case plan.

2. Maintaining Cultural Connections:

Identifying and encouraging the involvement of community services and resources specifically for Indian families, and if the child was placed, encouraging the child's participation in Tribal customs and activities.

3. Voluntary Placement Cases:

A Voluntary Placement Agreement (VPA) is rarely used for Indian children, but there was inconsistent practice in the compliance in the requirement of a court Validation Hearing.

4. Tribal Placement Preference:

Asking the Tribe for their placement preference for the child, opposed to informing the Tribe where the child was placed.

5. Meeting the Well-Being Needs of Children:

Adequate assessment and follow up to the child's physical health, education, mental health and developmental needs.

There were two areas that decreased (overall decrease of 6% or higher from 2007 review).

1. Notification to Tribes of Court Hearings

Compliance in notifying Tribes 15 working days prior to all court hearings.

2. Achieving Permanency

Sufficient and timely steps in the last year to achieve permanency.

**Systemic Issues:**

The review teams also identified the following systemic issues:

- Native American status was not updated in FamLink when new information is gathered from the parent, family or Tribe regarding Indian status.
- Need for updated policy clarification in the ICW Policy Manual
- Regional differences in who is responsible for notification to Tribes of court hearings
- Regional differences in utilizing LICWAC staffings

**Recommendations:**

Further collaboration with Tribes, RAIIO representatives and CA to develop recommendations and a practice improvement plan based on the practice trends and systemic issues identified in the review.

- Convene a statewide ICW workgroup comprised of Tribes and regional representatives to identify goals and action plan steps.
- Develop regional and a state practice improvement plans for Washington State Indian Child Welfare.
- Implement the regional and state practice improvement plans.

**Identification as to who is responsible for providing for the protections for Tribal children delineated at Section 422(b)(10) of the Act, whether they are in State or Tribal custody;**

**(B) is operating, to the satisfaction of the Secretary--**

**(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;**

**(ii) a case review system (as defined in section 475(5) for each child receiving foster care under the supervision of the State;**

**(iii) a service program designed to help children**

**(I) where appropriate, return to families from which they have been removed**

**(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement**

**(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families**

Case reviews, ancestry charts, search requirements, placement preferences and documentation are identified through the ICW Manual. Efforts are being made to ensure consistent application and compliance to these policies and practices are being uniformly applied throughout the state through the ICW Case Review.

Tribal concerns with CA largely fall into four realms: Communication, impacts of 2SHB 2106, disproportionality, and policy. Specific services to and identification of Indian children are additional areas of focus. CA has committed to the following steps to address these concerns:

- Implementing the formal protocol on on-going consultation with Tribes, IPAC and Indian Organizations,
- Developing access to FAMLINK (SACWIS)
- Continuing the ICW case review process and remediation
- Continue collaboration and work on Disproportionality and institutional racism work

In conclusion, efforts to recognize government- to-government relations between DSHS Children's Administration and the Tribes/Nations to protect Indian children continue to be a high priority. Full compliance with the ICWA and continued efforts to solidify and strengthen services to all Indian children and their families will be done with respect and integrity.

