

Collaborative Community Quest

“... There is no resource that is more vital to the existence and integrity of Indian tribes than their children. ...”¹

SUMMARY

In 2015, following complaints issued to the State by sovereign nations located in Humboldt County, the California Attorney General initiated an investigation based on reports of Department of Health & Human Services-Child Welfare Services' (DHHS-CWS) and Humboldt County Sheriff's Office's (HCSO) alleged failures to comply with California's *Child Abuse and Neglect Reporting Act (CANRA)* and related provisions of the *Welfare and Institutions Code*.²

In February 2018, the Superior Court of the State of California issued a Judgment against DHHS-CWS and HCSO citing numerous CANRA violations. The Attorney General's Office, together with DHHS-CWS and HCSO, agreed to a Stipulated Final Judgment and a Memorandum of Understanding (MOU), a three-year plan, for these offices to make needed corrective actions that would bring each into CANRA compliance.

As part of the MOU, the County agreed to contract with a third-party compliance monitor to assess the progress toward fulfilling the corrective actions. To address this requirement, the Center for the Study of Social Policy (CSSP), which is based in Washington D.C., was contracted through February 2021.

Following CSSP's Final Report, which noted several incomplete items on the part of DHHS-CWS and HCSO, the Attorney General sought a two-year monitoring period extension. The agreed-upon extension doesn't include HCSO, which had completed the corrective actions with the exception of active work with the Child Protection Reporting Guide's (CPRG) creation. The Stipulated Supplemental Judgment was signed in May 2021, and it was reduced to one year with monitoring to be completed by a new compliance monitor. The California Center for Rural Policy (CCRP), based at Cal Poly-Humboldt, was chosen and is contracted through June 2022.

¹ United States Code: Indian Child Welfare, 25 U.S.C. §§ 1901-1963, <https://www.govinfo.gov/content/pkg/USCODE-2020-title25/pdf/USCODE-2020-title25-chap21-sec1901.pdf>

² The California Child Abuse and Neglect Reporting Act, California Penal Code §§ 11164-11174.3, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=1.&part=4.&chapter=2.&article=2.5 .

The Humboldt County Civil Grand Jury (Grand Jury) investigated the now four-year process by which DHHS-CWS and HCSO have sought to achieve CANRA compliance. Our particular attention has been focused on tribal collaboration, a sizable portion of the Attorney General's 2018 Final Judgment and a main impetus for the State's decision to investigate DHHS-CWS and HCSO.

We have determined that while DHHS-CWS and HCSO have made notable progress toward collaboration with area Native American tribes, this mandated corrective action continues to be a challenge in the areas of joint decision making, cross-reporting, communication involving child welfare policies, and oft-opposing philosophical perspectives. CANRA compliance is therefore threatened as noted by County tribal representatives through documents obtained and interviews conducted by this Grand Jury.

As of January 2022, Humboldt County had spent close to \$2 million on outside contractors including the two compliance monitors in order to achieve the corrective actions called for in the Final Judgment. This is in addition to the 30 percent increase in County staff for associated new programs. All of these extraordinary costs add to the County's approximately \$33 million annual budget for CWS.

New CANRA-specific programs include an Indian Child Welfare Act (ICWA) program. The purpose of this program is to improve tribal collaboration on matters and actions pertinent to CWS.

Per the Attorney General's legal directive, DHHS-CWS also formalized a Continuous Quality Improvement (CQI) Program, which utilizes measurement tools for emergency services and case management.

DHHS-CWS created an Ombudsperson position to directly receive and address complaints concerning the delivery of child welfare services.

HCSO for its part created a CANRA Coordinator position responsible for tracking CANRA complaints. HCSO also updated its domestic violence protocols and policies serving children's needs during service calls.

The Judgment required DHHS-CWS and HCSO to provide an interagency Community Task Force, many of whose members would be mandated reporters of suspected child abuse and/or neglect. These members would represent various fields from education to healthcare to social services. However, tribal participation in the Task Force waned during the course of the three-year monitoring period.

Humboldt County children who are identified as American Indian and who are eligible for or enrolled in a tribe represent a significant number of the children involved in CWS investigations and cases relative to their number in the County's population. Therefore, collaboration on the part of both the County and area tribes is of tantamount importance.

The California Department of Justice's Office of Native Affairs facilitates a "statewide framework for state and tribal partnerships that encourage the cooperation and collaboration between tribal, state, federal and local justice agencies..."³ Establishing a similar office of Tribal Affairs in Humboldt County is appropriate. Both compliance monitors' reports have noted Humboldt County's considerable struggle to achieve tribal collaboration.

The Grand Jury found that DHHS-CWS has improved the collaborative process with tribal communities. However, there remains a disparity between the two on the understanding of and approach to child welfare. This Grand Jury recommends the County authorize its own Office of Tribal Affairs to advise the Board of Supervisors on matters of importance to Humboldt County tribal governments and tribal citizens.

Additionally, in regard to overall DHHS-CWS programmatic and procedural operations, the County must invest in ongoing resources for the welfare of all children in the county. The Grand Jury recommends the County vigorously develop the new CQI program; seek to expand diversity and inclusion with Community Task Force meetings; and oversee a substantive online and printed version of the Child Protection Reporting Guide.

BACKGROUND

Tribal collaboration is woven throughout the DHHS-CWS/HCSO work toward full CANRA compliance. The Judgment specifies the necessity of the County's tribal collaboration commitment with the area's eight Federally recognized Tribes: Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Hoopa Valley Tribe, Karuk Tribe, Wiyot Tribe and the Yurok Tribe of the Yurok Reservation.

To further collaboration efforts, DHHS-CWS agreed to hire a consultant Evident Change, a national organization that provides child protection assessments, training and coaching for staff. DHHS-CWS also contracted with a Tribal Consultant.

The Grand Jury found these decisions were made by DHHS to actively address its CWS emergency response efforts as well as ongoing case management, and to involve all communities in key decision making points for children and families.

³ State of California Department of Justice-Office of Native American Affairs, <https://oag.ca.gov/nativeamerican> .

In the midst of planning and implementation of these corrective actions, COVID-19 necessitated reprogramming of day-to-day CWS operations as well as operations countywide.

The challenges the County faces with providing services to children and families is not a new issue. Previous Civil Grand Jury Reports have discussed these challenges. Now, ongoing operations and necessary COVID-19 protocols add further complications and stresses to the County investment in new CANRA strategies and tools.

The COVID-19 pandemic has had a profound effect on CWS operations and in meeting the Attorney General's Judgment. Limited social services were available for families. In 2020 and 2021, with public schools closed to in-person instruction and with limited available childcare for staff and clients, CWS had to quickly pivot operations. The County granted additional sick leave to employees. Air purifiers were installed in work spaces and dividers installed in cars to separate staff from clients. Many staff-client interviews were conducted in the field with required staff masking. Staff offered masks to clients in situations where needed.

One COVID-19 key strategy that worked for CWS was implementing a hybrid work model that combined in-office and remote work for staff. Under this model, employees saw some children and families via video chats. Training, family team meetings, and information sharing were successfully organized and carried out via video conferencing.

Ongoing staffing shortages were, however, exacerbated by the pandemic.

METHODOLOGY

The Grand Jury used the following interviews and research in its investigation.

Interviews

- CWS administrators and staff
- HCSO administrators
- California Center for Rural Policy
- Center for the Study of Social Policy
- Tribal representatives and consultants

Research

- HCSO documents
- DHHS-CWS budget, policies and procedures documents
- CWS Continuous Quality Improvement Plan
- Child Protection Reporting Guide draft copy

- Media articles
- Videos and recordings related to tribal collaboration
- Videos and recordings related to child welfare
- 2018 Stipulated Final Judgment and associated legal documents
- 2021 Stipulated Supplemental Judgment and associated legal documents
- Memorandums of Understanding between Hoopa Valley Tribe and the County
- Child Fatality Reporting and Near Fatality Reporting Case Review

ABBREVIATIONS

DHHS: Department of Health & Human Services

CWS: Child Welfare Services

HCSO: Humboldt County Sheriff's Office

CANRA: Child Abuse and Neglect Reporting Act

MOU: Memorandum of Understanding

CSSP: Center for the Study of Social Policy

CPRG: Child Protection Reporting Guide

CCRP: California Center for Rural Policy

CQI: Continuous Quality Improvement

ICWA: Indian Child Welfare Act

CAST: Child Abuse Services Team

DISCUSSION

The Attorney General's 2018 Stipulated Final Judgment ordered the following corrective actions:

- Interagency coordination
- Tribal collaboration
- Participation in Child Abuse Services Team (CAST) protocol and collaboration
- Enhanced electronic records and tracking
- Cultural training
- Complaint systems
- Community Task Force
- Child fatality and near fatality reporting procedure
- Revised emergency response system and revision of intake policies and procedures
- Timely cross-reporting

Most of these corrective actions were accomplished in the three years following the Judgment. However, the Attorney General determined DHHS-CWS needed more time to fully complete its mandates for CANRA compliance. The result was the May 2021 Stipulated Supplemental Judgment.

The Stipulated Supplemental Judgment addresses DHHS-CWS's progress and necessary steps toward full CANRA compliance:

- Completed most needed corrective actions listed in the 2018 Stipulated Final Judgment, and substantially improved policies and procedures or are in the process of implementing new ones.
- Reaffirmed commitment to area sovereign nations to negotiate and develop protocols governing the process of collaboration and shared-decision making relating to investigations of tribal children.
- Continue to work with Evident Change and HCSO toward completion of a Child Protection Reporting Guide.
- Continue to engage with tribal nations on the investigations of referrals and cases involving tribal children and development of protocols with interested tribes.
- Continue to develop and build an Indian Child Welfare Act Program (ICWA) with staff specializing in ICWA to promote consistency and continuity for tribal families.
- Retain another qualified third-party monitor to oversee compliance.
- Continue with Evident Change to assist in the development of the Continuous Quality Improvement program, including qualitative case reviews.
- DHHS-CWS and Mental Health currently are developing an interagency collaboration to ensure that staff from the divisions coordinate mental health and child welfare services.
- Continue to work toward full compliance of conclusions identified as “implementation incomplete” made by CSSP in December 2020.

CHILD ABUSE AND NEGLECT REPORT ACT (CANRA)

“... In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.”⁴

⁴ The California Child Abuse and Neglect Reporting Act, California Penal Code §§ 11164-11174.3, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=1.&part=4.&chapter=2.&article=2.5 .

CANRA's legal language is clear; however, tribal representatives have told this Grand Jury they are concerned about the County's cultural insensitivity. Although CWS provides training programs for its staff, another tribal concern is that CWS does not use this training or its cultural coaches to their capacities.

On the one hand, intervention is crucial. On the other hand, as various tribal staff members have expressed, there is concern that once CWS has intervened, tribal children are in the County's social services system and remain there for an exorbitant amount of time.

CWS states that it assesses when a clear danger threatens a child and a tribal family member or representative cannot be found, CWS can remove that child; however, this does not preclude CWS from its responsibility to make decisions jointly with tribal administrators and families.

New Resources: CWS created multiple new policies and procedures following the 2018 Final Judgment to ensure CANRA compliance. These related to intake, investigations, child and family team meetings, children's mental health screening, and tribal collaboration practices.

CWS developed a 24-Hour hotline with immediate access to an on-call social worker. However, CSSP noted there are inconsistencies with CWS following State requirements of notification and local agreements with tribal communities, specifically concerning notification within 24 hours of an abuse/neglect report.

HCSO created a CANRA Coordinator position. It also updated its policy on domestic violence and addressing the needs of children during service calls.

CWS's training unit and HCSO's CANRA coordinator developed and delivered staff training on new policies and procedures.

CWS participated in finalizing the Child Abuse Services Team (CAST) protocol with the Humboldt County District Attorney. The CAST protocol addresses processes for gathering forensic evidence in applicable cases of child abuse. HCSO and CWS staff, along with representatives from local tribal social services departments, participated in a subcommittee which helped to finalize the protocol.

CWS utilizes Evident Change's Structured Decision Making model, which includes assessments for intake, risk, family strengths and needs, and reunification.

Continuous Quality Improvement reviews also are important child welfare assessments. They are used to define, measure, and improve child welfare outcomes on an ongoing basis. However, prior to late 2020, the CWS CQI program had no substantive ongoing review process and was not fully staffed until 2021.

A feedback loop of those delivering services and those receiving them is extremely important for the overall welfare of children and families. In January 2021, CWS began to systematically collect data about practices related to tribal children at the emergency intake hotline as a beginning focus of developing the CQI program.

The current compliance monitor, CCRP, acknowledges CWS improvements. However, CCRP adds that inconsistencies continue to exist in contacting tribal representatives when entering tribal land.

TRIBAL COLLABORATION

Regardless of whether the State of California ultimately decides the County has fulfilled the ordered corrective actions, the Grand Jury believes a major issue that will continue is tribal collaboration.

Collaboration, at its core, is about cooperation, partnership, alliance and joint effort. Everyone has a seat at the table. Regarding the welfare of tribal families and their children, CWS and tribal representatives have separately expressed that collaboration truly means all parties agree on common goals for the best interests of children. This includes working together to introduce stability and ultimately to promote the reunification of children and families and not the removal of children.

DHHS-CWS outlined its approach to tribal collaboration in a 2018 public document:

Policy and Procedure: CWS 18-11 Tribal Collaboration

The following is excerpted from the document:

“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 ...”

Tribal and County governments continue the struggle to communicate. Mutual agreed-upon decision-making and follow-up of investigation referrals, as well as overall collaborative protocols are key implementation challenges as the process moves forward.

A part of this process includes a CWS program modeled after national legislation, whose goal was to establish governmental accountability for the welfare of tribal children.

Congress passed the Indian Child Welfare Act (ICWA) in 1978. Its purpose is to “protect the best interests 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 from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.”

CWS launched its Indian Child Welfare Act (ICWA) program in January 2021. CWS-ICWA seeks to maintain and strengthen children’s connections with their tribes while keeping children safe from abuse and/or neglect.

Cultural Sensitivity: CWS staff acknowledge the existence of generational trauma among Native communities due to treatment they endured not only nationwide but in Humboldt County for more than a hundred years.

Tribal representatives and consultants have expressed their distrust of the County’s child welfare system and a lack of cultural training for CWS and HCSO.

CWS is journeying toward understanding tribal communities’ values and the way these communities understand child abuse and neglect.

Tribal representatives believe CWS should provide mandatory tribal cultural training for social workers so they can be more thorough in their approach to investigating abuse and neglect complaints in tribal communities.

CWS maintains it provides training and it has Cultural Coaches who are assigned to aid in communication with tribal families and to help connect the County to tribal cultural protocols.

Tribal representatives have noted unique parenting challenges and domestic violence issues and that their communities are in need of resources to address them. They seek more CWS involvement; however, they fear getting lost in the CWS system because they lack necessary involvement in and notification of investigations.

CWS representatives spoke to the Grand Jury about their perspectives concerning the status of tribal collaboration, which they feel is an ongoing process and one which has resulted in several successes.

Overall, CWS's view is that the process for creating procedures for unified decision making is in place. When a child abuse/neglect report is received, CWS works to contact a tribal social worker. CWS is required to have a court order to remove a child, and CWS has time to make joint decisions with a tribal consultant before receiving the court order. HCSO is contacted, and a discussion with a tribal consultant follows. Protocols call for permission to enter tribal land, but with urgent conditions, CWS can act immediately.

CWS also maintains its coordinated efforts jointly with tribal social workers. CWS establishes relationships with tribal police and sends reports, ensuring that child abuse/neglect reporting is shared with tribal police.

Memorandum of Understanding (MOU): The Attorney General stipulated that Humboldt County create agreements for child welfare protocols with area tribes. Of the eight Federally recognized area Tribes, the County has one MOU, and it's with the Hoopa Valley Tribe. It was originally signed with the Board of Supervisors in February 2019. It was renewed in October 2021, with updated language, to better represent the Tribe, tribal families and CWS operations.

The following is an excerpt of the full 2021 MOU:

“CWS staff will demonstrate respect throughout all interactions and Communication.

CWS staff will respect tribal sovereignty, tribal law, tribal culture, and the knowledge of the tribal staff, including social workers and elders.

Respect includes flexibility, ability to empathize, and the ability to defer to tribal experts.

CWS staff shall have an understanding of community values

Willingness to learn from Hoopa social workers.

Willingness to follow Hoopa placement preferences

CWS staff shall participate in cultural trainings. ...”⁵

⁵ Government-to-Government MOU for the Delivery of Child Welfare Services, Hoopa Valley Tribe and County of Humboldt, dated Feb. 5, 2021 and made official in October 2021, <https://humboldt.legistar.com/View.ashx?M=F&ID=9910247&GUID=D4F4E5F7-FFFC-4B00-931F-12E5162647D2>

The County is currently in the process of negotiating with tribes for a universal MOU. Tribal representatives have told the Grand Jury they are reluctant to enter into this type of agreement with the County. Reluctance is based not just on differing opinions on child welfare protocols with the County but differing opinions between tribes. Tribal members and consultants expressed to the Grand Jury that with two sovereign nations operating in the same environment, there is the tendency for differing opinions, but with eight, collaboration becomes even more of a challenge.

Tribal representatives expressed to the Grand Jury their communities' greatest assets are their children, land, and sovereignty. Universal support for and understanding of their perspective is needed.

In 2021, the Board of Supervisors designated two supervisors to serve on a CWS ad-hoc committee to support government-to-government conversations with sovereign nations.

However, there is no central tribal liaison in Humboldt County.

Tribal representatives are concerned that the relationship between the tribes and the County will revert to what it was before the 2018 Judgment.

Humboldt County has had a precarious relationship with the area's Native Americans and sovereign nations dating back 150 years, resulting in, among other things, documented accounts of Tribal communities' intergenerational trauma.

COMMUNITY TASK FORCE

The 2018 Judgment mandated that DHHS-CWS and HCSO create and host an ongoing Community Task Force composed of child welfare stakeholders throughout the County. A primary purpose of the task force was to work together to create an accessible reporting guide for mandated reporters and the general community. It initially opened a dialogue that had not previously existed.

Child Protection Reporting Guide: Per the Judgment, the guide was to be online and in print. At this time, the guide is not available either online or in print to the general public.

CWS is in process of preparing a Request For Proposals for a nonprofit to do the guide's final preparation and promotion. HCSO has little to no involvement any longer with the guide.

These meetings offered a good example of CWS/HCSO collaboration; however, from the outset of these quarterly meetings, there was resistance from tribal representatives to attend. County employees were paid to attend, tribal representatives were not.

Tribal representatives told the Grand Jury their input was needed at the Task Force meetings to explain tribal cultural perspectives. However, they felt devalued because CWS ran all meetings and set the agenda.

FINDINGS

F1: Although tribal community representatives engage with Humboldt County Department of Health & Human Services' Child Welfare Services (DHHS-CWS), tribal members and compliance monitors have expressed dissatisfaction with the process and outcomes of engagement. (R1)

F2: Although DHHS-CWS has established an Indian Child Welfare Act (ICWA) program, Humboldt County does not have a specified Office of Tribal Affairs to address matters of importance to the County's sovereign nations including child protection and extending to justice-related issues as well as cultural protocols and social services. (R1)

F3: Humboldt County does not have a specified Office of Tribal Affairs to promote County-Tribal partnerships facilitating collaboration through coordination of intergovernmental services while respecting tribal sovereignty. (R1)

F4: DHHS-CWS created a Continuous Quality Improvement (CQI) program which provides needed oversight of Child Welfare Services.

F5: The pandemic slowed efforts to fully meet the requirements of the Stipulated Final Judgment. However, DHHS-CWS has maintained necessary levels of critical care and developed new programs and resources.

F6: DHHS-CWS has moved into a hybrid work model by which employees work in the office and from home. Advantages include video conferencing for training opportunities, family team meetings and information-sharing. (R2)

F7: Community Task Force meetings have become dominated by DHHS-CWS rather than serving as "community" collaboration. These meetings do not provide for the variety of input intended by the Stipulated Final Judgment. (R3)

F8: The Child Protection Reporting Guide (CPRG) is the primary purpose of the Community Task Force; however, it is currently in draft form and is not available to the general public. DHHS-CWS has created a Request For Proposals (RFP) whereby not the County but an outside organization will be responsible for promoting community awareness and access to this guide. (R4)

RECOMMENDATIONS

R1: Humboldt County Civil Grand Jury recommends the Board of Supervisors authorize the creation of an independent Office of Tribal Affairs by January 1, 2023. This office will advise all County departments and the Board of Supervisors on matters of importance to tribal communities and Native Americans wherever they live in Humboldt County and will encourage collaboration with all Humboldt County governmental entities. (F1, F2, F3)

R2: Humboldt County Civil Grand Jury recommends that by Oct. 1, 2022, the Board of Supervisors formally support the continuance of a hybrid work model in County departments by which employees are able to work in the office and from home. (F6)

R3: Humboldt County Civil Grand Jury recommends participating Task Force agencies share hosting and organizing for the Community Task Force quarterly meetings. (F7)

R4: Humboldt County Civil Grand Jury recommends two versions of the Child Protection Reporting Guide be made available both in print and online; one for mandated reporters familiar with the terminology and another version with language understandable to the general public. (F8)

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Humboldt County Civil Grand Jury requests responses as follows:

Within 60 days from the following individuals:

Humboldt County Department of Health & Human Services Director Connie Beck (All Findings, R3, R4)

Humboldt County Sheriff William Honsal (F3, R1, R4)

Within 90 days from the following governing body:

Humboldt County Board of Supervisors (F1, F2, F3, R1, R2)

INVITED RESPONSES

Northern California Indian Development Council (F1, F2, F3, R1)

California Department of Justice Office of Native Affairs (F1, F2, F3, R1)

Bear River Band of the Rohnerville Rancheria, Big Lagoon Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Hoopa Valley Tribe, Karuk Tribe, Wiyot Tribe, and the Yurok Tribe of the Yurok Reservation (F1, F2, F3, R1)