

**August 10, 2004 ICWA Agenda
Sioux Falls, SD**

9:00 am Welcome and brief remarks from the Co-Chairs

- a) status of tribal resolutions
- b) Status of file reviews and recruitment of volunteers
- c) Scheduling of listening sessions on the reservations in Sept.
- d) Summary of report from ICWA director's meeting-Virgena Wieseler

9:30-10:00 Report from Dawn Rubio and Brenda Bellonger

10:00-10:45 Mechanics of an Abuse and Neglect

- a) Deputy State's Attorney – Mike Schad
- b) DSS Workers – Denice Murphy and Sara Olson
- c) Tribal Prosecutor/Presenter

10:45-11:00 Break

11:00-12:00 Continued

12:00-12:30 Working Lunch (will be catered)

12:30-1:00 B.J. Jones – ICWA Overview

1:00-2:00 Session with Dr. Usera (Barriers to Compliance)—small group
Break out

2:00-2:15 Break

2:15-3:15 Reporting back as a large group & Solutions

3:15-3:30 next meeting date and agenda suggestions

**Governor's ICWA Commission
August 10, 2004, Sioux Falls, SD
Meeting Minutes**

ICWA Commission members present: Jackie Barse; Keith Bonenberger; Jim Bradford, Mary Curran, Joni Cutler; Bob Duxbury, Renee Eggebraaten, Steve Emery, Deb Fischer-Clemens, DJ Hanson, Doug Herrmann, Ann Holzhauser, BJ Jones, Janine Kern, Mike LaPointe, Tracey Manywounds, Tami Bern, Rose McCauley, Denise Murphy, Ramona O'Connor, Sara Olson, Mike Schad, Kathleen Trandahl; Dave Valandra, Jack Von Wald, Bob Walters, Cordelia White Elk, Bill White Lance, Virgena Wieseler

ICWA Commission members absent: Ramona O'Connor

Others Present: Roger Campbell, Jill Ireland; Judy Hines; Vicki Burger; Mary Patterson; Jennifer Ring; Susan Randall; Jim Ellenbecker; Tom Magedanz; Allison Hedge Coke; Vernon Ike Schmidt; Stacey Tieszen; Dawn Bad Warrior; Diane Garreau; Amanda Wilbur; Clifton Skye; Norman Provencial; Chantelle Blue Arm; Ernestine Chasing Hawk

1. Welcome – Co-Chairs Kern and Jones welcomed all the commission members and those in the audience. The commission members introduced themselves. Bob Walters opened the meeting with a prayer.

2. Status of Tribal Resolutions

Roger Campbell summarized the status of the resolutions. Three tribes passed the resolutions: Crow Creek, Yankton and Standing Rock Sioux Tribes. The Sisseton-Wahpeton Oyate and Flandreau Tribes did not feel the resolution was necessary. No response was received from the Lower Brule and Oglala Tribes. Rosebud was considering adoption of the resolution.

3. Status of file reviews and recruitment of volunteers

The Review Team appeared telephonically and summarized their activities. The team is requesting information and materials from state and Tribal agencies, follow-up on the tribal resolutions, reviewing state and federal materials related to ICWA, reviewing UJS and CPS policy and procedure manuals, CPS and UJS case files, CPS budget information, CPS PIP information, creating a list of files to request from DSS, creating approximately 40 agency lists for data collection, developing data collection instruments, performing a data sort of CPS-ICWA case lists (for file review purposes), participating in two conference calls with the ICWA Commission co-chairs, and coordinating site visit activities. The review team plans to be in South Dakota on the following dates: August 30-September 3, 2004 in Sioux Falls; September 7-17, 2004 in Rapid City for the file review; September 13-17, 2004 in Rapid City for a site visit; and September 19-25, 2004 in Pierre, Aberdeen, and Huron. Volunteer attorneys from Rapid City will be trained by the team to review case files using a compliance checklist. The team is continuing to work on the surveys and compliance checklists and hopes to have them done by the end of August.

The Commission received and reviewed the invitation letter the Review Team is sending out to people to participate in the ICWA focus groups, including lawyers, DSS workers, state's attorneys, tribal officials, judges, and voluntary adoption agencies.

The team is sorting through a very large list, provided by CPS, of ICWA cases closed during 2002 and 2003, to get a stratified list for the file review. The tribal commissioners are asked to give Dawn Rubio or Brenda Bellonger a call to set up the site visits on the reservations. Brenda Bellonger summarized what NAILS and NCSC would like to accomplish at the site visits with each of the tribes, namely, 1) to go over the survey questions that are available on the internet; 2) complete focus group questions that deal with specific sections of ICWA; and 3) obtain the tribes perceptions of the state's compliance with ICWA. She clarified that the tribal court files would be pertinent only to see if the state was complying with ICWA and not all the tribal court files would be opened. As to the file review, files will be taken from cases closed in 2003 because there are a

sufficient number of cases available in that year. Jim Bradford commented that this is all for the children and they should be focusing on that - it shouldn't be a state/tribe stand-off over the records. Steve Emery commented that DSS should already have the tribal court records of the kids placed in DSS custody.

4. Scheduling of listening sessions on the reservations in September and October. The Commission revised the schedule for the listening sessions for the reservations. Commissioners agreed to attend sessions in their areas. The Co-Chairs were directed to attend every session in order to facilitate the sessions and provide consistency. The following public hearing schedule was agreed upon:

Ft. Thompson : September 10 - 9 am to 12 pm
Wagner : September 10 - 2 pm to 5 pm
McLaughlin : September 14 - 10 am to 12 pm/ 1 pm to 5 pm
Eagle Butte : September 15 - 10 am to 12 pm/1 pm to 5 pm
Rosebud : September 17 - 10 am to 12 pm/1 pm to 5 pm
Pine Ridge : September 24 - 10 am to 12pm/ 1 pm to 5 pm
Sioux Falls : September 25 - 9 am to 12 pm
Sisseton : October 7 - 9:30 am to 12 pm
Rapid City : October 11 - 6 pm to 10 pm

Steve Emery suggested that the most cost-effective way to provide a record of the sessions would be to tape record the sessions and then have someone transcribe the tapes. Judge Jones would like to set up some ground rules for the public hearings. Also, should the public hearings be only for designated people to speak or open it up to the community? Bob Walters recommended listening sessions in the urban areas as many ICWA cases are filed in Rapid City and Sioux Falls.

5. Summary of report from ICWA Director's meeting - Virgena Wieseler

6. Mechanics of an abuse and neglect case.

a. Deputy State's Attorney – Mike Schad

Mike Schad summarized the mechanics of an abuse and neglect case in State Court. He prepared hand-outs containing the pleadings from an actual file which were redacted to remove the names of the parties. He described the process from initial removal, through adjudication, termination of rights and adoption.

b. DSS Workers – Denise Murphy and Sara Olson

Denise Murphy and Sara Olson described the role of several different types of social workers throughout the process. The on-call social worker's duties include responding to emergency calls, determining if a relative is available to take a child or if the child should be placed in foster care. These workers assess the safety of any placement and make the placement decision. Currently in South Dakota there are 744 DSS foster homes and only 69 are Native American. The on-call social worker also gathers information about the child's tribal affiliations. The worker reassures the child and provides support to the placement resource.

The family service social worker (Intake) accepts telephone and walk-in reports of abuse and neglect, conducts collateral contacts regarding abuse and neglect allegations, provides crisis intervention to families in which there is risk of abuse and neglect, provides information and referral services, and gathers information about tribal affiliations. In the initial family assessments, the worker interviews children, parents, other household members, and other collateral contacts and assesses allegations of child abuse and neglect. They also obtain medical treatment for children, if necessary. These workers also initiate court action through the state's attorney if other interventions are not successful, arrange placement for children when necessary, complete investigative narrative reports and testify in child abuse and neglect hearings.

The case manager reviews family assessments and determines if the child is eligible for enrollment in a tribe or if they are already enrolled. The case manager refers family members to needed resources and provides recommendations to the courts. The worker prepares a treatment plan to safely return children home. Under ASFA, the parents have 12 months to make the home safe for the return of their children. From the time of emergency placement, the social worker develops a concurrent plan for the child. They also assess the needs of the family and implement and monitor case plans to preserve and strengthen families. The worker brokers services or provides direct services to families to address their issues.

There are also children's workers. These workers supervise children in alternate placement, promote permanence for children through coordination and delivery of services. If efforts to reunite a child with their birth family are unsuccessful, an alternative placement plan is developed for the child. These plans include adoption by a relative or non-relative, guardianship with a relative or non-relative, permanent relative care, and preparing a teen to live independently.

The Home-based workers provide services to families where the children would otherwise be removed or when the child is being reintegrated into the family. The worker frequently visits the home, does crisis intervention, and organizes, implements and monitors effectiveness of the case plan, utilizing an array of community resources to resolve issues.

The parents or custodians involved in referrals of abuse or neglect have important rights, to wit: to know the Department's legal basis for intervention; the nature of the allegations; and any possible action which the Department may take including a petition to the court recommending removal of a child. DSS must also recognize the cultural views and practices of the parents. The parent's responsibilities are: to provide adequate physical and emotional care for their children; to accept responsibility for their actions or omissions; and actively participate in a treatment plan designed to strengthen and stabilize the family.

Children also have rights which include the right to be protected from harm; receive adequate care and support; experience emotional stability; to be placed in a stable and loving family; and to maintain family connections and culture.

7. B.J. Jones – ICWA Overview

B.J. Jones gave a short presentation on the rights of Indian tribes when they receive notification of the pendency of state court child custody proceedings. Jones explained about the absolute right to intervene in the proceeding, the need to submit proof of membership or eligibility for membership, and issues involved in deciding whether to seek transfer of jurisdiction. Jones then talked about the various options on transfer of jurisdiction including transferring jurisdiction and placing the child with the Tribal Child Protection Program or a family member or transferring jurisdiction but maintaining placement rights with DSS (similar to the orders that Tribal Courts enter on some reservations where DSS continues to do child protection work). Several audience members indicated that DSS had refused to maintain custody after transfer of jurisdiction and it was agreed that this was an issue that needed to be resolved.

8. Session with Dr. Usera (Barriers to Compliance) – small group Break Out

As the Review Team was not funded to appear at the August and October meetings to obtain input from the Commission itself, the Commission determined that it would be useful to conduct a focus group with the Commission members and members of the public in attendance at the meeting, most of whom were professionals serving children in a variety of capacities. The session was facilitated by Dr. John Usera of the Chiesman Foundation. The group broke out into smaller groups to begin to identify barriers effecting compliance with ICWA.

a. Reporting back as a large group and solutions

At the conclusion of the small group sessions, the Commission reconvened and each group summarized its findings. This process was helpful and many important issues were identified

through the collaborative process.

b. Next meeting date and agenda suggestions

The meeting adjourned at 3:30 pm on August 10, 2004.