



COUNTY OF MENDOCINO

Executive Office

TOM MITCHELL
CHIEF EXECUTIVE OFFICER

ALISON GLASSEY
ASST CHIEF EXECUTIVE OFFICER

501 Low Gap Road, Room 1010
Ukiah, CA 95482-3734

Email: ceo@co.mendocino.ca.us
Website: www.co.mendocino.ca.us

Office: (707) 463-4441
Facsimile: (707) 463-5649

July 22, 2009

The Honorable Cindee Mayfield, Presiding Judge
Superior Court of California
County of Mendocino
Mendocino County Courthouse
Ukiah, CA 95482

Re: Response to the 2008/2009 Grand Jury's Final Report:
Indian Child Welfare Act: Our Children, Our Hope, Our Future

Dear Judge Mayfield:

Enclosed is the Board of Supervisor's official response to the findings and recommendations, as specified within the above mentioned report. If applicable, the report may also include the responses provided from select County departments and their respective Grand Jury Response forms.

The Mendocino County Board of Supervisors approved their response at their Board Meeting of July 21, 2009.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hunter Alexander".

Hunter Alexander

Enclosures

cc: Grand Jury

Grand Jury Report

RESPONSE FORM

Grand Jury Report Title: *Indian Child Welfare Act: Our Children, Our Hope, Our Future*

Report Dated : *June 9, 2009*

Response Form Submitted By:

Mendocino County Board of Supervisors
501 Low Gap Road, Room 1070
Ukiah, CA 95482

Response MUST be submitted, per Penal Code §933.05, no later than: *August 8, 2009*

Required Responses (see final section of attached report):

Mendocino County Board of Supervisors
(Findings 1, 3, 9-14; All Recommendations)

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- I (we) agree with the Findings numbered:
1, 3, 10, 11, 12, 13 and 14
- I (we) disagree wholly or partially with the Findings numbered below, and have **attached, as required**, a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

- I (we) neither agrees nor disagrees with this finding:
9

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- The following Recommendation(s) have have been implemented and **attached, as required**, is a summary describing the implemented actions:
1, 3, and 4
- The following Recommendation(s) have not yet been implemented, but will be implemented in the future, **attached, as required** is a time frame for implementation:
2

- The following Recommendation(s) require further analysis, and **attached as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- _____

- The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable, **attached as required** is an explanation therefore:
- _____

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: Seven (Combined Response Report)

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.co.mendocino.ca.us/grandjury. The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response form and any attachments as follows:

First Step: E-mail (word documents) to the County's Executive Office:
alexandr@co.mendocino.ca.us

Second Step: Mail all originals to Mendocino County Executive Office for delivery to the Mendocino County Courts and Mendocino County Grand Jury

Printed Name: Jeanine B. Nadel

Title: County Counsel

Signed: 

Date: 7-23-07

**Grand Jury Report
RESPONSE FORM**

Grand Jury Report Title: *Indian Child Welfare Act: Our Children, Our Hope, Our Future*

Report Dated : *June 9, 2009*

Response Form Submitted By:

Carmel Angelo, Director
Mendocino County Health and Human Services Agency

Response MUST be submitted, per Penal Code §933.05, no later than: *August 8, 2009*

Required Responses (see final section of attached report):

Mendocino County Health and Human Services Agency
(Findings 1, 3, 9-14, 16; Recommendations 1, 3, 4)

I have reviewed the report and submit my responses to the FINDINGS portion of the report as follows:

- I (we) agree with the Findings numbered:
1,3,10,11,12,13,14
- I (we) neither agree nor disagree with the findings numbered below:
9, 16
- I (we) disagree wholly or partially with the Findings numbered below, and have **attached, as required**, a statement specifying any portion of the Finding that are disputed with an explanation of the reasons therefore.

I have reviewed the report and submit my responses to the RECOMMENDATIONS portion of the report as follows:

- The following Recommendation(s) have have been implemented and **attached, as required**, is a summary describing the implemented actions:
1, 3, 4
- The following Recommendation(s) have not yet been implemented, but will be implemented in the future, **attached, as required** is a time frame for implementation:

- The following Recommendation(s) require further analysis, and **attached as required**, is an explanation and the scope and parameters of the planned analysis, and a time frame for the matter to be prepared, discussed and approved by the officer and/or director of the agency or department being investigated or reviewed: (This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- _____

- The following Recommendations will NOT be implemented because they are not warranted and/or are not deemed reasonable, **attached as required** is an explanation therefore:
- _____

I have completed the above responses, and have attached, as required the following number of pages to this response form:

Number of Pages attached: _____

I understand that responses to Grand Jury Reports are public records. They will be posted on the Grand Jury website: www.co.mendocino.ca.us/grandjury. The clerk of the responding agency is required to maintain a copy of the response.

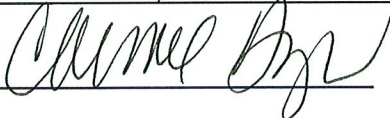
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First Step: E-mail (word documents) to the County's Executive Office:
alexandr@co.mendocino.ca.us

Second Step: Mail all originals to Mendocino County Executive Office for delivery to the Mendocino County Courts and Mendocino County Grand Jury

Printed Name: Carmel Angelo

Title: Director, Mendocino County Health and Human Services

Signed: 

Date: June 22, 2009

THOMAS D. ALLMAN
Sheriff-Coroner



Undersheriff Gary Hudson

Captain Kurt O Smallcomb

Field Services

Captain Tim Pearce

Corrections

County of Mendocino Office Of The Sheriff-Coroner

June 24, 2009

Honorable Cindee Mayfield, Presiding Judge
Superior Court of California
County of Mendocino
County Courthouse
Ukiah, CA 95482

RE: Response to Report of the June 9, 2009 Grand Jury
Indian Child Welfare Act
Our Children, Our Hope, Our Future

Dear Judge Mayfield:

Attached and enclosed please find my responses to the Grand Jury's report entitled:

**Indian Child Welfare Act
Our Children, Our Hope, Our Future**

The Grand Jury requires me to respond to Findings #1, #3, #9, #12 and Recommendation #2.

1. All agencies in Mendocino County must comply with ICWA when dealing with Tribal Indian children. However, when an incident occurs, a child's heritage is not always apparent.

Sheriffs Response:

I agree with findings.

3. On Tribal land there is concurrent jurisdiction of Tribal government and the County for child welfare. At times, this can lead to jurisdictional issues surrounding investigations by Child Protective Services involving the welfare of these children.

Sheriffs Response:

I agree with findings.

9. Tribal law enforcement and the Sheriff's Office have an understanding of ICWA but city police departments rely on CPS.

Sheriffs Response:

I agree with findings, however, training is now being researched.

12. ICWA becomes applicable with the first filing of a court document, but its protections are needed by Indian children before such action is taken.

Sheriffs Response:

I agree with findings, but it is often difficult if the ancestry of the child is unknown.

RECOMMENDATIONS:

The Grand Jury recommends that the Mendocino County Sheriff's Office:

2. All law enforcement officials in Mendocino County acquaint themselves with the ICWA Law. (Findings 1, 3, 9)

Sheriffs Response:

New training is being researched.

The Mendocino County Sheriff's Office has planned a Law Enforcement ICWA Training Day to be held in Ukiah on January 14, 2010.

Sincerely,



Thomas D. Allman
Sheriff-Coroner

cc: Finley Williams, Grand Jury Foreman
John Pinchess, Chair-Board of Supervisors
Tom Mitchell, County CEO
Jeanine Nadel, County Counsel

INDIAN CHILD WELFARE ACT

OUR Children, OUR Hope, OUR Future

June 9, 2009

Summary

The 2008-09 Grand Jury reviewed the operation and enforcement within Mendocino County of the Indian Child Welfare Act (ICWA). The United States Congress (Congress) passed ICWA in 1978 to prevent Tribal Indian children from being removed from their Tribal cultural roots. Mendocino County Tribes realized in the mid 1980s-90s that the best interests of their children were not being addressed in local or state courts due to the lack of understanding of ICWA Law.

Federally recognized Tribes in Mendocino County developed a collaboration between the Mendocino County Department of Social Services (currently under the Health and Human Services Agency) and the California Indian Legal Service (CILS) to improve services to local Tribal Indian families. This collaboration brought about the ICWA Roundtable discussions. The ICWA Roundtable consists of Mendocino County Tribal ICWA staff, Tribal Council representatives, Health & Human Services Agency (H&HS) staff, County Counsel, CASA (Court Appointed Special Advocate) Director and local attorneys.

The ICWA Roundtable meetings led to the development of the Mendocino County ICWA Protocol. The turnover of local Tribal ICWA staff contributes to some communication disconnect between the Tribes and Social Services/Child Protective Services (CPS). The lack of Tribal foster care homes in Mendocino County creates a problem for placement of Indian children. H&HS staff stated that the application of ICWA Law has made them more sensitive to *all* children that go through the system.

Methods

The Grand Jury read the Code of Federal Regulations, CFR 25, Chapter 21. The Grand Jury interviewed Mendocino County H&HS/social service staff, local Mendocino County Tribal people and a Mendocino County court appointed attorney and attended an ICWA Roundtable meeting.

Background

In the early 1850's young Mendocino County Tribal women and children were kidnapped and sold as slaves in highly populated areas. This practice grew into an increased trade from 1852 to approximately 1867. Tribal Elders in the Ukiah Valley told many stories of how fearful they were about having their children stolen. Tribal children were taught to run as fast as they could and hide.

Congress enacted ICWA in 1978 to address legal and social issues facing Tribal Indian families across America. Congress recognized the special trustee relationship between the United States and Indian Tribes as a federal responsibility to Indian Tribes to protect and preserve their continued existence.

Congress recognized that there is no resource more vital to the continued existence and integrity of Indian Tribal families than their children. A high percentage of Indian Tribal families were having their children removed from family homes by public and private agencies. Many Indian children were placed in non-Indian foster care, adoptive homes and institutions by administrative and judicial state court systems that failed to recognize the essential Tribal cultural relationship of Indian Tribal people.

Congress declared that "it is the Policy of this Nation to protect the best interest of Indian children." Therefore, by Congressional action, it approved and added into the United States Code of Federal Regulations, Title 25, Indians Chapter 21, (CFR 25, Chapter 21) the Indian Child Welfare Act.¹

Findings

1. All agencies in Mendocino County must comply with ICWA when dealing with Tribal Indian children. However, when an incident occurs, a child's heritage is not always apparent.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding, in accordance with the responses from the Sheriff and the Health and Human Services Agency (HHS) Director.

Requested Response: Mendocino County Sheriff's Office

I agree with findings.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

2. The definition of "Indian" means any person who a member of an Indian Tribe or an Alaska Native. Under ICWA an Indian child means any unmarried person who is under the age of 18 and either (a) a member of an Indian Tribe or (b) eligible for membership in a government recognized Indian Tribe as the biological child of a member of an Indian Tribe.

¹ A copy of the Indian Child Welfare Act and additional information on Indian Child Welfare is available at www.nicwa.org

3. On Tribal land there is concurrent jurisdiction of Tribal government and the County for child welfare. At times, this can lead to jurisdictional issues surrounding investigations by Child Protective Services involving the welfare of these children.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding, in accordance with the responses from the Sheriff and the Health and Human Services Agency (HHSA) Director.

Requested Response: Mendocino County Sheriff's Office

I agree with findings.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

4. Most local Tribes have not designated emergency ICWA safe-houses where Indian children can be placed for immediate protection.
5. There is a lack of Tribal foster care homes in Mendocino County.
6. At the discretion of the Tribal Council, an ICWA representative may be hired to actively represent the interests of an Indian child.
7. Most local Tribes do not have an official Tribal Court.
8. Tribes determine who will be included on their membership rolls and they do not share their official Tribal membership roll with any outside agencies. This makes it difficult to determine an Indian child's legal status if that child resides off Tribal land.
9. Tribal law enforcement and the Sheriff's Office have an understanding of ICWA but city police departments rely on CPS.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors neither agrees nor disagrees with this finding.

Requested Response: Mendocino County Sheriff's Office

I agree with findings, however, training is now being researched.

Required Response: Director, Health & Human Services Agency

Without additional information, we cannot agree or disagree. (cannot speak for police understanding)

10. Turnover in Tribal ICWA and CPS staff cause communication breakdowns.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding, in accordance with the responses from the Health and Human Services Agency (HHS) Director.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

11. The ICWA Roundtable was established to address communication issues and support enforcement of the law. It consists of Mendocino County Tribal ICWA staff, Tribal Council representatives, H&HS/Social Services staff, County Counsel, CASA Director and local attorneys.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

12. ICWA becomes applicable with the first filing of a court document, but its protections are needed by Indian children before such action is taken.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding, , in accordance with the responses from the Sheriff and the Health and Human Services Agency (HHS) Director.

Requested Response: Mendocino County Sheriff's Office

I agree with findings, but it is often difficult if the ancestry of the child is unknown.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

13. In January 2003, this need to extend ICWA protections led the Roundtable members to draft a written protocol to ensure that Indian children stay within the Indian community and to facilitate access to resources for agencies and Tribes working with high-risk Indian families.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding, , in accordance with the responses from the Health and Human Services Agency (HHS) Director.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

14. The ICWA Protocol is being updated.

Required Response: Mendocino County Board of Supervisors

The Mendocino County Board of Supervisors agrees with this finding.

Required Response: Director, Health & Human Services Agency

The Mendocino County Health and Human Services Agency Director agrees with this finding.

15. During Indian child custody proceedings, an independent ICWA expert witness may be called to provide requested information.
16. H&HS staff members have stated that the application of ICWA Law has made them more sensitive to all children that go through the system.

Required Response: Director, Health & Human Services Agency

Without additional information, we cannot agree or disagree

Recommendations

The 2008-2009 Grand Jury recommends that:

1. The Health & Human Services Agency continue to interact with the ICWA Roundtable. (Findings 1, 3, 9-11, 13-14, 16)

Required Response: Mendocino County Board of Supervisors

The recommendation has been implemented and has been in place since 2002.

Required Response: Director, Health & Human Services Agency

The recommendation has been implemented and been in place since 2002.

2. All law enforcement officials in Mendocino County acquaint themselves with the ICWA Law. (Findings 1, 3, 9)

Required Response: Mendocino County Board of Supervisors

This recommendation has not yet been implemented, but will be implemented in the future. New training is being researched.

Requested Response: Mendocino County Sheriff's Office

New training is being researched.

3. The Mendocino County Board of Supervisors direct Health and Human Services to instruct Child Protective Services to follow CFR 25, Chapter 21 Indian Child Welfare Act, Section 195, subsection (b). (Findings 1, 3, 9, 11-14, 16)

Required Response: Mendocino County Board of Supervisors:

This recommendation has already been implemented as Child Protective Services is required to follow regulation and has continued to work with County Counsel when legal interpretation is required.

Required Response: Director, Health & Human Services Agency

The recommendation is redundant as Child Protective Services is required to follow regulation and has continued to work with County Counsel when legal interpretation is required.

4. Mendocino County Board of Supervisors interact with Tribal Councils as partners in a government-to-government relationship and direct all County Agencies that interact with Tribal Councils, to do so as partners, recognizing Tribal autonomy. (Findings 1, 3, 9, 11, 13-14)

Required Response: Mendocino County Board of Supervisors:

The recommendation has been implemented. Child Protective Services interacts with Tribal Councils and participates in a monthly ICWA Roundtable to address concerns and resolve disagreements. When required, legal conflicts are resolved through the court system.

Required Response: Director, Health & Human Services Agency

The recommendation has been implemented. Child Protective Services interacts with Tribal Councils and participates in a monthly ICWA Roundtable to address concerns and resolve disagreements. When required, legal conflicts are resolved through the court system.

Discussion

The definition of "Indian" means any person who is an Alaska Native or a member of an Indian Tribe. An Indian child is eligible for membership in an Indian tribe when that child is the biological child of a member of an Indian Tribe. The Grand Jury believes that a child's heritage should not be ignored.

It took the advocacy of many Tribal Leaders, social workers and educators to secure legal protections for Indian children under the Indian Child Welfare Act. One of the most important points surrounding ICWA and all parties concerned is the subject of trusting one another. This point was voiced by several of the individuals who were interviewed. The Board of Supervisors and City Councils throughout Mendocino County, along with Tribal Government Leadership, might consider a special ICWA Day event. This event could be a day to come together and cross the bridge of the past into the freedom of new friendship where we find that all children are precious.

Required Responses

Mendocino County Board of Supervisors (Findings 1, 3, 9-14;
All Recommendations)

Director, Health & Human Services Agency (Findings 1, 3, 9-14, 16; Recommendations
1, 3, 4)

Requested Response: Mendocino County Sheriff's Office
(Findings 1, 3, 9, 12; Recommendation 2)

Ukiah Chief of Police (Findings 1, 8, 9; Recommendation 2)

Willits Chief of Police (Findings 1, 8, 9; Recommendation 2)

Fort Bragg Chief of Police (Findings 1, 8, 9; Recommendation 2)

Requested Responses

Round Valley Indian Reservation (All Findings; All Recommendations)

Hopland Band of Pomo Indians (All Findings; All Recommendation)