

Report from Jill Kehaulani Esch, Esq.
Office of Ombudsperson for AMERICAN INDIAN Families
October 25, 2022

Report for the Period 7/30/2022 through 10/25/2022

Duties of the Ombudsperson for American Indian Families

The Ombudsperson for American Indian Families investigates complaints for non-compliance of the Indian Child Welfare Act, the Minnesota Indian Family Preservation Act, Tribal State Agreement, Minnesota Statutes, Court Rules and DHS Policies that involve child protection cases, including placement, public education and housing issues related to child protection that impact American Indian children and families. The Ombudsperson also collaborates with tribes, agencies, counties, community organizations, courts, schools, other organization and stakeholders to develop policies, rules and laws to improve outcomes for American Indian Families involved in the child protection system, as well as collaborating on prevention programs. The Ombudsperson is advised and reports to the American Indian Community-Specific Board, who are all appointed by the Minnesota Indian Affairs Council.

Geographical locations of phone calls and emails

Anoka, Becker, Bemidji, Buffalo, Brainerd, Cambridge, Carlton, Carver, Cass, Crosby, Duluth, Fond du Lac Reservation, Grand Rapids, Hallock, Itasca, Leech Lake Reservation, Lower Sioux Indian Community, Mille Lacs, Minneapolis, New Ulm, Red Lake Nation, Red Wing, Rochester, St. Cloud, St. Paul, Shakopee, Virginia, White Earth Nation, and States of Michigan, New Mexico, North Dakota and Wisconsin.

Tribes

Bois Forte Band of Chippewa, Cherokee Nation, Cheyenne River Sioux, Crow Creek Sioux Tribe, Fond du Lac Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Lower Sioux Indian Community, Mille Lacs Band of Ojibwe, Navajo Nation, Natives of Kodiak, Northern Cheyenne, Oglala Sioux, Omaha Tribe of Nebraska, Red Cliff Band of Lake Superior Chippewa, Red Lake Band of Chippewa Indians, Rosebud Sioux, San Carlos Apache Tribe, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Seneca Nation of Indians, Standing Rock Sioux, Tlingit and Tshimshian, Turtle Mountain Band of Chippewa Indians and White Earth Nation.

Agency and American Indian Community-Specific Board Update

- Agency website, <https://mn.gov/oaif/> went live at the ending of August 2022
- Agency submitted budget change items to the State about increasing the budget to hire staff.
- Board submitted an Application for a Grant in Ramsey County, which is currently pending.
- Zoom Public Board Meeting Held on October 17, 2022
- In Person Public Board Meeting Scheduled for November 14, 2022, Red Lake Nation

Some Issues from Cases for the Period of This Report

- DHS flagged a case and advised the county to provide the tribe with proper notice; by the time the county provided notice to the tribe, the county had already terminated the parents' rights.
- County attorney acknowledged that notice should have been provided and thus "altered our approach in these situations and are going to simply send notice to the BIA if there's even an implication of heritage/etc, and to whatever tribe it applies to if we have any knowledge of said tribe." [Note: the RULES mandate this.]
- Judge told a tribe that a motion to intervene was required before tribe could participate.
- Tribe requested to appear remotely; Judge denied the request.
- Some counties require certain procedures to be followed if a party wants to participate remotely. A tribal attorney noted that tribes are being as treated as all the other parties in the case

instead of giving higher deference and more flexibility because of their high case load in many different venues – counties within Minnesota and in states around The Nation – and tribal attorney also noted that under ICWA/MIFPA, higher deference and greater flexibility is allowed to have tribes participate remotely.

- Grandmother, who has been an active part of her young grandchild's life and who has a felony record, does not understand why grandchild cannot be placed with her and why the county is not helping her to get a variance. Grandmother was referred by a child welfare supervisor.
- Mother said she was not told that if her rights were terminated, that meant her rights could be terminated as to all her other children.
- Mother alleges the county never asked if her children were American Indian/Alaska Native.
- County is using an expert witness, who is from another tribe, to justify the out-of-home placement without first contacting the tribes that child/children are affiliated with.

ICWA Education, Trainings and Continued Community Outreach

- Continued discussions with Elders regarding the Circle of Elders.
- Ramsey County ICWA Advisory Board Meeting.
- MUID Family Preservation Monthly Meetings.
- Carlton County ICWA Court Monthly Meetings.
- Citizens Review Panel Monthly Meetings for Hennepin and Ramsey.
- Meeting with DHS ICWA Unit.
- Meeting with GAL ICWA Program.
- Attended Tribal DHS Legislative Summit.
- Attended ICWA Court Summit
- Presentation before Minnesota Advisory Board of the Peace Officer Standards and Training.
- Panel Presentation, National Conference of Alternate Dispute Resolution Institute of Canada (ADRIC) regarding working with the Indigenous Community and The Circles that are being built.
- Children's Justice Initiative Meetings – Duluth, Hennepin, Itasca, Ramsey and Stearns.
- Attended child welfare trainings and ICWA trainings.
- CJA Subcommittee Meetings.
- Observed ICWA court proceedings around the State.
- Continued discussions on the importance of allowing tribes to determine the best way for them to participate in court hearings – in person or via Zoom – and to give them great flexibility.

Feedback from the Community

My sincere thanks to you. I feel like I have a good list of to do's which will get us to where we need to be with ICWA cases. Your expertise is invaluable and I look forward to continuing our work later this fall. County Social Worker Supervisor 8/10/2022.

The value of your role cannot be overstated. Please use my statement of support! State Court Judge, 10/23/2022.

Feedback regarding the Agency's Imagery and Website (website went live at the ending of August).

- *Your logo is one of the best I have ever seen.*
- *Wopila Jill, This looks great!! I LOVE the logo and the imagery. Nicely done!!*
- *The website looks great, Jill! Congrats!*